


POLICY-OFFICE OF THE COMMISSIONER

Approved by: Lisa Piercey, MD, MDA, FAAP	Policy Number: 21-2
Signature: 	Supersedes: October 25, 2018
Application: Department of Health Employees	Effective Date: April 27, 2021
Authority: Tenn. Code Ann. §§10-7-501, <i>et seq.</i>	Rule: 1200-35-01.01 <i>et seq.</i>

Public Records Requests

Purpose: To establish a protocol to be used to guide Department of Health employees when responding to requests for records under the Tennessee Public Records Act.

Applicability: This policy applies to all Department of Health employees.

Application: Department employees shall timely and efficiently provide access and assistance to persons requesting to view or receive copies of public records. No provisions of this Policy shall be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the Department, shall be protected as provided by current law. Concerns about this Policy should be addressed to the Public Records Request Coordinator ("PRRC") or to the Tennessee Office of Open Records Counsel ("OORC").

This Policy is available for inspection and duplication in the Office of General Counsel for the Department of Health and is posted online at <http://www.tn.gov/health>. This Policy shall be reviewed annually.

This Policy shall be applied consistently throughout the various offices, departments, and/or divisions of the Department as well as to the following boards:

- Applied Behavior Analyst Licensing Committee
- Board of Athletic Trainers
- Board of Alcohol and Drug Abuse Counselors
- Advisory Committee for Acupuncture
- Board of Chiropractic Examiners
- Committee for Clinical Perfusionist
- Board of Communications Disorders and Sciences
- Controlled Substance Monitoring Database Program
- Board of Dentistry
- Board of Dietitians/Nutritionist Examiners
- Board of Dispensing Opticians
- Electrolysis Registry
- Emergency Medical Services Board
- Board of Genetic Counselors
- Board for Licensing Health Care Facilities
- Council for Hearing Instruments Specialists
- Board of Massage Licensure
- Board of Medical Examiners
- Medical Laboratory Board
- Medical Spa Registry
- Board of Nursing
- Board of Nursing Home Administrators

- Board of Occupational Therapy
- Board of Optometry
- Board of Osteopathic Examination
- Pain Management Clinic Registry
- Board of Pharmacy
- Board of Physical Therapy
- Committee on Physician Assistants
- Board of Podiatric Medical Examiners
- Polysomnography Professional Standards Committee
- Board of Licensed Professional Counselors, Licensed Marital and Family Therapists and Licensed Pastoral Therapists
- Council of Certified Professional Midwifery
- Board of Examiners of Psychology
- Board of Respiratory Care
- Reflexology Registry
- Board of Social Workers
- Board of Veterinary Medical Examiners
- Tennessee Board of Radiologic Imaging and Radiation Therapy

I. Definitions:

- A. Records Custodian: The office, official or employee lawfully responsible for the direct custody and care of a public record. See Tenn. Code Ann. § 10-7-503(a)(1)(C). The records custodian is not necessarily the original preparer or receiver of the record.
- B. Public Records: All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental entity. See Tenn. Code Ann. § 10-7-503(a)(1)(A).
- C. Public Records Request Coordinator(s) ("PRRC"): The individual, or individuals, designated in Section III.A.iii. of this Policy who has, or have, the responsibility to ensure public record requests are routed to the appropriate records custodian and are fulfilled in accordance with the TPRA. See Tenn. Code Ann. § 10-7-503(a)(1)(B). The Public Records Request Coordinator may also be a records custodian.
- D. Requestor: A person seeking access to a public record, whether it is for inspection or duplication.

II. Requesting Access to Public Records

- A. Many public records are posted online at <http://www.tn.gov/health>. Requesters are strongly encouraged to review the records posted online prior to making a request.
- B. Public record requests shall be made to the PRRC or his/her designee or via online submission in order to ensure public record requests are routed to the appropriate records custodian and fulfilled in a timely manner. Requests must be made by a Tennessee citizen.
- C. Requests for inspection only do not have to be made in writing. However advance notice is preferable and records may not be available for immediate review. The PRRC should request a mailing or email address from the requester in order to provide any written communication required under the TPRA.
- D. Requests for inspection may be made:
 - i. in person at, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN 37243;

- ii. by telephone (615) 532-7663 or (615) 532-7665;
- iii. by fax (615) 532-7668;
- iv. in writing to:
 - a. Public Records Request Coordinator
5th Floor, Andrew Johnson Tower,
710 James Robertson Parkway,
Nashville, TN 37243;
 - b. or by email at Health.PPRC@tn.gov.

E. Requests for Copies of records shall be made **in writing**:

- i. ATTN: PPRC
Andrew Johnson Tower,
710 James Robertson Parkway,
Nashville, TN 37243;
- ii. or by email at Health.PPRC@tn.gov.

III. Responding to Public Records Requests

A. Public Record Request Coordinator

- i. The PPRC shall review public record requests and make an initial determination of the following:
 - a. If the Department is the custodian of the records;
 - b. If the records requested are described with sufficient specificity to identify them;
 - c. If the requester provided evidence of Tennessee citizenship
- ii. The PPRC shall acknowledge receipt of the request and take any of the following appropriate action(s):
 - a. Advise the requester of this Policy, in particular:
 - 1. The requirement for proof of Tennessee citizenship;
 - 2. Form(s) required for copies;
 - 3. Any applicable fees for copies and labor; and
 - 4. Applicable limitations with respect to multiple or frequent requests.
 - b. If appropriate, deny the request in writing, providing the appropriate ground such as one of the following:

1. The requester is not, or has not presented evidence of being, a Tennessee citizen.
 2. The request lacks specificity.
 3. An exemption makes the record not subject to disclosure under the TPRA. The exemption will be identified in writing.
 4. The Department is not the custodian of the requested records.
 5. The records do not exist.
- c. If appropriate, contact the requester to see if the request can be narrowed.
 - d. Forward the records request to the appropriate records custodian in the Department.
 - e. Estimate the total cost of fulfilling the request; and advise the requestor of estimated costs, if applicable, before fulfilling the request.
 - f. If requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, advise the requester of the correct governmental entity and PRRC for that entity if known.
- iii. The designated PRRC is:
 - a. Paige Edwards: Deputy General Counsel over Public Records Requests
 - b. Contact information: Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN 37243; (615) 532-7663; Health.PRRC@tn.gov; or Fax (615) 532-7668.

B. Records Custodian

- i. Upon receiving a public records request, a records custodian or the PRRC shall promptly make requested public records available in accordance with Tenn. Code Ann. § 10-7-503.
- ii. If not practicable to provide requested records promptly because additional time is necessary to determine whether the requested records exist; to search for, retrieve, or otherwise gain access to records; to determine whether the records are open; to redact records; or for other similar reasons, then a records custodian or the PRRC shall, within seven (7) business days from the records custodian's receipt of the request, notify the requester of the delay in writing
- iii. If a records custodian reasonably determines production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the records custodian or the PRRC shall notify the requester that production of the records will be in installments

and that a records production schedule will be provided as expeditiously as practicable. If appropriate, the records custodian should contact the requester to see if the request can be narrowed.

- iv. If a records custodian discovers records responsive to a records request were omitted, the records custodian should contact the PRRC in order to notify the requester concerning the omission and produce the records as quickly as practicable.

C. Redaction

- i. If a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing access. If questions arise concerning redaction, the records custodian should coordinate with the Office of General Counsel regarding the review and redaction of records.
- ii. Whenever a redacted record is provided, a records custodian should provide the requester with the basis for redaction. The basis given for redaction shall be general in nature and not disclose confidential information.

IV. Inspection of Records

- A. There shall be no charge for inspection of open public records.
- B. The location for inspection of records within the Department will be determined by either the PRRC or the records custodian.
- C. Under reasonable circumstances, the PRRC or a records custodian may require an appointment for inspection or may require inspection of records at an alternate location.

V. Copies of Records

- A. A records custodian shall promptly respond to a public record request for copies.
- B. Where hard copies are provided, those copies will be available for pickup at a location specified by the records custodian or the PRRC.
- C. Upon payment for postage, copies will be delivered to the requester's address by the United States Postal Service.

VI. Fees and Charges and Procedures for Billing and Payment

- A. Fees and charges for copies of public records should not be used to hinder access to public records.
- B. Records custodians or the PRRC shall provide requesters with an itemized estimate of the charges prior to producing copies of records and shall require pre-payment of such charges before producing requested records.
- C. When fees for copies and labor do not exceed \$10.00, the fees may be waived. Requests for waivers for fees above \$10.00 must be presented to the PRRC, who will determine whether

such waiver is in the best interest of the Department and for the public good. Fees associated with aggregated records requests will not be waived.

D. Fees and charges for copies are as follows:

- i. \$0.15 per page for letter- and legal-size black and white copies.
- ii. \$0.50 per page for letter- and legal-size color copies.
- iii. Labor will be charged at the hourly rate(s) of the employee(s) who gather, review, redact and produce the records when time involved exceeds one (1) hour.
- iv. If an outside vendor is used, the actual costs assessed by the vendor.
- v. If records are stored in an electronic format, pro-rata labor charges allocable to copied or redacted records will apply. If it is necessary to make hard copies to process the request, then copy charges will be calculated as provided for above.
- vi. Other costs reasonably necessary to produce the records include, but are not limited to: archival retrieval costs, delivery costs, and computer programs.

E. No duplication costs will be charged for requests for less than 10 pages.

F. Payment is to be made by personal or cashier's check payable to the Department of Health delivered to the records custodian.

G. Payment in advance will be required for production of all copies of documents.

H. Aggregation of Frequent and Multiple Requests

- i. The Department will aggregate record requests in accordance with the Reasonable Charges for Frequent and Multiple Requests Policy promulgated by the OORC when more than four (4) requests are received within a calendar month (either from a single individual or a group of individuals deemed working in concert).
- ii. The PRRC is responsible for making the determination whether a group of individuals is working in concert. The PRRC or the records custodian must inform the individuals that they have been deemed to be working in concert and that they have the right to appeal the decision to the OORC.

VII. Policy

This policy is posted online at <http://www.tn.gov/health>.

This policy may be regularly reviewed, and, as such, is subject to change. Any updates to the policy shall be promptly made available.

Concerns about this policy should be addressed to the Public Record Request Coordinator(s) for the Department or the Tennessee Office of Open Records Counsel.