

# Disclosure of a deceased patient's medical records

The medical records of a deceased patient may be released to their representative on request.<sup>[1]</sup> A deceased's representative is either the executor of the deceased's will or, if the deceased had no will, the administrator of their estate.

If a request for disclosure of a deceased's health information is made by the executor or administrator of a deceased patient's estate, before any information is disclosed it is important to first obtain from them:

- The request in writing; and
- The probated will of the deceased confirming the requestor's role as executor; OR
- Letters of administration (or certificate of administration) issued by the High Court naming the requestor as administrator.

If the requestor is not the executor or administrator of the deceased patient's estate, he or she will need to provide written authority from the person who is the executor or administrator, confirming the requested notes may be released to them, (along with a copy of the probated will or letters/certificate of administration).

Any request for disclosure and accompanying documents should be placed on the deceased's medical record.

If the deceased did not leave a will (meaning there is no executor), and they had an estate of less than \$15,000, (meaning an application to the Court for letters of administration is not required i.e. there is no administrator), disclosure may be made to a close relative of the deceased – such as their next of kin – in certain circumstances.

1. That is unless the patient has been deceased for more than 20 years, in which case compliance with this rule is not required.



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In making the decision whether to provide the disclosure, consideration will need to be given to the relationship of the requestor to the deceased, whether disclosure would be contrary to the express wishes of the deceased, and whether disclosure would be consistent with recognised professional practice.

Other considerations may be relevant, such as the particular records being requested, and the reason for requesting them. In cases of doubt, it is recommended that advice is sought from your indemnifier before a decision is made.

Contact Us

**NZMII are here to help!**

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