



# Protecting your privacy ...or not (Part 1)

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By Dorothy Hagel

The law imposes a number of requirements that are meant to protect the use of private information that belongs to individuals. These requirements are there to ensure that the information is not misused or improperly disclosed to parties that were not supposed to be using the information. For example hospitals are obligated to protect medical records of the patients so that the private medical history is not revealed to anyone other than the patient and medical personnel treating the patient.

CRA is not allowed to disclose information provided to it by the taxpayers, who file their income tax returns and the marketers are not allowed to use our email addresses to send us product offers unless we agree that we want to receive such offers.

The rules of safekeeping, protection and disclosure imposed by a number statute and regulation could be quite complex. Perhaps this complexity could be the reason why the “obligation under the privacy laws” is used as an excuse to cover incompetence, ignorance or even bad faith, and withhold pertinent information and records from parties, who are fully entitled to receive them.

Without hiring a lawyer, how would one know what information may and should be disclosed and to whom?

With respect to right to obtain disclosure of information, the privacy laws are built around two basic principles: ownership of information and consent.

The principle of ownership of information simply means that subject only to specific limitations, the person to whom the personal information belongs has the right to obtain disclosure of their own personal files. For example, as patients, we have the right to see copies of our own medical records. The hospital has to provide copies of the patient's records to the patient, if the patient requests them.

This is important, because it means that an individuals entitled to receive disclosure of their own financial, medical and other personal records from any bank, corporation or government and the any of these entities holding individual's information cannot refuse to disclose. In other words, the bank must not refuse to provide copies of the transaction records when they are requested by the account holder. Privacy protections do not apply here.

The same principle applies to estate trustee or attorney for property, who are asking for information about the accounts of the estate. They have full right to obtain the information and records about the estate that they administer.

This means that if you are an estate trustee holding a valid certificate of appointment and the bank rep is refusing to provide you information about the accounts of the deceased, whose estate you are administering, the bank rep either does not know what he is taking about or is avoiding additional work. You need to speak to the supervisor or the bank manager and escalate the matter because the information that you are seeking belongs to the estate and as the estate trustee you have the right to receive it.

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