



**Ontario
Health**

Electronic Health Record Request for Access to Personal Health Information Policy and Procedure

Policy Level Approval:	Chief Executive Officer
Policy Category:	Corporate Policy
Policy Number:	INF-007.01-PP
Sensitivity Level:	Public
Policy Sponsor (or Sponsors):	Chief Privacy Officer
Original Date of Approval:	September 30, 2020
Date of Posting: This Policy is effective on the date of its posting or as otherwise noted in the Policy	March 15, 2022
Version Approval Date:	November 11, 2021
Next Scheduled Year Review (MM/YY):	09/24

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1 Purpose, Objectives and Scope

1.1 Purpose

- 1.1.1 This policy and procedures outline Ontario Health's (**OH**) practices for facilitating a response to access requests made by an Individual or that Individual's Substitute Decision-Maker (**SDM**) to a Health Information Custodian (**HIC**) under Part V of the *Personal Health Information Protection Act, 2004* (**PHIPA**) in respect of the Individual's record of Personal Health Information (**PHI**) that is accessible by means of the Electronic Health Record (**EHR**).

1.2 Objectives

To enable OH as a Prescribed Organization to:

- Meet its obligations under the PHIPA and its regulation;
- Meet its obligations under the Information and Privacy Commissioner of Ontario's (**IPC**) *Manual for the Review and Approval of Prescribed Organizations*; and
- Protect the privacy of Individuals and the confidentiality of their PHI.

1.3 Scope

- 1.3.1 This policy applies to: non-union Employees, people leaders, board members, unionized Employees, secondees, consultants, and individuals acting on behalf of Ontario Health (**OH Agents**) and HICs that provide PHI to OH for the purposes of developing and maintaining the EHR.
- 1.3.2 The policy and procedures apply to an access request related to PHI that is accessible by means of the EHR that is developed and maintained by OH as a Prescribed Organization pursuant to Ontario Regulation 329/04 (**O. Reg. 329/04**). The *EHR Plain Language Description and List of EHR Repositories* is available on the [OH Privacy website](#).
- 1.3.3 Where OH receives an access request related to PHI that is not accessible by means of the EHR, the Individual or SDM making the request may be directed to contact the HIC(s) with custody or control of the record(s), or their PHIPA Agent.
- 1.3.4 The EHR contains the following:
- Acute and Community Care Clinical Data Repository (**acCDR**)
 - Primary Care Clinical Data Repository (**pcCDR**)
 - Diagnostic Imaging Common Services Repository (**DI CS**)
 - Digital Health Drug Repository (**DHDR**)
 - Ontario Laboratories Information System (**OLIS**)
 - Provincial Client Registry (**PCR**)

1.4 Compliance and Enforcement

- 1.4.1 Compliance with this Policy in its entirety is mandatory unless an exception to a specific section is approved by the OH Chief Privacy Officer (**CPO**) or delegate in writing. Failure to comply with the requirements of this Policy may result in disciplinary action up to and including revocation of appointment, termination of employment or termination of contract without notice or compensation.
- 1.4.2 Compliance will be audited in accordance with and as per the frequency outlined in the *Privacy Audit & Compliance Policy*.
- 1.4.3 At the first reasonable opportunity upon identifying or becoming aware of a breach of this Policy, employee(s) and other OH Agents as well as HICs must notify the OH Privacy Office by reporting the breach to Enterprise Service Desk Phone: 1-866-250-1554; or Email: servicedesk@ontariohealth.ca.
- 1.4.4 Breaches of this Policy will be managed in accordance with the Privacy Incident Management Policy and Procedure and *EHR Privacy Incident Management Policy and Procedure*.

1.5 Terminology

- 1.5.1 The words “include” and “including” when used are not intended to be exclusive and mean, respectively, “include, without limitation,” and “including, but not limited to”.
- 1.5.2 Words and terms in this Policy that have meanings differing from the commonly accepted definitions are capitalized and their meanings are set out in the Definition and Acronyms section (Section 5).

2 Policy

2.1 Approval of Policy by Minister of Health

- 2.1.1 In accordance with s. 55.3 (18) of PHIPA, this policy and procedures must be approved by the Minister of Health (**Minister**).
- 2.1.2 The Minister’s delegate has provided written confirmation to OH indicating the Minister’s approval of this Policy and procedures as of September 23, 2021.

2.2 Right of Access

- 2.2.1 Individuals have a right of access to their record of PHI that is in the custody or under the control of a HIC subject to limited and specific exclusions and exceptions set out by PHIPA.
- 2.2.2 Individuals may direct complaints related to access to the IPC as follows:
 - 2 Bloor Street East,
 - Suite 1400 Toronto,
 - ON M4W 1A8

2.3 OH's role as a PHIPA Agent

- 2.3.1 Acting as a PHIPA Agent to the HICs that provide PHI to OH as a Prescribed Organization, OH may facilitate a HIC's response to an access request. Facilitating includes: receiving access requests, collecting relevant documentation required to identify the records, forwarding relevant documentation to the HIC that provided the PHI to OH to further process and respond to the request, and providing procedural information to the Individual or SDM making the access request.
- 2.3.2 OH is not authorized to provide guidance or advice to HICs, Individuals, or SDMs, or assume any responsibility for determining the legal authority of an Individual or SDM to make the request, or for making the access decision about whether the record must be provided or denied. In accordance with PHIPA, these obligations rest solely with the HIC that has custody or control of the records.

2.4 Notice to the Public

- 2.4.1 OH provides the public with information about the right of Individuals to access to their records of PHI that are accessible by means of the EHR. This policy is made available to the public on the OH Privacy Website. Individuals may also contact OH's Privacy Office by telephone, mail or email to obtain information about this Policy and OH's practices related to facilitating access requests.
- 2.4.2 Instructions for making an access request, including the required documentation and the title, mailing address and contact information for the Employee(s) or other OH Agents to whom the documentation must be provided is noted on the *Electronic Health Record Request for Access and Correction to Personal Health Information Form* available on the OH Privacy Website.

2.5 Re-direction of access requests to HICs

- 2.5.1 OH does not intake access requests related to OLIS, DHDR or pcCDR. Upon receipt of an access request related to one of these repositories, OH provides the relevant HIC(s) and/or their Agent with the access request documentation related to the following repositories as follows:
- Access requests related to laboratory test information in OLIS are redirected to the **Access and Privacy Office of the Ministry of Health;**
 - Access requests related to drug and pharmacy service in the DHDR are redirected to **Service Ontario;**
 - OH does not intake access requests related to pcCDR. Access requests related to pcCDR are redirected to the ClinicalConnect Program Office; and
- 2.5.2 Access requests related to PCR, DI-CS and acCDR will be processed in accordance with s.3 of this Policy.

2.6 Instructions for HIC(s) in receipt of access requests

2.6.1 Where a HIC receives an access request related to the following EHR repositories, the HIC may direct the individual or SDM to contact OH for assistance (for example, where the records being requested are under the custody or control of another HIC):

- acCDR
- DI CS

2.7 Response obligations of the HIC that provided PHI to OH under PHIPA

2.7.1 Upon receipt of access request documentation from OH or directly from an Individual, the HIC must comply with their obligations under Part V of PHIPA, including the following:

- Confirm the legal authority of the Individual or SDM who submitted the request in accordance with s. 23 to 26 of PHIPA;
- Respond to the Individual or SDM within 30 calendar days of receiving an access request for PHI under PHIPA. However, the custodian may extend this time limit for a further period of not more than 30 calendar days if the requirements set out in s. 54(3) and (4) of PHIPA are satisfied; and
- Comply with annual reporting obligations to the IPC.

2.8 Tracking and logging of access requests

2.8.1 OH maintains a log of access requests that relate to its responsibilities as a PHIPA Agent for HICs in facilitating a response to a request. Refer to “*Appendix A: Log of Access and Correction Requests*” for details that are captured in the log. Members of the OH Privacy Office team are responsible for updating and maintaining the log.

2.9 Retention of access request documentation

2.9.1 OH’s Privacy Office Team retains relevant access request documentation within the privacy secured drive, in accordance with the *Electronic Health Record Retention Policy*.

3 Procedures

3.1 Access request made directly to a HIC for PHI provided by one or more other HICs (DI-CS and acCDR)

3.1.1 Where a HIC receives an inquiry from an Individual or SDM interested in making an access request for PHI provided to the EHR by one or more other HICs, the HIC receiving the inquiry must, at the first reasonable opportunity and no later than three (3) business days, direct the Individual or SDM to make the access request to OH directly using the *EHR Request for Access and Correction to Personal Health Information Form*.

3.1.2 Upon receipt, OH will process the access request in accordance with section 3.2 of this policy.

3.2 Access request made to OH regarding PHI provided by one or more HICs (DI-CS and acCDR)

3.2.1 Upon receipt of an access request from the Individual, a member of the Privacy Office Team:

- Ensures relevant access request documentation is complete and seeks clarification as required from the Individual or SDM submitting the request;
- Initiates tracking and logging of the access request (see *Appendix A: Log of Access and Correction Requests*);
- Ensures relevant access related documentation is retained in a secure manner, as applicable;
- Locates and retrieves the responsive records in the EHR;
- Within seven (7) calendar days, forwards the encrypted record(s) along with the access request documentation to each relevant HIC(s) to respond to the Individual or SDM in accordance with Part V of PHIPA; and
- Within seven (7) calendar days of receipt, provides notification to the Individual using their preferred format and manner of communication as identified on the access request form. The notification includes:
 - An acknowledgement of the receipt of the access request by OH;
 - That OH is facilitating the request; and
 - That the request has been forwarded to the applicable HIC(s) for response under PHIPA.

Upon receipt of notification from OH, the applicable HIC must:

- Take steps to satisfy itself of the legal authority of the Individual or SDM in accordance with sections 23-26 of PHIPA; and
- Respond to the Individual or SDM in accordance with the provisions of Part V of PHIPA.

3.3 Access request made to OH regarding PHI contained in pcCDR

3.3.1 Upon receipt of an access request from an Individual or SDM, a member of the Privacy Office Team:

- Initiates tracking and logging of the access request (see *Appendix A: Log of Access and Correction Requests*);
- Ensures relevant access related documentation is retained in a secure manner, as applicable;
- Within seven (7) calendar days of receipt, provides notification to the Individual using their preferred format and manner of communication to inform them that their access request must be redirected to the Clinical Connect Program Office

and ensures that the Individual is provided with the contact information for the following:

- ClinicalConnect Program Office
- Telephone: (905) 577-8270 Ext. 9
- E-mail: privacy@clinicalconnect.ca

3.4 Access request made to OH regarding PHI provided by the Ministry of Health (DHDR and OLIS)

3.4.1 Upon receipt of a request from the Individual or SDM, a member of the Privacy Office Team:

- **For DHDR:** Redirects the Individual or SDM to contact ServiceOntario and provides the following contact information:
 - Service Ontario INFO line,
 - Telephone: Monday to Friday 8:30 am - 5:30 pm 1-800-291-1405
- **For OLIS:** Redirects the Individual or SDM to contact the Ministry of Health's Access and Privacy Office and provides the following contact information:
 - Freedom of Information & Privacy Coordinator, Access and Privacy Office
Ministry of Health
 - 99 Adesso Drive, 1st floor Concord, ON, L4K 3C7
 - Telephone: (416) 327-7040, E-mail: generalapo@ontario.ca

3.4.2 Upon receipt of the access request from the Individual or SDM, the Ministry of Health will coordinate with the appropriate stakeholders to respond to the request.

- For requests received directly by the Ministry of Health, OH may facilitate a response as an Agent of the Ministry, upon receiving direction from the Ministry of Health. If facilitating a request for the Ministry of Health, OH will update the tracking and logging system, as applicable, with all known relevant information.

3.5 Access request made to OH regarding PCR

3.5.1 Upon receipt of a request from the Individual or SDM related to the PCR, a member of the OH's Privacy Office Team:

- Initiates tracking and logging of the access request (see *Appendix A: Log of Access and Correction Requests*);
- Ensures relevant access related documentation is retained in a secure manner, as applicable;
- Identifies the applicable HIC by contacting the OH Data Management team; and
- Within seven (7) calendar days of receipt, provides notification to the Individual using their preferred format and manner of communication acknowledging the receipt, notifies them that OH is facilitating the request by identifying the HIC that

provided the PHI to the PCR, and redirects the Individual or SDM to the applicable HIC for response under PHIPA.

3.5.2 Upon receipt of notification from OH, the applicable HIC must:

- Take steps to satisfy itself of the legal authority of the Individual in accordance with sections 23-26 of PHIPA; and
- Respond to the Individual in accordance with the provisions of Part V of PHIPA.

4 Responsibilities

4.1 Privacy Office

4.1.1 Authoring and maintaining this Policy

4.1.2 Facilitating access requests as per this Policy.

4.1.3 Logging access requests in the Log of Access and Correction Requests.

4.2 Employees and other OH Agents

4.2.1 Notifying the Privacy Office at the first reasonable opportunity upon receipt of an access request related to the EHR.

4.3 HICs who provide PHI to OH

4.3.1 Notifying and cooperating with OH upon receipt of access request related to the EHR as per this Policy.

4.3.2 Responding to access requests in compliance with PHIPA and this Policy.

5 Definitions and Acronyms

Defined terms are capitalized throughout this document.

Term / Acronym	Definition
acCDR	Acute and Community Clinical Data Repository
CDR	Clinical Data Repository
Collect	Has the meaning set out in section 2 of PHIPA with respect to PHI; and in respect of PI has the same meaning. “Collect” means to gather, acquire, receive, or obtain the information by any means from any source, and “Collection” and “Collected” has a corresponding meaning.
CPO	Chief Privacy Officer

Term / Acronym	Definition
DI-CS	Diagnostic Imaging Common Service Repository
Disclose	<p>Has the meaning set out in s. 2 of PHIPA with respect to PHI in the control of a HIC or a person; and in respect of PI has the same meaning.</p> <p>“Disclose” means to make the information available or to release it to another HIC or to another person, but does not include to Use the information, and “Disclosure” has a corresponding meaning.</p>
EHR or Electronic Health Record	Has the meaning set out in s. 55.1 of PHIPA and generally means the electronic systems that are developed and maintained by OH pursuant to Part V.1 of PHIPA for the purpose of enabling HICs to Collect, Use and Disclose PHI by means of the systems.
Employee	A person employed and compensated by OH as an Employee, and is classified as either permanent full-time, permanent part-time, temporary full-time, temporary part-time, paid student or casual, as set out in the <i>Employee Classification Guideline</i> . A consultant or contractor is not an Employee.
HIC or Health Information Custodian	Has the meaning set out in s. 3 of PHIPA and generally means a person or organization that has custody or control of personal health information for the purpose of health care or other health-related duties. Examples include physicians, hospitals, pharmacies, laboratories and the MOH.
Individual	<p>Has the meaning set out in section 2 of PHIPA with respect to PHI; and in respect of PI has the same meaning.</p> <p>“Individual” means the individual, whether living or deceased, with respect to whom the information was or is being collected or created.</p>
IPC	Information and Privacy Commissioner of Ontario
Minister	Minister of Health
MOH	Ontario Ministry of Health
O. Reg. 329/04	Ontario Regulation 329/04 made under PHIPA
OH	Ontario Health, the agency of the Government of Ontario to which this Policy applies.
OH Agent	A person that acts for or on behalf of OH for the purposes of OH, and not for the Agent’s own purposes, whether or not the Agent has the authority to bind OH, whether or not the Agent is employed by OH, and whether or not the Agent is being remunerated.
OLIS	Ontario Laboratory Information System
pcCDR	Primary Care Clinical Data Repository

Term / Acronym	Definition
<p>PHI or Personal Health Information</p>	<p>Has the meaning set out in section 4 of PHIPA. Specifically, it is “identifying information” about an individual that:</p> <ul style="list-style-type: none"> • Relates to the physical or mental health of the individual; relates to the provision of health care to the individual; • Is a plan of service under the <i>Home Care and Community Services Act, 1994</i>; • Relates to payments or eligibility for health care or eligibility for coverage for health care; • Relates to the donation of any body part or bodily substance of the individual or that is derived from the testing or examination of any such body part or bodily substance; • Is the individual’s health number; and/or • Identifies an individual’s substitute decision-maker. <p>PHI also includes identifying information about an individual that is not PHI listed above but that is contained in a record that includes PHI listed above.</p> <p>Information is “identifying” when it identifies an individual or when it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify the individual.</p>
<p>PHIPA or Personal Health Information Protection Act, 2004</p>	<p>The Ontario health privacy law. It establishes rules for the management of PHI and the protection of the confidentiality of that information, while facilitating the effective delivery of healthcare services. References to PHIPA include the regulation made thereunder, as may be amended or replaced from time to time.</p>
<p>PHIPA Agent</p>	<p>Per s. 17 of PHIPA - in relation to a HIC, means a person that, with the authorization of the HIC, acts for or on behalf of the custodian in respect of PHI for the purposes of the HIC, and not the agent’s own purposes, whether or not the agent has the authority to bind the HIC, whether or not the agent is employed by the HIC and whether or not the agent is being remunerated.</p>
<p>Prescribed Organization or PO</p>	<p>The organization prescribed in Ontario Regulation 329/04 as the organization for the purposes of Part V.1 of PHIPA. The Prescribed Organization has the power and the duty to develop and maintain the EHR in accordance with Part V.1 of PHIPA and the regulations made thereunder.</p>
<p>Privacy Incident</p>	<p>A real or suspected Privacy Breach.</p>

Term / Acronym	Definition
Privacy Breach	<p>An event or series of events where one or more of the following occurs:</p> <ul style="list-style-type: none"> • Collection, Use or Disclosure of PHI or PI not in compliance with PHIPA or its regulation, or with FIPPA or its regulations (i.e. without legal authority); • There is a contravention of OH’s privacy policies, procedures or practices; • There is a contravention of data sharing agreements, research agreements, confidentiality agreements or agreements with third party service providers retained by OH, including written acknowledgements acknowledging and agreeing not to use PHI or PI which has been de-identified and/or aggregated, to identify an individual; or • Where PI or PHI is stolen, lost or subject to unauthorized Collection, Use or Disclosure or where records of PHI or PI are subject to unauthorized copying, modification or disposal.
Privacy Policy Documents	OH’s privacy policies, standards and, procedures.
SDM or Substitute Decision Maker	Has the meaning set out in s. 5 of PHIPA and in relation to an individual, means, unless the context requires otherwise, a person who is authorized under PHIPA to consent on behalf of the individual to the collection, use or disclosure of PHI about the individual.
Use	In relation to PHI or PI in the custody or under the control of a HIC or a person, “Use” means to view, handle or otherwise deal with the information, but does not include to Disclose the information, and “Use”, as a noun, has a corresponding meaning. For the purposes of PHIPA, the providing of PHI between a HIC and an agent of the HIC is a Use by the HIC, and not a Disclosure by the person providing the information or a Collection by the person to whom the information is provided.

6 Review Cycle

This Policy is to be reviewed at least within 3 years of its effective date or earlier if required in accordance with the *Privacy Audit and Compliance Policy*

7 References and/or Key Implementation Documents

- Personal Health Information Protection Act, 2004; Ontario Regulation, 329/04
- Manual for the Review and Approval of Prescribed Organizations
- EHR Plain Language Description and List of EHR Repositories
- Privacy Audit and Compliance Policy
- Privacy Incident Management Policy and Procedure
- EHR Privacy Incident Management Policy and Procedure

- Electronic Health Record Request for Access and Correction to Personal Health Information Form
- Log of Access and Correction Requests

8 Appendices

- *Appendix A: Log of Access and Correction Requests*

9 Policy Consultations

The following were consulted in the development of this Policy:

- Staff from the Privacy Office and other OH Agents responsible for drafting, maintaining and/or reviewing the privacy policies in reference to OH's privacy requirements.
- Working Group members of the Privacy Program Advisory Committee
- Information and Privacy Commissioner of Ontario
- Ministry of Health

10 Policy Review History

Date of Review MM/YYYY	Itemize section changed and description of change (if no changes made, indicate N/A	New policy number	Date of Approval DD/MM/YYYY	Approver

11 Policy Repeal

- 1) Date of Repeal:
- 2) Reason for Repeal:
- 3) Date of Approval of Repeal:
- 4) Approver:

Appendix A: Log of Access and Correction Requests

Note: This log is maintained by OH's Privacy Office contains information that relate to the OH's responsibilities as a PHIPA Agent for the HIC that contribute PHI to the EHR, in facilitating a response to an access or correction request.

Where the OH responds to or facilitates a response to a request for access or correction received, the log includes the following, to the extent that they are known to OH:

- The date the request was received;
- The name and contact information for the individual to whom the information relates;
- The type of request (i.e., access or correction);
- A description of the request;
- A description of the PHI that is the subject of the request;
- The Employee(s) or other person(s) that received and reviewed the request;
- The names of any member of the College of Physicians and Surgeons of Ontario or member of the College of Psychologists of Ontario who were consulted regarding whether granting access could reasonably be expected to result in a risk of serious bodily harm to the treatment or recovery of the individual or risk of serious bodily harm to the individual or another person;
- If the time limit for responding was extended, the reason for the extension, and the length of the extension;
- If a request was made for expedited access, whether the request was granted;
- The HIC's employee(s) or agent for deciding whether to grant the request, if applicable;
- The decision that was made (granted, granted in part, or refused)
- The reason for the refusal, where applicable;
- The person responsible for communicating the decision to the individual;
- The date the decision was communicated to the individual;
- Where a decision was made to grant the request, the person responsible for implementing the decision;
- The date the decision was implemented;
- The amount of fees charged to respond to the request, if any;
- Where a statement of disagreement is attached, the employee(s) or other person(s) acting on behalf of OH responsible for receiving and attaching the statement of disagreement;
- The date the statement of disagreement was attached;
- The employee(s) or other person(s) acting on behalf of OH responsible for notifying others about a correction or a statement of disagreement; and

- The date others were notified about a correction or a statement of disagreement.
- The name and contact information for the HIC to whom the request was made; and
- A description of each decision that was made or action that was taken by OH in responding to or facilitating the response.