



## Electronic Health Record Request for Access to Personal Health Information Policy

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<b>Policy Level Approval:</b>	Chief Privacy Officer
<b>Policy Category:</b>	EHR Privacy Program
<b>Cross Reference to Other policies/legislations/regulations/directives:</b>	<i>Personal Health Information Protection Act, 2004 (PHIPA, 2004); Ontario Regulation, 329/04</i>
<b>Original Date of Approval:</b>	September 30, 2020

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### Policy Applies to:

- Health information custodians that contribute personal health information to the electronic health record
- Health information custodians that collect, use and disclose personal health information that is accessible by means of the electronic health record
- Employees of Ontario Health

### 1. Purpose

This policy outlines Ontario Health's policy and process, when operating as a PHIPA Agent in connection with assisting health information custodians (HICs) to fulfil their obligations under Part V of PHIPA, related to requests made by an individual or that individual's substitute decision-maker for access to their record of personal health information that is accessible through the electronic health record (EHR).

## 2. Scope

This policy applies to the EHR that is developed and maintained by Ontario Health, under its authority as the prescribed organization. For more information on the scope of the EHR, please see the [Plain Language Description of the EHR](#).

The EHR contains the following clinical data repositories\*:

- Acute and Community Care Clinical Data Repository (acCCR)
- Primary Care Clinical Data Repository (pcCCR)
- Diagnostic Imaging Common Services Repository (DI CS)
- Digital Health Drug Repository (DHDR)
- Ontario Laboratories Information System (OLIS)

**\*Note:** Provincial Client Registry is out of scope of this policy.

## 3. Policy

- a) Obligations of Ontario Health (Digital Services) as a PHIPA Agent:** Ontario Health (Digital Services) is not a HIC under PHIPA and as such, Ontario Health (Digital Services) will facilitate and assist contributing HICs with the administrative process related to an access request of a record of PHI in the EHR in accordance with all applicable laws and the terms and conditions of EHR contributor agreement. Facilitating and assisting activities, includes, receiving requests, collecting relevant documentation, forwarding relevant documentation to the HIC and answering procedural questions.

**Note:** Ontario Health (Digital Services) is not authorized to provide guidance or advice to HICs/requesters or assume any responsibility for determining the legal authority of requesters to make the request or making the access decision about whether the record must be provided or denied. These obligations rest solely with the HIC under PHIPA and as such, a requester may be redirected to the contributing HIC who maintains custody and control of the requested record of PHI.

- b) Individual's right of access to PHI:** An individual has a right of access to PHI about themselves, subject to limited and specific exceptions set out in PHIPA.
- c) Request for access to PHI in the EHR:** Access requests related to an individual's PHI in the EHR must be directed as follows:
- i. Access related to laboratory test information in OLIS must be directed to [MOH](#)
  - ii. Access related to drug and pharmacy service in the DHDR must be directed to [Service Ontario](#)

- iii. Access related to pcCDR must be directed to the [ClinicalConnect Program Office](#)
- iv. HICs that receive access request related to the following repositories must redirect the individual to Ontario Health (Digital Services):
  - Acute and Community Care Clinical Data Repository (acCDR)
  - Diagnostic Imaging Common Services Repository (DI-CS)

**d) Obligations of HICs regarding PHI in the EHR and PHI that is under the custody of the HIC:**

- i. Obligations of HICs upon receipt of access request documentation from Ontario Health (Digital Services) in connection with a record of PHI in the EHR:
  - Take steps to satisfy itself of the legal authority of the requester in accordance with sections 23-26 of PHIPA.
  - Respond to the requester in accordance with Part V of PHIPA.
- ii. Obligations of HICs upon receiving an access request from an individual for a record of PHI that is under the custody of the HIC:
  - In accordance with Part V of PHIPA, the HICs must respond directly to the requester when responding to an access request for PHI including information collected from the EHR and incorporated into the HIC's clinical record.

**e) Third party access request to PHI in the EHR:** Ontario Health (Digital Services) will not release PHI to any third parties unless otherwise required by law.

**f) Mandatory annual statistics reporting to the IPC:** The HIC must submit annual reports to the IPC even if an access request was assisted/facilitated by Ontario Health (Digital Services) on behalf of the HIC.

**g) Compliance and Enforcement:** An individual can file a complaint with the [IPC](#) if they are unsatisfied with the outcome of an access request.

#### 4. Process

The following section outlines the procedures for: **(A)** Access request made directly to HIC that created and contributed PHI through the EHR; **(B)** Access request made directly to Ontario Health (Digital Services) related to PHI created and contributed by one or more HICs **(C)** Access requests made to Ontario Health (Digital Services) regarding pcCDR; or **(D)** Access request made to Ontario Health (Digital Services) regarding MOH's clinical assets (DHDR and OLIS)

**A. Request for access made directly to a HIC that created and contributed PHI through the EHR (DI-CS and acCDR)**

- i. Request the individual to complete the *EHR Request for Access and Correction to Personal Health Information Form* that is available on: [Accessing Your EHR](#), if not already completed.
- ii. Upon receiving the completed form, the HIC must:
  - Determine the legal authority of the requester and provide instructions and applicable documentations to Ontario Health (Digital Services) for record retrieval;  
or
  - Notify the individual to contact Ontario Health (Digital Services) if the request for access is related to records created and contributed by one or more HICs.
- iii. Upon receiving the applicable access form from the HIC, a Privacy Team Member must:
  - Retrieve applicable record(s) and forward the encrypted record(s) along with the request to each relevant HIC to respond in accordance with Part V of PHIPA.
  - Update Ontario Health (Digital Services) access tracking system to reflect the steps taken.

**B. Request for access made directly to Ontario Health (Digital Services) related to PHI created and contributed by one or more HICs (DI-CS and acCDR)**

- i. Upon receiving an access request from the individual, a Privacy Team Member must:
  - Collect submitted documentation to identify and locate the record in the EHR and obtain additional information.
  - Within (7) seven days of receipt of the request, retrieve applicable record(s) and forward the encrypted record(s) along with the request and other documents submitted by the requester to each relevant HIC(s) for responding in accordance with Part V of PHIPA.
  - Provide notification to the individual that their access request will be sent to the applicable HIC(s) that created and contributed the record(s) for decision making and response.
  - Update Ontario Health (Digital Services) access tracking system to reflect the steps taken.
- ii. Upon receiving notification from Ontario Health (Digital Services), the applicable HIC must:
  - Determine legal authority of the requester, ensure access request is complete and respond to the access request in accordance with Part V of PHIPA.

**C. Request for access made to Ontario Health (Digital Services) regarding pcCDR**

- i. Upon receiving the access request from the individual, a Privacy Team member must:
- Redirect the requester to contact the [ClinicalConnect Program Office](#), Telephone: (905) 577-8270 ext. 9, Email: [privacy@clinicalconnect.ca](mailto:privacy@clinicalconnect.ca)
  - Update Ontario Health (Digital Services) access tracking system to reflect the steps taken.

**D. Request for access made to Ontario Health (Digital Services) regarding MOH's clinical assets (DHDR and OLIS)**

- i. Upon receiving the access request from the individual, a Privacy Team member must:
- **For DHDR:** Redirect access requests to Service Ontario and/or ensure the requester is provided with the contact information for:  
Service Ontario INFOLine, Telephone: Monday to Friday 8:30 am-5:30 pm 1-800-291-1405
  - **For OLIS:** Redirect access requests to MOH and/or redirect the requester to contact:  
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, Email: [generalapo@ontario.ca](mailto:generalapo@ontario.ca)
  - Update Ontario Health (Digital Services) access tracking system to reflect the steps taken.
- ii. Upon receiving the access requests from Ontario Health (Digital Services), the MOH will coordinate with the appropriate stakeholders Ontario Health (Digital Services) and/or Service Ontario) to respond to each access request.

**5. Definitions**

**Agent:** has the same meaning set out in section 2 of PHIPA

**Authorized persons:** means the individual requester themselves or authorized person designated to consent on behalf of the individual under PHIPA.

**Note:** If a legal representative is appointed by the individual seeking access or correction, an authorization form must be submitted with the request to show that the representative has the authority to represent.

**Electronic health record (EHR):** has the meaning set out in section 55.1 (1) of PHIPA and further detailed in the Plain Language Description of the EHR available on Ontario Health’s website.

**Health information custodian (HIC):** has the meaning set out in section 3 of PHIPA

**IPC:** means the Information and Privacy Commissioner of Ontario.

**Individual:** has the meaning set out in section 2 of PHIPA

**Ontario Health:** a corporation under the *Connecting Care Act, 2019*, and a Crown agent, which, among other things, is charged with managing health service needs across Ontario in a manner consistent with the health system strategies of the Ministry of Health (as further detailed in section 6 of the Act) and has assumed the operations, activities and affairs of eHealth Ontario.

**Personal health information (PHI):** has the meaning set out in section 4 of PHIPA.

**PHIPA:** means the *Personal Health Information Protection Act, 2004*, and supporting regulations as may be amended from time to time.

**PHIPA agent:** means Ontario Health as an agent (as the word “agent” is defined in section 2 of PHIPA) when acting as an agent of the Contributor in respect of Contributor Data in order to perform activities on the Contributor’s behalf in accordance with the terms and conditions of EHR Contributor Agreement.

**Prescribed Organization:** means the organization prescribed by Ontario Regulation 329/04 as the organization for the purposes of Part V.1 of PHIPA.

**Substitute decision-maker:** has the meaning set out in section 5 of PHIPA

## 6. Responsibilities

ROLE	RESPONSIBILITY
<b>Ontario Health Chief Privacy Officer:</b>	Responsible for approving this policy and its associated processes
<b>Ontario Health (Digital Services) Privacy Office:</b>	Responsible for authoring and maintaining this policy and its associated processes

<b>Ontario Health (Digital Services) Legal Counsel:</b>	Responsible for reviewing and providing input into this policy and its associated processes
<b>Ontario Health Employees:</b>	Responsible for complying with this policy and its associated processes
<b>Health Information Custodians who contribute to or access the EHR</b>	Responsible for complying with this policy and its associated processes in relation to PHI that is accessible by means of the EHR

## 7. Review

This policy is reviewed and updated in accordance with all applicable laws.

## 8. Appendices

- [Plain Language Description of the Electronic Health Record](#)
- EHR Request for Access and Correction to Personal Health Information Form is available on: [Accessing Your EHR](#)

## 9. Policy Change History

Revision Number:	1
Date of Approval:	September 30, 2020
Replaces Policy:	EHR Access and Correction Policy dated March 17, 2016
Description of Change:	N/A