

 Thames Valley Family Health Team	<b>Policy:</b>  <b>Patient Request to Restrict Collection, Use or Disclosure to Personal Health Information/Lockbox</b>	<b>Code Number</b>
	<b>Approval Date:</b>  <b>Approval Body:</b> TVFHT Executive Director	<b>Pages: 11</b>  <b>Last Review Date:</b>  <b>Last Revision Date:</b>

**This policy applies to:** Thames Valley Family Health Team<sup>1</sup> and our staff members and to personal health information (PHI) held in the custody or control of Thames Valley Family Health Team (examples: PHI collected in relation to health wellness programs delivered by the TVFHT and PHI collected in the process of completing mandatory reporting to the LHIN and MOHLTC and stored on TVFHT network or devices). This policy does not directly apply to personal health information stored in electronic medical records (EMR) held in the custody or control of Physicians/Family Health Organizations/Networks or Hospitals partnering with the Thames Valley Family Health Team, who are also, each, Health Information Custodians (PHIPA, 2004) governed by Ontario's privacy legislation. This policy and its' related procedures are intended to ensure TVFHT's compliance with Ontario's privacy legislation and to complement and support policies and procedures established by the partner Physicians/Family Health Organizations/Networks and Hospitals.

Thames Valley Family Health Team requires anyone who collects, uses or discloses personal health information on our behalf to be aware of our policies and procedures related to Requests to Restrict Collection, Use and Disclosure of Personal Health Information/Lockbox and the importance of complying with this policy and its' related procedures.

Members of the Thames Valley Family Health Team (TVFHT) working as agents of Health Information Custodians (HIC's) partnering with TVFHT are allowed, in compliance with Ontario's privacy legislation and within the scope of their individual role responsibilities, to facilitate patients' requests to restrict the collection, use and disclosure of personal health information for the purpose of continuing health care held within the custody or control of the partnering HIC (example: PHI held in the EMR). In facilitation of requests for restrictions to collection, use and disclosure of PHI, members of the TVFHT will comply with privacy policies and procedures of the applicable Health Information Custodian wherever available, but may refer to procedures associated with this TVFHT policy wherever it is useful to do so, to assist in ensuring compliance with Ontario's privacy legislation.

## POLICY

Ontario's health privacy law, the Personal Health Information Protection Act (PHIPA), gives individuals<sup>1</sup> the right to make choices about, and control how, their personal health information (PHI) is collected, used, and disclosed. As part of our mission, the Thames Valley Family Health Team is committed to promoting patient privacy and protecting the confidentiality of the PHI we hold.

PHIPA gives patients the opportunity to restrict access to any of their PHI or their entire health record by one or more Thames Valley Family Health Team staff or by external health care providers. Although the term "lockbox" is not found in PHIPA, lockbox is commonly used to refer to a patient's ability to withdraw or withhold consent for the use or disclosure of their PHI for health care purposes or to place restrictions on the collection, use or disclosure of their PHI for health care purposes. Requests to restrict the collection, use or disclosure of an individual's PHI i.e., lockbox, does not extend to other uses or disclosures that are permitted or required under PHIPA or other legislation.

This policy will help Thames Valley Family Health Team staff understand and fulfill their role when addressing restriction/lockbox requests and providing care to patients who have implemented a restriction/lockbox. Restrictions to the Collection, Use or Disclosure of PHI/Lockboxes may affect clinical practice at Family Health Organizations/Networks partnering with Thames Valley Family Health Team because access to information about patients may be restricted, and Thames Valley Family Health Team health care providers may be asked not to share PHI with other health care providers or support staff working with you.

A patient/SDM should make their restriction request/lockbox request in writing to the TVFHT Privacy Officer using the [Request to Restrict the Collection, Use or Disclosure of Personal Health Information/Lockbox Form](#).

Processing of patient/SDM requests for restriction to the collection, use or disclosure of personal health information (PHI) must comply with legislative requirements and [professional standards](#). Patient/SDM requests to restrict the collection, use or disclosure of PHI related to information held in the custody or control of TVFHT must also comply with the procedures related to this policy.

### **Patient/SDM Requests to Restrict Collection, Use or Disclosure of PHI/Lockbox held within an EMR:**

When facilitating (i.e., working as an agent of the accountable HIC) restriction/lockbox of PHI requests related to information held in the custody or control of a HIC partnering with TVFHT (e.g., information held in an EMR) the TVFHT staff member will, within the scope of his/her role description:

- a) Comply with the available policies and procedures of the accountable custodian (HIC),
- b) In the event that such policies and procedures are unavailable, consult with the HIC's privacy officer for direction, and
- c) If the accountable HIC's privacy officer agrees, utilize the procedures and forms accompanying this policy to assist in responding to the request.

---

<sup>1</sup> In our context, "individuals" will mainly relate to Thames Valley Family Health Team patients and we have used the term "patient" throughout the policy. It is possible that we hold PHI about individuals who are not Thames Valley Family Health Team patients, and the lockbox policy would apply equally to those individuals.

## DEFINITIONS

**Health Information Custodian** – a person or organization that is responsible and accountable for the PHI it collects, uses and discloses. The HIC is responsible for the information management practices of its staff, consultants, volunteers, affiliates, agents and administration or anyone working on behalf of the HIC. According to law, Thames Valley Family Health Team as an organization is a HIC. With regard to PHI held in the Electronic Medical Record (EMR) of a Family Health Organization/Network or Hospital (FHO/N or Hospital) partnering with TVFHT, the Health Information Custodian is the applicable FHO/N or Hospital.

**Health Record** consists of all personal information and PHI, regardless of the medium, accumulated in:

- Hard-copy health record,
- Electronic medical record,
- Documents created and maintained in clinics and private offices.
- TVFHT's reporting data base or health/wellness program files,
- Diagnostic images and reports, lab specimens and reports, photographs, videos, sound recordings, microfilm or microfiche,
- Any other medium.

**Patient/SDM** – for the purpose of this policy means the patient/client/individual participant, if the patient is capable with respect to restrictions to consent of their PHI, or the patient/client/individual participant's Substitute Decision Maker (SDM), if the patient is incapable with respect to restrictions to consent of their PHI.

**Personal Health Information (PHI)** is identifying information with respect to an individual, whether living or deceased and includes:

- a. Information concerning the physical or mental health of the individual;
- b. Information concerning any health service provided to the individual, including the identification of the person that provided health care to the individual;
- c. Information concerning the donation by the individual of any body part of any bodily substance of the individual;
- d. Information derived from the testing or examination of a body part of bodily substance of the individual;
- e. Information that is collected in the course of providing health services to the individual, or
- f. Information this is collected incidentally to the provision of health services to the individual.

**Professional Standards** – An authoritative statement that sets out the legal and professional basis of practice. Professional Standards provide an overall framework for practice. Examples of health care providers with professional standards are: College of Nurses of Ontario, the Ontario College of Social Workers and Social Service Workers and the College of Physicians and Surgeons of Ontario.

**Records**, for the purpose of this policy, refer to the original information or official file copies of a Thames Valley Family Health Team generated document, which may be in electronic or hardcopy format. Records also refer to electronic or digital copies of PHI held within the EMR of the partnering FHO/N or Hospital.

## PROCEDURES

### **Patient Requests for Restrictions to Consent/Lockbox related to Personal Health Information**

Any current or former Thames Valley Family Health Team patient<sup>2</sup> may request restrictions to consent/a lockbox to restrict sharing of all or some of their PHI with one or more Thames Valley Family Health Team staff or with external health care providers.

When patients ask about restricting the collection, use or disclosure of their PHI or lockboxes, it is important for Thames Valley Family Health Team staff to address their concerns about the confidentiality and privacy of their PHI. Note that some patients may want to control who can access their PHI, but may not know to use the term “restricting consent” or “lockbox.” Patients may want a restriction/lockbox when they use words such as “limit,” “don’t tell,” “exclude,” “shield,” or “block” when talking about their PHI. For example, patients may want a restriction to consent or lockbox if they ask Thames Valley Family Health Team staff:

- Not to tell their specialist that they are being treated at Thames Valley Family Health Team,
- To exclude certain Thames Valley Family Health Team clinical staff from seeing their information,
- To “shield” their information,
- To “restrict” their health record, or
- Not to let their family members or neighbours who work with Thames Valley Family Health Team look at their health record,

Patients may initiate the process for requesting a restriction to consent or lockbox by speaking to a TVFHT staff member or by contacting a Thames Valley Family Health Team Privacy Officer. If patients wish to request a restriction/lockbox for PHI held in their EMR, they may initiate their request by speaking to any member of their primary health care team (including a TVFHT staff member) or to the Privacy Officer at their FHO/N (primary care clinic). Patients must submit their request for restrictions/lockbox in writing. Patients will be asked to complete a [Patient Request for Restrictions to Consent/Lockbox](#) form. The completed form must be submitted to an applicable Privacy Officer or delegate. Thames Valley Family Health Team's Patient Request for Restriction to Consent/Lockbox Information brochure should be given to patients who want more information. This brochure discusses the purpose, implications, and limitations of implementing a lockbox. Lockbox requests can vary considerably. A patient may request that:

- Only some of the documents in their health record be restricted/locked,
- All of their health record be restricted/locked,
- All documentation created in the future be restricted/locked,
- Only one Thames Valley Family Health Team or FHO/N or Hospital staff be restricted from accessing PHI,
- Several Thames Valley Family Health Team or FHO/N or Hospital staff be restricted from accessing PHI,
- All Thames Valley Family Health Team or FHO/N or Hospital staff be restricted from accessing PHI, or
- One or more external health care providers not be given their PHI.

---

<sup>2</sup> An individual's substitute decision-maker may also request a lockbox and such requests are processed in the same manner.

Although PHIPA does not require that Health Information Custodians restrict/lock documentation that does not yet exist, in practice, refusing to lock future documents may result in frequent lockbox requests from a patient if a restriction/lockbox will be requested every time a new document is created. For this reason, Thames Valley Family Health Team will, where appropriate and if requested, assist in facilitating restriction/lockbox requests as new documents are created. An example might be where a patient requests a future restriction/lockbox because one of their family members (or former spouse or partner) is a Thames Valley Family Health Team employee or an employee/affiliate of their primary care clinic (FHO/N or Hospital). When patients request a restriction/lockbox, it often means they have concerns about their PHI and how it is being used and/or disclosed. Patients should be reminded that:

- Thames Valley Family Health Team takes privacy seriously and keeps all PHI confidential and secure,
- PHI is only accessed by Thames Valley Family Health Team staff on a need-to-know basis,
- Where PHI is accessed without authorization, Thames Valley Family Health Team will take appropriate steps to prevent a reoccurrence and there would be disciplinary consequences,
- PHI is disclosed only to external health care providers with whom the patient wants their PHI shared (unless the disclosure is otherwise permitted or required under PHIPA without consent, or by another law)

NOTE: TVFHT employees are not able to exclude or 'lock' patient information from physicians, even at the patient's request. You must inform the patient on their first visit that your notes are entered into the EMR and are fully accessible by his/her physician.

Sometimes a patient requests a restriction/lockbox when a restriction/lockbox is not necessary to resolve the patient's concern. For example, a restriction/lockbox is not necessary to restrict the sharing of PHI with non-health care providers (e.g., family, employers, insurers) because Thames Valley Family Health Team needs the patient's express consent (either in writing or verbal, as documented by Thames Valley Family Health Team) to share information with such recipients. If a patient does not want the Thames Valley Family Health Team to share information with non-health care providers – we will not do so unless there is legal authority to do so.

### **Implications of Implementing a Restriction to Consent or Lockbox**

If a patient chooses to move forward with a restriction/lockbox request, it is important that they understand the possible implications of the lockbox. There may be implications and risks to the patient and to their care. A Privacy Officer or delegate or the patient's primary care provider should discuss implications and risks with the patient. Examples may include:

- The patient not receiving the best possible service because health care providers may not have access to PHI that they need in order to provide the best possible care in a timely manner.
- The patient may have to undergo duplicate tests, procedures and health history questions if existing information is unavailable.
- At Thames Valley Family Health Team we use a multi-disciplinary team approach to providing care. Although each restriction/lockbox request is considered on a case-by-case basis, generally, a patient's choice to implement a restriction/lockbox should not prevent a team from providing care as per their standards of practice.

There may be circumstances where Thames Valley Family Health Team primary care providers cannot provide care in a manner that meets professional standards of practice if they do not have sufficient information. Thames Valley Family Health Team may have to assess whether they can continue to provide care to a patient if there is insufficient information. However, the decision to discontinue care to a patient is a significant one and would only be made after thorough consideration of all the relevant information. Thames Valley Family Health Team will try to maximize patient choice about how their PHI is used and disclosed while at the same time allowing Thames Valley Family Health Team health care providers to uphold their commitments to deliver high quality patient care and to meet their obligations to their regulatory colleges. There may be other risks specific to particular patients, which should be explored and discussed with patients directly.

### **Decisions to Implement a Restriction/Lockbox**

The Thames Valley Family Health Team (TVFHT) Privacy Officer or delegate will review, respond to, implement, and administer restriction/lockbox requests on behalf of TVFHT that pertain to PHI held in the custody or control of the TVFHT. Thames Valley Family Health Team's decision to implement a lockbox will be based on the practicality of the solution, technological feasibility, and the specific circumstances.

The TVFHT's Privacy Officer or delegate will notify in a timely manner any patient who made a lockbox request of the Thames Valley Family Health Team's decision. If the Thames Valley Family Health Team's decision is to deny a lockbox request, the patient will be informed of the right to make a complaint to the Information and Privacy Commissioner/ Ontario.

#### **Requests to Restrict/Lockbox PHI held in the EMR**

Should the request to restrict/lockbox PHI relate to information held in the EMR for which the HIC of record is the applicable FHO/N or Hospital, the applicable FHO/N or Hospital Privacy Officer will review, respond to, implement and administer restriction/lockbox requests on behalf of the applicable HIC.

Because the choice to implement a restriction/lockbox related to PHI held in the EMR may have implications to the patient's care, the Privacy Officer along with the patient's physician or primary care provider may be involved in processing the request as appropriate.

HICs partnering with TVFHT are required under PHIPA, 2004 to have methods/procedures in place, allowing them to implement requests for restrictions/lockboxes related to PHI held in their custody or control. These methods are varied and therefore, requests received by TVFHT staff members within their role as agent of a partnering HIC, will be forwarded to the applicable Privacy Officer, to be considered on a case-by-case basis.

The partnering HIC's Privacy Officer or delegate is required to notify any patient who made a restriction/lockbox request of the FHO/N or Hospital's decision in a timely way. Patients also have the right to make a complaint to the Information and Privacy Commissioner/ Ontario if they believe their privacy rights are not being appropriately managed.

## Lockbox Exclusions

A Request for restriction/lockbox cannot be used to prevent Thames Valley Family Health Team (or any other HIC) from fulfilling its administrative functions and using and disclosing PHI for other authorized purposes. For example, a patient's request for a restriction/lockbox does not restrict Thames Valley Family Health Team from using or disclosing PHI for the following purposes (which are permitted in PHIPA in sections 37-50):

- Obtaining or processing payments,
- Planning services,
- Quality improvement,
- Disposing of information,
- Complying with a court order,
- Litigation,
- Research (with research ethics board approval),
- A lockbox does not prevent a Health Information Custodian (e.g., TVFHT or a FHO/N or Hospital partnering with TVFHT) from using or disclosing PHI where there is a legal obligation to do so (for example, to fulfill mandatory reports to the Children's Aid Society or to the Ontario Ministry of Transportation).
- A HIC may also use or disclose PHI if there are reasonable grounds to believe that using or disclosing the information is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons.

There may be other circumstances where the use or disclosure of PHI is required or permitted by law. Thames Valley Family Health Team staff should consult with a Thames Valley Family Health Team Privacy Officer or the Privacy Officer of the applicable HIC they are acting as agent for when in doubt.

## Identifying a Lockbox

Before reviewing a patient's PHI, Thames Valley Family Health Team staff must always check to see if a lockbox has been applied.

Electronic Records:

If a patient has implemented a restriction to consent/lockbox related to electronic records, a method of notifying the user is required. TVFHT and the partnering HICs are required under PHIPA to develop a method/process or some form of "Notification Alert" to identify whether all or a portion of the health information is restricted/locked. If the restriction/lockbox applies to all Thames Valley Family Health Team staff, then the electronic system must restrict access to that patient's PHI. If a restriction/lockbox pertains to specific Thames Valley Family Health Team staff, their access must be restricted.

### **PHI contained in a partnering HIC's EMR**

Similarly to the need to have a notification methodology as described above, an electronic system containing PHI held in the custody or control of one of TVFHT's partnering HICs, must restrict access to information as applicable and must have a notification process to alert authorized users that not all information is accessible at the request of the patient.



## Paper Records:

If all records held in the custody or control of TVFHT are subject to a restriction/lockbox, it will be in a sealed envelope (signed across the seal by a Privacy Officer or delegate) with a label affixed to it that reads “Restricted/Lockbox” and a “Restriction/Lockbox Notification Alert” form will be apparent and will include a list of unauthorized or “locked” persons.

If a portion of records held in the custody or control of TVFHT are subject to a restriction/lockbox, the relevant portion will be in a sealed envelope (signed across the seal by a Privacy Officer or delegate) with a label affixed to it that reads “Restricted/Lockbox” and a “Restriction/Lockbox Notification Alert” form will be apparent and will include a list of unauthorized or “locked” persons.

### **Paper Records of PHI in the custody or control of a HIC partnering with TVFHT**

Similarly to the need to have a TVFHT procedure as described above to respond to patients’ request for restriction/lockbox, HICs partnering with TVFHT are also required by law to have a procedure to implement restrictions to paper records containing PHI when patients have requested a restriction/lockbox and implement a notification procedure to alert authorized users of such restrictions/lockbox.

### **“Breaking” the Restriction/Lockbox**

If a Thames Valley Family Health Team staff member functioning as agent for a HIC partnering with TVFHT is authorized to access information that is otherwise “restricted or locked”, the TVFHT staff member must be familiar with the policy and procedure for doing so of the applicable Health Information Custodian and must comply with that policy and procedure.

Any Thames Valley Family Health Team staff member who accesses PHI that is protected by a restriction/lockbox must document on the patient’s health record the reason and authorization for “breaking” the restriction/lock. All information subject to a restriction/lockbox should be monitored and random audits conducted of such files. If Thames Valley Family Health Team staff members are in doubt about whether they are legally permitted to break a restriction/lockbox, they should contact the Privacy Officer at the applicable FHO/N or Hospital.

Of course, a patient may choose to withdraw or alter a restriction/lockbox request at any time. That decision is best carried out in writing and must be documented on the health record.

### **Notice to External Health Care Providers**

If a patient’s restriction/lockbox instructions state that the patient does not want all or some PHI shared with an external health care provider, Thames Valley Family Health Team will not disclose PHI to the restricted external health care provider unless:

- We are permitted or required by law to do so (for example, we need to disclose the PHI to the external health care provider in order to reduce or eliminate a significant risk of serious bodily harm to the patient or to another person or persons),
- The external health care provider has provided us with written proof of the patient’s express consent to the disclosure.



If Thames Valley Family Health Team is prevented because of a restriction/lockbox from disclosing PHI relevant to the provision of care to an external health care provider, Thames Valley Family Health Team has an obligation to notify the receiving health care provider that not all the relevant PHI has been provided. As a note, the receiving health care provider is then able to explore the matter of the “restricted/locked” information with the patient and seek express consent to have the restricted information shared.

### **Audits**

A Thames Valley Family Health Team Privacy Officer or delegate may request that audits of locked health records be conducted to ensure compliance with patient requested restrictions/lockbox instructions and to determine whether there has been inappropriate access to restricted/locked information. Any apparent unauthorized access to restricted/locked information will be investigated.

### **Breach of Privacy**

Unauthorized access by a Thames Valley Family Health Team staff to a patient’s health record constitutes a breach of privacy and may result in disciplinary action up to and including termination of employment or contract with the Thames Valley Family Health Team. If there is a restriction/lockbox on a patient’s health record and a Thames Valley Family Health Team staff member is restricted from accessing the PHI, it is considered a breach for that staff member to access the PHI without specific authorization from a Privacy Officer or delegate or unless otherwise permitted or required by law to use or disclose the information (such as in an urgent situation in order to prevent a significant risk of serious bodily harm). Thames Valley Family Health Team is obliged to notify any affected patient(s) of a privacy breach and their rights and will do so in accordance with the requirements of PHIPA.

**Patient Request Form to Restrict Collection, Use or Disclosure to Personal Health Information/Lockbox (page 1 of 2)**

**Person completing this form and requesting restrictions/lockbox:**

Patient/Client

Substitute Decision Maker

Patient/Client's Name: \_\_\_\_\_  
(Last Name) (Given Name) (Middle Name)

DOB: \_\_\_\_\_ (YYYY/MM/DD)

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_ HC#: \_\_\_\_\_

**Only complete this section if you are acting on behalf of a patient/client i.e., SDM with legal signing authority:**

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_ SDM's relationship to patient/client: \_\_\_\_\_

**RESTRICTION TO CONSENT/LOCKBOX REQUEST DETAILS**

**I wish to restrict my consent for the use and/or disclosure of my personal health information in the following way(s):**

Specific visit (enter date) \_\_\_\_\_

Specific range of visits (enter dates) \_\_\_\_\_ to \_\_\_\_\_

Person (s) \_\_\_\_\_

Other: \_\_\_\_\_

I, \_\_\_\_\_ (*print name of requestor*) have had the risks associated with placing restrictions on my consent to use/disclose of my personal health information (i.e., applying a lockbox) explained to me by a member of your health care team and I have read and understand the risks as outlined on the back of this form. I have had the opportunity to ask questions and have had my questions answered to my satisfaction. I understand that my request for restrictions related to the use and disclosure of my health information (i.e., a lockbox restriction) will remain in place unless I contact your organization at < *enter tel. number* > to rescind my request.

Signature of patient/client or SDM: \_\_\_\_\_

Date: \_\_\_\_\_ (YYYY/MM/DD)

**The following risks may occur when restrictions (“lockbox”) are applied to the use and or disclosure of personal health information:**

- Restricting use or disclosure of health information (i.e., lockboxing) may result in health care practitioners being unable to accurately assess health status. Not having the use of necessary historical health information may result in the need to repeat tests and x-rays and could result in ineffective or insufficient treatment that could lead to serious health consequences.
- The College of Physicians and Surgeons of Ontario believes patient safety should remain paramount. Therefore, in situations that are non-emergent, physicians are not obligated to accept or treat a patient about whom they have insufficient information. However, all patients will be provided health care in an emergency, even if the patient has placed restrictions on their personal health information.
- In situations where *<name of organization>* provides personal health information about a patient to another health care professional but some information has been withheld or not made available due to the patient’s request to restrict use and disclosure, *<name of organization>* is required to inform the person receiving the information that some personal health information has been withheld due to restrictions requested by the patient – Personal Health Information Protection Act 2004 s. 20(3).
- As per s. 71(1) of the Personal Health Information Protection Act 2004, the *<name of the organization>* will be immune from any actions or proceedings for damages that may result from this restriction on use/disclosure or lockbox of your personal health information.
- As is permitted by law, restricted/lockboxed information may be used and/or disclosed in an emergency situation without written consent from the patient/SDM if the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person, including harm to a patient or group of patients.
- *<Name of organization>* is required by law to provide personal health information to the Ministry of Health under certain circumstances regardless of a patient’s request to restrict or lockbox information.
- I acknowledge it is my responsibility to discuss my wishes with my Substitute Decision Maker and other Health Care Providers involved in my health care. I also understand that my request for a lockbox is not retroactive and only applies to future uses and disclosures of my health information.

**OFFICE USE ONLY**

**Verification of identity of individual requesting restriction to consent for use/disclosure of PHI/Lockbox:**

Form of ID:  Driver’s License     Passport     Notarized Letter     Lawyer’s Letter  
 Other (specify) \_\_\_\_\_

ID Checked by \_\_\_\_\_ Signature: \_\_\_\_\_  
(Printed Name) (Signature)