

 Thames Valley Family Health Team	Policy: Patient Request for Access to and Disclosure of Personal Health Information	Code Number
	Approval Date: November 7, 2017 Approval Body: TVFHT Executive Director	Pages: 27 Last Review Date: Last Revision Date:

This policy applies to: Thames Valley Family Health Team¹ 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 Correct/Amend Personal Health Information and the importance of complying with this policy and its' related procedures.

Thames Valley Family Health Team (TVFHT) staff members 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 patient requests to correct/amend their personal health information held within the custody or control of the partnering HIC (example: PHI held in the EMR). In facilitation of requests for correction/ amendment of PHI held by TVFHT or in the EMR, staff members of the TVFHT will comply with privacy policies and procedures of the applicable Health Information Custodian wherever available. In the event that such policies and procedures are unavailable:

- If the PHI is held by TVFHT or entered by a TVFHT staff member into the EMR, staff members will comply with TVFHT privacy policies and procedures.
- If the PHI has been entered into the EMR by anyone other than TVFHT employees, staff members will consult with the HIC's privacy officer for direction and if that privacy officer agrees, 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

Patient requests for [access](#) to their own [personal health information](#) (PHI) and [disclosure](#) of their own PHI must comply with [legislative requirements](#) and [professional standards](#) regardless of who the accountable HIC is related to the information being requested and regardless of where the access or disclosure takes place.

Access to and disclosure of PHI requests related to information held in the custody or control of TVFHT must also comply with the procedures outlined in this policy.

Access to and Disclosure of requests related to PHI held within an EMR:

When facilitating (i.e., working as an agent of the accountable HIC) access to or disclosure of PHI requests related to information held in the custody or control of a HIC partnering with TVFHT (example: 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 respond to the request.

PHI collected, used and/or maintained within the Thames Valley Family Health Team is owned by the patient/client and is considered [confidential](#). The documentation of PHI constitutes a health [record](#), which is under the legal custody or control of Thames Valley Family Health Team as the [health information custodian](#) (HIC), regardless of where the record is stored and regardless of the medium (verbal, written, visual, and electronic).

The patient/client, if [capable](#) with respect to the collection, use and disclosure of PHI, or the [Substitute Decision Maker](#) (SDM), if the patient/client is incapable with respect to the collection, use and disclosure of their PHI (hereafter referred to as the [patient/SDM](#)), has the right to:

- Access their PHI following processes established by TVFHT; and
- Consent to, or place restrictions on the disclosure of their PHI. Also refer to [Patient Requests to Restrict the Collection, Use and Disclosure of Personal Health Information Policy](#).

By law, Thames Valley Family Health Team may refuse all or partial access and/or disclosure of PHI only if:

- The access or disclosure is felt by the [Most Responsible Practitioner](#) (MRP) to potentially result in bodily harm to the patient, or harm to the treatment or recovery of the patient, or harm to a third party referred to in the record;
- Lead to the identification of a person who was required by law to provide information in the record to Thames Valley Family Health Team;
- Lead to the identification of a person who provided information in the record to the Thames Valley Family Health Team in confidence, explicitly or implicitly, if Thames Valley

Family Health Team considers it appropriate in the circumstances that the name of the person be kept confidential; or

- Access and/or disclosure are not permitted or required by law (see [Appendix A](#) for situations where the organization would refuse access and/or disclosure).

The Thames Valley Family Health Team will provide access and/or disclosure to the part of the record that is not impacted by the conditions above and that can reasonably be severed from the record.

Personal Health Information that has been created by another HIC but has been accessed by or disclosed to the TVFHT in the process or for the purpose of providing health care, is considered part of the patient's health record held in the custody or control of TVFHT and may be accessed or disclosed in compliance with and as allowed or required under PHIPA.

Access and/or disclosure of confidential information without appropriate consent from the patient/SDM where required or as allowed by legislation is considered a breach of privacy and may be cause for disciplinary action up to and including termination of employment/contract or loss of appointment or affiliation with the organization.

Consent

1. Disclosure of Personal Health Information for the Purpose of Providing Health Care

TVFHT is permitted to use and disclose a patient's Personal Health Information to another health information custodian for the purpose of providing or facilitating health care based on [implied consent](#) of the patient/SDM under the following conditions:

- That [reasonable steps](#) have been taken to inform the patient/SDM about the use and disclosure; and
- As long as the patient/SDM has not placed restrictions on the use and/or disclosure of his/her PHI (Refer to [Patient Requests to Restrict the Collection, Use and Disclosure of Personal Health Information Policy](#))

2. Disclosure of Personal Health Information for Purposes other than the Provision of Health Care

Using the [procedures](#) below, [express consent](#) from a patient/SDM is required when disclosing PHI to a non-health information custodian or to a health information custodian if the purpose of the disclosure is not for the provision of health care for the patient to whom the information relates.

3. Disclosure of Information Without Consent

Personal Health Information Protection Act (PHIPA) provides other circumstances where a custodian may disclose PHI **without** patient/SDM consent, i.e., when the disclosure is either permitted (discretionary) or required (mandatory) by law. These disclosures include (but are not restricted to):

- Instances where it may not be reasonably possible to obtain the patient's/SDM's consent prior to disclosure to another health information custodian for emergent health care delivery (in the absence of a previously specified restriction to disclosure);

- Disclosure of PHI to the MOHLTC or another custodian to allow payment for provision of health care delivery (but not to seek funding from alternate sources such as a private payee);
- Mandatory reporting – this policy does not supersede the obligation of mandatory disclosure of information required by other laws and statutes such as mandatory reporting provisions under the Health Protection and Promotion Act;
- Duty to warn – information may be released, usually to law enforcement, if there is a threat to an identifiable individual or group of individuals. The threat must be imminent;
- To facilitate audit or accreditation purposes where the reviewer is independent of the custodian and not acting as an agent of the custodian;
- In the process of contacting a relative or most appropriate individual if the patient is injured, incapacitated or ill and is unable to give consent personally; and/or
- Informing a relative or most appropriate individual that the patient is deceased, the circumstances of death and for the purpose of identifying the patient.

Refer to the Tables provided in Appendix C for Additional information related to Disclosures:

- [Mandatory Disclosures \(Table 1\)](#);
- [Disclosure for Health Related Programs and Legislation \(Table 2\)](#); and
- [Disclosure to Lawyers, Insurance Companies, Adjusters, Investigators \(Table 3\)](#).

Procedure

Obtaining Consent

Implied Consent

Implied consent allows the Thames Valley Family Health Team to presume that a patient/SDM would reasonably consent to the collection, use or disclosure of PHI to another health information custodian for specific purposes such as the delivery of health care. Implied consent, however, does not mean that information is disclosed without the patient/SDM's knowledge.

1. Ensure your area has current privacy posters and brochures that inform patients/SDMs about TVFHT's information practices.
2. Inform the patient/SDM:
 - To whom you will be disclosing information;
 - The purpose of the disclosure; and
 - What information will be disclosed.
3. Document any discussions regarding the disclosure of PHI in the patient's [health record](#).
4. Refer to the [Patient Requests to Restrict the Collection, Use or Disclosure of Personal Health Information Policy](#) if the patient places restrictions around disclosure of information.
5. Complete [Disclosure Log for Personal Health Information \(Appendix B\)](#) if the disclosure is not clearly documented within the EMR (multiple use form if disclosing for purpose of health care). A copy of this log will be forwarded to Central Office yearly.

Express Consent

Express consent is obtained when a patient explicitly agrees to the disclosure of their PHI. Express consent can be given either in writing, orally, in person or by telephone.

1. Inform the patient/SDM:

- To whom you will be disclosing information;
 - The purpose of the disclosure; and
 - What information will be disclosed.
2. Document any discussions regarding the disclosure of information in the patient's health record.
 3. Refer to the [Patient Requests to Restrict the Collection, Use or Disclosure of Personal Health Information Policy](#) if the patient places restrictions around disclosure of information.
 4. Express consent may be obtained in writing or verbally via a discussion with the patient/SDM.
 5. A written consent may be obtained using:
 - The TVFHT's [Consent for Access to or Disclosure of Personal Health Information Form](#)
 - A letter from a patient/SDM; or
 - A consent form from another organization, and
 must be signed by the patient/authorized individual (see below) and placed in the patient's health record.
 6. Verbal consent (in person or via telephone) must be documented in the patient's health record by the staff member who obtained the consent.

A written consent must be signed and dated by:

- a. The patient, if capable of giving consent. Patients are presumed to be capable unless there is documented evidence available that the patient has been found incapable of authorizing disclosure. (Note: capability has no age restriction);
 - b. The SDM where the patient is found to be incapable; or
 - c. The executor of the estate/estate trustee if the patient is deceased. A copy of the Will is required to validate. If there is no executor, the most responsible individual as validated by a signed letter from a lawyer or notary public.
- 7. The consent must contain original signatures in ink. Urgent requests may be faxed however the original copy must be provided at the earliest possible time.**

A [Consent for Disclosure of Personal Health Information](#) is valid for 6 months and permits the disclosure of PHI that has already been created, collected, or maintained **on or before the date that the consent is signed**. If an acceptable alternative form of consent is received it will be valid for the time frame indicated on the form or letter. If there is not a time frame indicated in writing the consent is valid for 6 months.

A [Consent for Ongoing Disclosure of Personal Health Information](#) form is used to obtain express consent to disclose information **not yet collected**. The consent must be re-validated with the patient/SDM every 6 months. The patient/SDM must be informed that they have the right to revoke this consent at any time.

Access: As it pertains to this policy, 'access' means to make the information available to the patient to whom the health information pertains, if capable, or the patient's Substitute Decision Maker, if the patient is incapable.

Staff members must follow the provisions in this policy when a request for PHI held in the custody or control of TVFHT is received. Supervisors are your first point of contact in case of questions; they can connect you with the appropriate privacy officer if necessary.

Access to PHI requests related to PHI held within the EMR:

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

- a) Ensure that legislative requirements and professional standards are met,
- b) Comply with the available policies and procedures of the accountable custodian,
- c) In the event that such policies and procedures are unavailable, consult with the custodian's privacy officer for direction, and
- d) If the accountable custodian's privacy officer agrees, utilize the procedures and forms accompanying TVFHT's policy to facilitate the request.

Thames Valley Family Health Team staff members will direct patient requests to the clinic's designated person responsible for Access to PHI requests at the Clinic/FHO/Network under the following circumstances:

- a) When the person requesting access is not currently in the clinic attending a scheduled visit, or
- b) When the request is for printed copies of the whole or significant portion of an EMR.

If a patient/SDM requests a copy of a specific document or result during a scheduled clinic visit, this may be printed through the EMR during the visit, and provided to the patient/SDM after first ensuring compliance with legislative requirements and professional standards.

Staff members facilitating access requests will:

- Ensure that there is a written request;
- Place the written request on the patient's health record;
- Ensure that any Third Party information (see note below) documented in the patient's health record is "severed from the record or blacked out/redacted on the copy of the record" prior to access;
- Consult with the patient's Family Physician when information being requested contains information that may place patient/client or third party at risk (section 52, PHIPA). Based on the decision of the Family Physician, the patient/SDM's request may be granted in whole or in part. Where possible, information that may not be granted access to, is severed from the record and the patient is granted access in part;
- When appropriate, request that Family Physician determine patient capability related to information being requested access to;
- Confirm HIC's decision to approve/refuse request for access of PHI (Refer to [Appendix A](#) for situations a HIC may refuse/deny access to/disclosure of PHI)
- If request for access is being refused in whole or in part, document refusal and reasons for refusal using template found in [Appendix F](#) and provide letter to requestor.
- Ensure verification of identity of requestor by requesting Government issued, photo identification that has a signature. If request is made via mail, ask requestor to send photocopy of this identification. Inform requestor that the photocopy is destroyed securely (as per custodian's destruction of confidential waste policy) after verification of identity.

- Document verification of identity on the [Consent for Access to and Disclosure of Personal Health Information](#) or [Consent for Ongoing Access to and Disclosure of Personal Health Information](#) form as applicable;
- Provide access. See methods of access to or disclosure of PHI;
- Document the access on the [Consent for Access to and Disclosure of Personal Health Information](#) or [Consent for Ongoing Access to and Disclosure of Personal Health Information](#) form;
- Collect [fees for access](#) (if applicable) and issue the patient a receipt for fees.

Access to a record of PHI when it also contains confidential [Third Party Information](#):

- If consent to disclose information about a third party is not obtained, the third party information must be severed from the original record or blacked out (redacted) on the **copy** of the record being accessed ensuring the original record is not altered or damaged in any manner.

TVFHT staff members, as agents of a partnering HIC who have access to and disclosure of PHI within the scope of their role responsibilities, may facilitate patient/SDM requests for access to PHI (within the EMR) during an active clinic visit following the procedures above.

However, if a patient/SDM is provided with a copy of a specific document or result during an active clinic visit, no written request/consent for access is required and the staff member providing access will document the access in the patient's health record.

PHIPA requires that access requests must be accommodated within 30 days. If it is not possible within that time frame, a written notification must be sent to the patient/SDM extending the period for 30 days. PHIPA permits an extension of one additional period of 30 days (maximum of 60 days from the date of the request). See [Appendix G](#) for letter template to extend timeframe.

If a patient has accessed his/her PHI and feels that the information is inaccurate or incomplete, he/she may request an amendment. Refer to the [Patient Request to Correct/Amend Personal Health Information Policy](#).

Staff Member Seeking Access to his/her own health record or the health record of a family member or friend:

a) One's Own Health Record:

- When staff members wish access to their own PHI, **they are doing so as a patient** of the Thames Valley Family Health Team (or the Physician/FHO/Network) and must follow the process for patient access. Staff are NOT permitted to directly access their own PHI (held at TVFHT or in the EMR) without:
 - Completing the appropriate form to request access to PHI (consent); and
 - Following processes outlined above.

b) Health Record of a Family Member or Friend:

- Any request by staff members to review or obtain information about a family member or friend will be refused without the patient/SDM's written authorization. The written authorization must be stored on the patient's health record prior to the disclosure to a staff member. This is considered **disclosure** by the patient – see process for Disclosure below.

Direct access to information about a family member or friend without following the procedures in this policy is considered a privacy breach and will be managed according to the Breach of Patient Privacy Policy.

Disclosure: as it pertains to this policy, 'disclosure' means to make the information available or to release it to another health information custodian or to another person, but does not include use of the information.

Staff members must follow the provisions in this policy when a request for disclosure related to PHI held in the custody or control of TVFHT. Supervisors are your first point of contact in case of questions; they can connect you with the appropriate privacy officer if necessary.

Disclosure of PHI requests related to PHI held within the EMR:

When facilitating (i.e., working as an agent of the accountable HIC) disclosure to PHI requests related to information held in the custody or control of a HIC partnering with TVFHT (example: information held in the 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,
- b) In the event that such policies and procedures are unavailable, consult with the custodian's privacy officer for direction, and
- c) If the accountable custodian's privacy officer agrees, may utilize the procedures and forms accompanying TVFHT's policy to facilitate the request.

Thames Valley Family Health Team staff members will direct patient requests to the clinic's designated person responsible for Disclosure of PHI requests at the Clinic/FHO/Network under the following circumstances:

- a) When the person requesting disclosure is not currently in the clinic attending a scheduled visit,
- b) When the request is for release/disclosure of information to a third party that is NOT a health information custodian e.g., police, insurer, employer, or
- c) When the request is for disclosure of printed copies of the whole or significant portion of an EMR.

Staff members facilitating requests for disclosure of PHI will:

- Ensure that no restrictions have been placed on disclosure by the patient/SDM;
- Ensure that there is a written request/authorized consent where required (see consent requirements);
- Copy/print the applicable records/information;
- Ensure that any Third Party information (see note below) documented in the patient's health record is "severed from the record or blacked out/redacted on the copy of the record" prior to disclosure
- Place the written request/authorized consent form on the patient's health record;
- Consult the family physician when the records to be disclosed contain information that may place patient/client or third party at risk (section 52, PHIPA). Based on the decision of

the family physician, the patient/SDM's disclosure request may be granted in whole or in part. Where possible, information that cannot be disclosed is severed from the record and the disclosure is granted in part;

- When appropriate, request family physician to determine patient capability related to consent for disclosure of PHI;
- Depending on the method of disclosure being utilized, ensure verification of identity of requestor/contact information of third person to receive PHI being disclosed by:
 - Call display (if PHI request being received or disclosed via telephone);
 - Calling the requestor back at a validated organization/office phone number; and/or
 - Asking for request to be submitted on organization's letterhead.
 - Ensuring accuracy of intended recipient's telephone/fax number
- Request Government issued, photo identification if request for disclosure is being picked up in person (specific to family members picking up information, or police picking up information - ID would be required); and
- Document verification of identity on the [Consent for Access to and Disclosure of Personal Health Information Form](#) or [Consent for Ongoing Access to and Disclosure of Personal Health Information Form](#).
- Confirm HIC's decision to approve/refuse request for disclosure of PHI (Refer to [Appendix A](#)) for Situations a HIC may refuse/deny access to/disclosure of PHI)
- If request for disclosure is being refused in whole or in part, document refusal and reasons for refusal using template found in [Appendix F](#) and provide letter to requestor.
- Release PHI requested/approved for disclosure. See methods of access to or disclosure of PHI;
- Document the disclosure on the [Consent for Access to and Disclosure of Personal Health Information](#) or [Consent for Ongoing Access to and Disclosure of Personal Health Information](#) form;
- Collect [fees for access](#) (if applicable) and issue the patient/payor a receipt for fees.

TVFHT staff members, as agents of a partnering HIC and who have access and disclosure of PHI within the scope of their role responsibilities, may facilitate patient/SDM requests for disclosure of PHI (within the EMR) during an active clinic visit following the procedures above. e.g., directly to support continuing care, or disclosure to an accompanying family member, OR facilitating completion of request form and re-directing request to the clinic's designated person responsible for disclosure of PHI at the clinic//FHO/Network. Also see "Disclosure of PHI requests related to PHI held within the EMR" information above.

Disclosure of a record of PHI when it also contains confidential [Third Party Information](#):

- If consent to disclose information about a third party is not obtained, the third party information must be blacked out (redacted) on the **copy** of the record being disclosed ensuring the original record is not altered or damaged in any manner.

Documenting Disclosure

Staff disclosing PHI must:

- Document the records that are being disclosed on the patient's health record using the Consent form: [Consent for Access to and Disclosure of Personal Health Information](#); and
- Place the form on the patient's health record.

Methods for Access to or Disclosure of Personal Health Information

The appropriate method to provide access to or to disclose information may depend on what PHI is requested and who is requesting the PHI.

a) Copy of Original Health Record

PHI can be provided to a requestor by creating a copy of the original health record.

Copies may be sent to the requestor in a sealed envelope, clearly marked as Confidential:

- By mail;
- By courier; or
- Picked up by the requestor after validating his/her identity.

b) Original Health Record

A warrant is required by a Coroner or law enforcement agency to confiscate the original health record. Thames Valley Family Health Team must create a copy of the original record prior to releasing it, in order to retain the information for ongoing patient care. Consent from the patient/SDM is not required.

c) Telephone

Disclosure by telephone is permitted when a health care provider requests PHI for emergent or urgent patient care and does not have access to a secure facsimile line. The identity of the requestor must be verified, e.g., by calling the requestor back/ looking up the number. If staff on the unit are familiar with the caller, e.g., family, and the patient has provided consent to release information to the caller, information on the patient's condition may be given over the phone. Information must not be given over the phone to non-health providers without appropriate express consent from the Patient/SDM (e.g., lawyers, insurers, law enforcement agents, educators).

d) Facsimile

Disclosure is permitted when requested by a health care practitioner or facility for continuity of the patient's current health care. Staff may ask the requestor to make their request in writing, using letterhead from the applicable Health Information Custodian. Disclosure will be made through a secure facsimile line.

e) Email

Email is not a secure, private or confidential form of communication when being delivered to an address external to TVFHT "One Mail" addresses or other users of eHealth Ontario's "One Mail" encrypted email system, therefore disclosure of PHI by this method must meet the conditions set out in the [Safeguards of Personal Health Information Policy](#), and be utilized only when other methods of disclosure are not possible.

f) Viewing

Viewing of a health record by a patient, SDM or other individual who is not a staff member of the organization or an agent working on behalf of the custodian, e.g., lawyer, must be supervised by a TVFHT staff member. It is the responsibility of the supervising staff member to:

- Assist the viewer to understand the format of the record;
- Interpret the record (within the scope of the staff member's role);
- Ensure the security of the record; and
- Prevent tampering.

Viewing may be facilitated in the clinic for patients who are currently receiving care on a scheduled visit. Patients who are not currently receiving care on a scheduled visit must be directed to the clinic's designated person responsible for Access to and Disclosure of PHI Requests at the clinic, to view their health record.

A written request using the [Consent for Access to and Disclosure of Personal Health Information](#) form from the patient/SDM is required for viewing.

Fees for Access to and Disclosure of a Health Record

A Health Information Custodian has a right, legally, to recover costs associated with viewing a record or making a copy of a record. Thames Valley Family Health Team does not currently charge for access to or disclosure of PHI held in its custody or control. Health Information Custodians partnering with TVFHT may have established fee rates for facilitating viewing a record, or making a copy of a record to recover costs. Fees may include:

- A fee to view and/or obtain a copy of the health record for non-medical reasons;
- A fee for copying based on the size and the type of record;

A complete fee schedule for the access to and disclosure of PHI documents from a HIC partnering with TVFHT (Clinic/FHO/Network) will be available from the designated clinic staff member responsible for Access to and Disclosure of PHI Requests at the Clinic or through the FHO/Network's Privacy Officer.

DEFINITIONS

Access - as it pertains to this policy, means to make the information available to the patient to whom the health information pertains if capable, or the patient's Substitute Decision Maker, if the patient is incapable.

Capable/Capability - the patient is capable with respect to the collection, use and disclosure of their PHI, if the patient is able to:

- Understand the information that is relevant to making a decision concerning the collection, use and disclosure of PHI; and
- Appreciate the reasonably foreseeable consequences of a decision or lack of decision.

Confidentiality - The obligation upon an organization or person to protect information that has been entrusted to its care for a specific purpose and to ensure that information is only accessible to those authorized to have access.

Disclosure - as it pertains to this policy, means to make the information available or to release it to another health information custodian or to another person, but does not include use of the information.

Express Consent - is obtained when a patient explicitly agrees to the disclosure of their PHI. Express consent can be given either in writing, orally or by telephone.

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, agents and administration or anyone working with (e.g., students) or on behalf of the HIC. According to law, Thames Valley Family Health Team as an organization is a HIC.

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,
- Diagnostic images and reports, lab specimens and reports, photographs, videos, sound recordings, microfilm or microfiche, or
- Any other medium.

Implied Consent allows the HIC to presume that a patient/SDM would reasonably consent to the collection, use or disclosure of PHI for specific use such as the provision of health care.

Most Responsible Practitioner (MRP) – for the purpose of this policy the MRP may be a physician/dentist/midwife/nurse practitioner/psychologist or other Regulated Health Professional who would have knowledge of the patient and the potential risks related to access to and/or disclosure of the PHI.

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

Personal Health Information (PHI) is [personal 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 a person as a provider of health care to the individual,;
- c. Information concerning the donation by the individual of any body part or any bodily substance of the individual;
- d. Information derived from the testing or examination of a body part or 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.

Personal Information is information about an identifiable individual, but does not include the name, title or business address or business telephone number of a staff member of an organization.

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 Colleges of health care providers with professional standards include: College of Nurses of Ontario, the Ontario College of Social Workers and Social Service Workers and the College of Physicians and Surgeons of Ontario.

Reasonable Steps include informing the patient/SDM about the use and disclosure of their personal health information (PHI) through posted notices, patient brochures, the Thames Valley Family Health Team's website and discussions by members of the patient's health care team with the patient/SDM.

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.

Substitute Decision Maker (SDM): is defined as a person who is:

- a. At least 16 years of age, unless he or she is the incapable patient's parent,
- b. Capable for the purpose of this policy, with respect to consent to access or disclose PHI,
- c. Not prohibited by court order or separation agreement from having access to the incapable patient or giving or refusing consent on the incapable patient's behalf,
- d. Available, **and**
- e. Willing to assume the responsibility of giving or refusing consent.

In descending order of priority, an incapable patient's SDM may be:

- a. The incapable patient's "guardian of the person", appointed under the [Substitute Decisions Act, 1992](#), if the guardian has authority to give or refuse consent to the treatment,
- b. The incapable patient's "attorney for personal care", given under the [Substitute Decisions Act, 1992](#), if the power of attorney confers authority to give or refuse consent to treatment
- c. The incapable patient's "representative" appointed by the [Consent and Capacity Board](#), if the representative has authority to give or refuse consent to the treatment
- d. The incapable patient's spouse or partner
- e. A child or parent (custodial) of the incapable patient, or a Children's Aid Society or other person who is lawfully entitled to give or refuse consent to the treatment in the place of the parent
- f. A parent (who has only a right of access) of the incapable patient
- g. A brother or sister of the incapable patient
- h. Any other relative of the incapable patient
- i. The Public Guardian and Trustee

Third Party Information- In relation to a patient's health record, means personal information about an identifiable individual or individuals, other than the patient.

References

[Hospital Privacy Toolkit – Guide to the Ontario Personal Health Information Act - Ontario Hospital Association, September 2004](#)

[Mental Health Act](#)

[Public Hospitals Act, 1990](#) (as amended)

[Personal Health Information Protection Act, 2004](#)

[Quality of Care Information Protection Act 2004](#)

[Substitute Decisions Act, 1992](#)

APPENDIX A

Situations where the Thames Valley Family Health Team would Refuse Access and/or Disclosure

Access to or disclosure of the following information is not permitted or required by law. Access can be given to the part of the record that is not impacted and that can reasonably be severed from the record.

- The record contains quality of care information
- The record contains information collected/created to comply with the requirements of a quality assurance program under the *Health Professions Procedural Code* that is Schedule 2 to the *Regulated Health Professions Act*
- The record contains raw data from standardized psychological tests or assessments
- The record (or information in the record) is subject to a legal privilege that restricts disclosure to the requestor
- Other legislation or court order prohibits disclosure to the requestor
- The information in the record was collected/created in anticipation of or use in a proceeding that has not concluded
- The information in the record was collected/created for an inspection/investigation/similar procedure authorized by law that has not concluded
- Granting access could reasonably be expected to result in a risk of serious harm to the patient or to others (where this is suspected staff/affiliates must consult a physician or psychologist before deciding to refuse access)
- Granting access could lead to the identification of a person who was required by law to provide the information in the record
- Granting access could lead to the identification of a person who provided the information in the record in confidence (either explicitly or implicitly) and it is considered appropriate to keep the name of this person confidential
- The request for access is frivolous, vexatious or made in bad faith
- The identity or authority of the requestor cannot be proven by the requestor

Reference: Hospital Privacy Toolkit – Guide to the Ontario Personal Health Information Protection Act - Ontario Hospital Association. September 2004.

APPENDIX C

Table 1: Mandatory Disclosure

To whom disclosure must be made	What information must be disclosed	Authority
Aviation Medical Advisor	Information about flight crew members, air traffic controllers or other aviation license holders who have a condition that may impact their ability to perform their job in a safe manner	<i>Aeronautics Act</i>
Chief Medical Officer of Health or Medical Officer of Health	Information to diagnose, investigate, prevent, treat or contain communicable diseases	<i>Health Protection and Promotion Act</i> <i>Personal Health Information Protection Act</i>
Chief Medical Officer of Health or Medical Officer of Health or a physician designated by the Chief Medical Officer of Health	Information to diagnose, investigate, prevent, treat or contain SARS	<i>Public Hospitals Act</i>
Children's Aid Society	Information about a child in need of protection (e.g., abuse or neglect)	<i>Child and Family Services Act</i>
College of a regulated health care professional	Where there are reasonable grounds to believe a health care professional has sexually abused a patient, details of the allegation, name of the health care professional and name of the allegedly abused patient The patient's name can only be provided with consent You must also include your name as the individual filing the report.	<i>Regulated Health Professions Act</i>
College of a regulated health care professional	A written report, within 30 days, regarding revocation, suspension, termination or dissolution of a health care professionals'	<i>Regulated Health Professions Act</i>

To whom disclosure must be made	What information must be disclosed	Authority
	privileges, employment or practice for reasons of professional misconduct, incapacity or incompetence	
College of Physicians and Surgeons of Ontario	Information about the care or treatment of a patient by the physician under investigation	<i>Public Hospitals Act</i> Notice must be given to the Chief of Staff and the administrator of the hospital
Coroner or designated Police Officer	Facts surrounding the death of an individual in prescribed circumstances (e.g., violence, negligence or malpractice) Information about a patient who died while in the hospital after being transferred from a listed facility, institution or home Information requested for the purpose of an investigation	<i>Coroners Act</i>
Minister of Health and Long-Term Care	Information for data collection, organization and analysis	<i>Public Hospitals Act</i>
Ontario Health Insurance Plan	Information about the funding of patient services	<i>Public Hospitals Act</i>
Order, warrant, writ, summons or other process issued by an Ontario court	Information outlined on the warrant, summons, etc.	<i>Personal Health Information Protection Act, 2004</i>
Physician assessor appointed by the Ministry of Health and Long-Term Care	Information to evaluate applications to the Underserviced Area Program	<i>Public Hospitals Act</i>
Registrar General	Births and deaths	<i>Vital Statistics Act</i>
Registrar of Motor Vehicles	Name, address and condition of a person who has a condition that may make it dangerous for them to operate a motor vehicle.	<i>Highway Traffic Act – at this time, this is a legal requirement for</i>

To whom disclosure must be made	What information must be disclosed	Authority
		<i>Physicians and Optometrists only</i>
Subpoena/warrant issued by an Ontario court	Information outlined in the subpoena	<i>Personal Health Information Protection Act</i>
Trillium Gift of Life Network	For tissue donations or transplants purposes, notice of the fact that a patient died or is expected to die imminently (not in force yet)	<i>Trillium Gift of Life Network Act</i> Consent must be decided jointly with the Network to determine the need to contact the patient or Substitute Decision Maker
Workplace Safety and Insurance Board	Information the Board requires about a patient claiming benefits under the <i>Workplace Safety and Insurance Act</i>	<i>Workplace Safety and Insurance Act</i>
Director of Long Term Homes	Information required to allow Director (or delegate) to assess a suspicion that a resident of a long term care facility has suffered or may suffer harm as a result of unlawful conduct, improper or incompetent treatment or care, or neglect.	<i>Long Term Care Homes Act, 2007</i>

Table 2 - Disclosure for Health Related Programs and Legislation

Person requesting health record or patient information	Purpose	Consent Needed	Authority to release information
Ambulance services operator or delivery agent or the Minister	Administration/enforcement of the <i>Ambulance Act</i>	No	<i>Ambulance Act</i>

Person requesting health record or patient information	Purpose	Consent Needed	Authority to release information
Cancer Care Ontario, Canadian Institute for Health Information, Institute for Clinical Evaluative Sciences or Pediatric Oncology Group of Ontario	To analyze or compile statistical information	No	Personal Health Information Protection Act regulations [†]
Chief Medical Officer of Health, Medical Officer of Health or a physician designated by the Chief Medical Officer of Health	To report communicable diseases	No	<i>Health Protection and Promotion Act</i>
College of Pharmacists Investigator	Administration/enforcement of the <i>Drug Interchangeability and Dispensing Fee Act</i>	No	<i>Drug Interchangeability and Dispensing Fee Act</i>
College within the meaning of the <i>Regulated Health Professions Act, 1991</i> , or <i>Social Work and Social Services Act</i> , or Board of Regents under the <i>Drugless Practitioners Act</i>	Administration/enforcement of the relevant statutes	No	<i>Personal Health Information Protection Act, 2004 and other relevant Acts</i>
Deputy Minister of Veterans Affairs or person with express direction	To review the information about the care received by a member of the Canadian Armed Forces	No	<i>Public Hospitals Act</i>
Individual assessing patient capacity, who is not providing care to the patient	To assess capacity under the <i>Substitute Decisions Act, Health Care Consent Act, or Personal Health Information Protection Act</i>	No	<i>Substitute Decisions Act, Health Care Consent Act, Personal Health Information Protection Act</i>

Person requesting health record or patient information	Purpose	Consent Needed	Authority to release information
Any person carrying out an inspection, investigation or similar procedure that is authorized by a justice of the peace issued warrant or by or under PHIPA, 2004 or any other Act of Ontario or Act of Canada	For the purpose of complying with the warrant or for the purpose of facilitating the inspection, investigation or similar procedure	No	<i>Personal Health Information Protection Act, 2004 or any other applicable Act of Ontario or Act of Canada e.g., Regulated Health Practitioners Act; Health Insurance Act; Drugless Practitioner's Act</i>
Ministry appointed Inspector	Administration/enforcement of the <i>Public Hospitals Act</i>		<i>Public Hospitals Act</i>
Ministry appointed Inspector	Administration/Enforcement of the <i>Drug and Pharmacies Regulation Act</i>	No	<i>Personal Health Information Protection Act, 2004 and the Drug and Pharmacies Regulation Act</i>
Public Guardian and Trustee	To investigate an allegation that a patient is unable to manage their property	No	<i>Public Hospitals Act; Personal Health Information Protection Act, 2004</i>
Public Guardian and Trustee (PGT), Children's Lawyer, Residential Placement Advisory Committee, Registrar of Adoption of Information, Children's Aid Society	To carry out their duties and, for the PGT, to investigate serious adverse harm resulting from alleged incapacity	No	<i>Personal Health Information Protection Act, 2004</i>
Ontario Privacy Commissioner (or delegate)	For the purpose of conducting a review pertaining to a contravention or alleged contravention of the legislation.	Yes	<i>Personal Health Information Protection Act, 2004</i>

Table 3 - Disclosure to Lawyers, Insurance Companies, Adjusters, Investigators

Person requesting health record or patient information	Purpose	Consent Needed	Authority to release information
Lawyers, Insurance Companies, Adjusters on behalf of a patient	To assist a patient with a claim or proceeding	Yes	Express consent
Lawyers, Insurance Companies, Adjusters, Investigators on behalf of a third party, if the third party is an agent or former agent of the physician	To assist the third party with a proceeding	No	<i>Personal Health Information Protection Act</i>

**CONSENT FORM FOR ACCESS TO/DISCLOSURE OF
PERSONAL HEALTH INFORMATION REQUEST**

DATE (YYYY/MM/DD) _____

I CONSENT TO ALLOW: (check ✓one only)

Thames Valley Family Health Team

Clinic/Family Health Organization/Network (please specify): _____

Other health facility, practitioner or agency (please specify): _____

TO ACCESS/DISCLOSE THE FOLLOWING INFORMATION: (if applicable, specify dates of visits, contacts, hospitalization, treatment, or other information required)

CONCERNING:

Patient/Client Name: _____ Date of Birth: _____
(YYYY/MM/DD)

Address: _____

HC#: _____

Telephone: _____

PERSON/AGENCY to receive information:

Address: _____

Telephone: _____

I understand this information is to be used by the Recipient for the purpose of:

APPENDIX E

**CONSENT FORM FOR ONGOING ACCESS TO/DISCLOSURE OF
PERSONAL HEALTH INFORMATION REQUEST**

DATE (YYYY/MM/DD) _____

I CONSENT TO ALLOW: (check ✓one only)

Thames Valley Family Health Team

Clinic/Family Health Organization/Network (please specify): _____

Other health facility, practitioner or agency (please specify): _____

TO ACCESS/DISCLOSE THE FOLLOWING INFORMATION: (if applicable, specify dates of visits, contacts, hospitalization, treatment, or other information required)

CONCERNING:

Patient/Client Name: _____ Date of Birth: _____
(YYYY/MM/DD)

Address: _____

HC#: _____

Telephone: _____

PERSON/AGENCY to receive information:

Address: _____

Telephone: _____

I understand this information is to be used by the Recipient for the purpose of:

**SAMPLE LETTER OF
REFUSAL/PARTIAL REFUSAL IN RESPONSE TO ACCESS REQUEST**

<<Requestor Name>>

<<Address>>

<<Date>>

Dear **<<Name>>**,

Your requested access to the health records of **<<Patient Name>>** has been reviewed. This request has been denied because:

- **<<Reason for refusal>>**

If you have questions or concerns about this refusal, please contact **<<Name of Privacy Lead>>** at **<<Phone Number>>**.

If you feel that access has been inappropriately refused or have other complaints regarding your privacy, you also have the right to contact Ontario's Information and Privacy Commissioner who is responsible for overseeing issues related to health information in Ontario. The contact information is:

- **<<Contact information for IPC>>**

Sincerely,

<<Name>>

<<Title>>

**SAMPLE LETTER to
Extend Timeframe to RESPOND TO ACCESS REQUEST**

<<Requestor Name>>

<<Address>>

<<Date>>

Dear **<<Name>>**,

You have requested access to the health records of **<<Patient Name>>**. This request cannot be fulfilled at this time due to:

- **<<Reason for need for additional time>>**

We will respond to your request for access not later than **<<Date 30 days out from original date>>**

If you have questions or concerns about this extended timeframe, please contact **<<Name of Privacy Lead>>** at **<<Phone Number>>**.

If you feel that access has been inappropriately delayed or have other complaints regarding your privacy, you also have the right to contact Ontario's Information and Privacy Commissioner who is responsible for overseeing issues related to health information in Ontario. The contact information is:

- **<<Contact information for IPC>>**

Sincerely,

<<Name>>

<<Title>>