



Information and Privacy
Commissioner of Ontario
Commissaire à l'information et à la
protection de la vie privée de l'Ontario

VIA ELECTRONIC MAIL

October 1, 2021

Mr. Matthew Anderson, President and CEO
Ontario Health
525 University Ave, 5th Floor
Toronto, ON M5J 2L3

Dear Mr. Anderson:

RE: Initial Review of the Practices and Procedures of Ontario Health as a Prescribed Organization under the *Personal Health Information Protection Act, 2004*

Pursuant to paragraph 14 of section 55.3 of the *Personal Health Information Protection Act, 2004* (“the *Act*”), on and after today, Ontario Health, as a prescribed organization, must have in place and comply with practices and procedures for protecting the privacy of the individuals whose personal health information it receives for the purpose of developing or maintaining the electronic health record (EHR) and for maintaining the confidentiality of that information. These practices and procedures must be approved by the Information and Privacy Commissioner of Ontario (IPC). The IPC is responsible for reviewing these practices and procedures every three years, pursuant to subparagraph 14 (i) of section 55.3 of the *Act*.

In accordance with the requirements under the *Act* and the process set out in the *Manual for the Review and Approval of Prescribed Organizations* (“the *Manual*”), the IPC has concluded its detailed initial review of Ontario Health’s practices and procedures as a prescribed organization. The process included a review of relevant privacy, security, human resources, organizational and other policies, practices and procedures implemented by Ontario Health, in addition to a series of indicators required to be submitted in accordance with the *Manual*. The IPC and Ontario Health also participated in virtual meetings to discuss questions arising from the review.

Based on this review, I am satisfied that Ontario Health has in place practices and procedures for protecting the privacy of individuals whose personal health information it receives and maintaining the confidentiality of that information. Accordingly, effective today, I am pleased to advise that the practices and procedures of Ontario Health as a prescribed organization have been approved, subject to the recommendations set out in the Appendix attached to this approval letter. A detailed report summarizing the review is also included with this approval letter. In the interest of public transparency, this approval letter and the report on the review will be posted on the IPC website and must also be posted on the website of Ontario Health.

Given that Ontario Health is a relatively new organization, comprised of many other previously existing organizations, and that it may take on the mandates and staff of additional organizations in the future – it is reasonable to expect that Ontario Health’s policies, practices and procedures will continue to mature over time. Ontario Health has agreed to continue to consult with the IPC over the coming year toward addressing the recommendations described in the report and Appendix attached to this approval letter.



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I commend the staff at Ontario Health for their commitment and diligence toward producing a large volume of high quality work in a relatively short period of time during a period of significant organizational transformation.

To synchronize the timing of the IPC's next review of Ontario Health as a prescribed organization with the next scheduled review of Ontario Health as a prescribed entity and a prescribed person under the *Act*, this approval will remain effective until October 31, 2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Kosseim", with a horizontal flourish underneath the name.

Patricia Kosseim
Commissioner

cc: Sylvie Gaskin, Chief Privacy Officer, Ontario Health

Appendix

Before the start of the next review period it is recommended that Ontario Health:

1. Consent Management

- a. Provide the IPC with a detailed plan, complete with timelines, that ensures the timely implementation of a mechanism to enable all health information custodians to perform a consent override pursuant to subsections 55.7 (1)-(3) of *PHIPA* when attempting to access personal health information within the DI-CS repository.
- b. Continue to consult with the IPC to address the circumstances where a consent override is not currently possible pursuant to subsection 55.7 (2) or (3) of *PHIPA*, including when attempting to access personal health information within the Ontario Laboratory Information System (OLIS) and the Digital Health Drug Repository (DHDR).
- c. Provide the IPC with a detailed plan, complete with timelines, for implementing expanded functionality within the ConnectingOntario clinical viewer to ensure that health information custodians accessing the electronic health record through this method are able to distinguish whether a consent override is being conducted for the purposes of subsection 55.7 (2) or (3) of *PHIPA*.
- d. Until all health information custodians have the functionality to perform consent overrides (for the purposes of section 55.7 of *PHIPA*) for all repositories within the electronic health record, take reasonable steps to ensure that individuals who request a consent directive and have previously requested a consent directive are provided with notice that consent overrides may not be possible in the circumstances described above so that they are aware of the risks. It is further recommended that Ontario Health continue to consult with the IPC regarding the notice before implementation.

2. Risk Management Program

Continue to consult with the IPC as Ontario Health further develops its risk management policies, practices and procedures to ensure comprehensive and consistent processes, communication and escalation of privacy and security risks within and across the organization.

3. Business Continuity and Disaster Recovery Plan

Provide the IPC with a draft comprehensive and consolidated business continuity and disaster recovery plan for review and comment before the start of the next review period.

4. End User Agreements

In consultation with the IPC:

- a. Develop a proposal and accompanying plan that provides assurance that all health information custodians and coroners have implemented an acceptable method for receiving an acknowledgement and agreement from end users to comply with the privacy and security obligations set out in the agreements between Ontario Health and health information custodians and coroners on a regular basis (at least annually).
- b. Ensure that the proposal and plan, described above, provides assurance that health information custodians and coroners are keeping track of these acknowledgements in a manner that can be easily audited by health information custodians, coroners and Ontario Health.