



Accountability for Personal Health Information

OTN's Obligations under PHIPA

Agents

Agent is defined under the '*Personal Health Information Protection Act, 2004*' as follows:

"agent", in relation to a health information custodian, means a person that, with the authorization of the custodian, acts for or on behalf of the custodian in respect of personal health information for the purposes of the custodian, and not the agent's own purposes, whether or not the agent has the authority to bind the custodian, whether or not the agent is employed by the custodian and whether or not the agent is being remunerated;

Agents may access and handle personal health information (PHI) if they are authorized to do so by the health information custodian (HIC). OTN's authority to access and handle PHI on behalf of HICs as an Agent of the custodian comes from PHIPA and OTN agreements with HICs i.e. health care organizations and healthcare providers. When acting as an Agent, OTN will access and handle PHI in accordance with the following requirements:

Requirement #1

If OTN is permitted to do so by the HIC in order to carry out its duties.

Requirement #2

If it is necessary to do so to carry out its duties for the custodian.

Requirement #3

OTN is not restricted to carry out those duties because of privacy or other legislation.

Requirement #4

In accordance with any conditions imposed by the custodian.

Health Information Network Provider

Health Information Network Provider (HINP) is defined under O. Reg. 329/04 of PHIPA as follows:

"health information network provider" or "provider" means a person who provides services to two or more health information custodians where the services are provided primarily to custodians to enable the custodians to use electronic means to disclose personal health information to one another, whether or not the person is an agent of any of the custodians.

The Regulation details the requirements that a Health Information Network Provider (HINP) must comply with, when enabling two or more HICs to use electronic means to share PHI. Where OTN is acting as Health Information Network Provider it will comply with the following requirements:

Requirement #1

OTN will notify every applicable HIC at the first reasonable opportunity of any actual or suspected privacy breach related to the unauthorized or inappropriate access, use, disclosure, modification, copying, disposal or retention of PHI managed by OTN in the course of delivering its programs or services.

Requirement #2

OTN will supply every applicable HIC with a plain description of the OTN services provided and safeguards that have been put in place to protect PHI.

Requirement #3

OTN will make available to the public a plain description of OTN services provided and the safeguards that have been put in place to protect PHI. This includes directives, guidelines and policies that apply to the services provided to the HIC.

Requirement #4

OTN will make available to the applicable HIC, upon request, and to the extent reasonably practical, an electronic record of all accesses and transfers of PHI associated with the HIC.

Requirement #5

OTN will perform and/or provide to each applicable HIC a written summary of the results of a privacy impact assessment and threat and risk assessment of the services provided.

Requirement #6

OTN will ensure that contracted third parties comply with the privacy and security restrictions and conditions that will allow OTN and custodians to comply with their obligations under PHIPA.

Requirement #7

OTN will enter into a written agreement with each health information custodian concerning the services provided to the custodian. The agreement will describe the services provided to the HIC, the administrative, technical and physical safeguards related to the confidentiality and security of any PHI and the requirements with which OTN must comply as a result of providing services.

Service Provider or eService Provider

Service Provider or eService Provider is defined under O. Reg. 329/04 of PHIPA as follows:

“a person who supplies services for the purpose of enabling a health information custodian to use electronic means to collect, use, modify, disclose, retain or dispose of personal health information, and who is not an agent of the custodian”.

A Service Provider/eService Provider is subject to a number of requirements when providing a Service to a HIC.

When OTN is acting in this capacity it must comply with the following requirements:

Requirement #1

OTN can only use the PHI to which it has access if it is required to provide that Service.

Requirement #2

OTN cannot disclose any PHI to which it has access.

Requirement #3

OTN must ensure that employees or anyone acting on OTN's behalf to provide the Service complies with OTN's requirements as a Service or eService Provider.

PHIPA Roles for OTN by Program, Service or Pilot/PoC

PHIPA Role & Responsibilities	Related OTN Program or Service
Agent & eService Provider	Scheduling – Where OTN schedules clinical telemedicine appointments on behalf of custodians i.e. healthcare organizations and healthcare providers it accesses and handles PHI as an Agent. Where OTN provides the technology and IT services such as the scheduling tool, data centers, servers and support to enable the healthcare organizations and healthcare providers to schedule their own clinical telemedicine appointments OTN acts as an eService Provider.
HINP & eService Provider	<p>Videoconferencing Room-Based and Software Based – Where OTN provides the videoconferencing technology and IT services to enable two or more custodians to share PHI it is acting as a HINP. Where OTN provides the videoconferencing technology and IT services to enable a custodian to connect directly with a patient OTN is acting as an eService Provider.</p> <p>Where OTN is providing iOS and Android video apps and IT services to enable two or more custodian to share PHI it is acting as a HINP.</p> <p>Where OTN is providing a reusable Video API proof of concept as an on-going service to third party service providers to integrate its software based videoconferencing solution with other apps and/or solutions it is acting an eService Provider.</p>
HINP	Store Forward – Where OTN provides the store forward technology and IT services to enable two or more custodians to share PHI, patient images or video files asynchronously it is acting as a HINP.
HINP & eService Provider	eConsult – Where OTN provides the technological means and IT services to enable two or more custodians to share PHI for a consultation OTN is acting as a HINP. Where OTN is providing the API libraries to integrate eConsult with provincial EMRs OTN is acting as an eService Provider.
HINP & eService Provider - Agent	Telehomecare Remote Monitoring – Where OTN is providing the technology, IT services, program training to enable patients to self-manage their chronic disease vital signs and symptoms with the coaching of their healthcare provider OTN is acting as an eService Provider. Where the technology is used to share PHI between HICs

	<p>and where OTN has integrated with OntarioMD's Hospital Report Manager OTN is acting as a HINP.</p> <p>Where OTN is facilitating research and/or data analytics for this program OTN is acting as an Agent on behalf of the custodian.</p> <p>Third Party Managed Service – When OTN transitions to a third party managed service for this program OTN will continue to act in its capacity as a HINP.</p>
Agent & Service Provider	Telehomecare Mental Health Pilot with Big White Wall (BBW) - For the purposes of this pilot OTN is acting as a Service Provider where OTN is providing access to the BBW web application and as an Agent when facilitating research and/or data analytics.
HINP & eService Provider - Agent	Telehomecare Diabetes Pilot with WellDoc – Where OTN is providing the remote monitoring technology and IT services to enable patients to communicate with healthcare providers OTN is acting as eService Provider. Where OTN is enabling the sharing of PHI between HICs for the purpose of this pilot, it is acting as a HINP. Where OTN is facilitating research and/or data analytics it is acting as an Agent.
Service Provider	Telehomecare Chronic Kidney Disease Pilot with eQOL – Where OTN is providing project management oversight for this project OTN is acting as a Service Provider.
HINP	<p>Teleophthalmology – Where OTN is providing the technology and IT services to enable HICs to share PHI for the purpose of retinal screening, assessment and the development of a treatment plan OTN is acting as a HINP.</p> <p>Third Party Managed Service – When OTN transitions to a third party managed service for this service OTN will continue to act in its capacity as a HINP.</p>
HINP	Secure Messaging PoC – Where OTN is providing secure messaging technology and IT Services to enable two or more custodian to share PHI it is acting in its capacity as a HINP.
TBD	Telehomecare – Telepalliative Pilot
TBD	Telehomecare – Telewound Pilot

TBD	Primary Care eVisits Pilot
TBD	Surgical Management Pilot
TBD	Mental Health Sustainability Pilot

As OTN's roles and obligations under PHIPA may at times change a transaction by transaction basis and/or at times may change or evolve based on a new program or service mandate or use case, it has been OTN's practice to ensure it meets all role obligations as defined in this document.

For question concerning this document please contact OTN's privacy program at privacy@otn.ca