

## SECTION 1 – Privacy

### 1.05 Limiting Use, Disclosure and Retention Personal Health Information (PHI)

#### Policy

Taddle Creek Physicians will comply with the Personal Health Information Privacy Act, 2004 (PHIPA).

#### Procedure

1. Taddle Creek Physicians will only use, disclose and retain patients' PHI in compliance with the law.
2. The following will occur to prevent unauthorized use by **authorized users**:
  - All staff (including TC FHT staff, Clinic Staff and physicians) will sign a 'Confidentiality Agreement' prior to employment (See Form 3 - Confidentiality Agreement)
  - Staff will have clearly defined scope of practice/job responsibilities identifying their need for using PHI (See Table 1 - Taddle Creek Staff CMS Access Requirements)
  - Staff will be informed that PHI must only be accessed for authorized uses (for example, staff cannot look up information about family members, friends etc.)
  - Staff will be informed that their access to PHI will be periodically tracked and audited.

External agents (e.g. Clinic Management System vendor, suppliers, students) will be held accountable and have an enforceable duty to keep the information secure. Where reasonable, Taddle Creek physicians will use Information Sharing/Non-Disclosure Agreements that require:

- Limiting the use of PHI to the purpose for which it was provided,
- De-identifying PHI, where practical,
- Putting in place physical, administrative and technological security measures to reduce the risk of unauthorized use and disclosure, and
- Destroying or having a designated person destroy PHI after the purpose has been met, if permitted by law.

Note: Refer to the Ontario Medical Association (OMA) Physician's Privacy Toolkit for Checklists for Information Sharing/Non Disclosure Agreements.

4. Members of a particular patient's "**circle of care**" (see additional information at end Re: Circle of Care) can provide health care to the patient, confidently assuming that they have consent to collect, use and disclose the patient's PHI for that care, unless they know that the patient has expressly withheld or withdrawn consent (see additional information at end Re: 'Lock Box' provision).
5. The following will occur upon receiving a request for PHI from a **third party**:
  - An evaluation of the request, based on the type, purpose and requesting party, and whether other information can serve the purpose

- Verification of the identity of the requesting party
- If a request is unusual or if there is uncertainty about whether disclosure should be made, assistance from an appropriate resource will be sought (e.g. Taddle Creek physicians Privacy Contact Person, Legal Counsel or a Mental Health Practitioner)
- Assess whether further consultation is necessary and whether further legal processes may apply if the disclosure is required by law, including written consent in the patient's personal health record, or documenting the date of consent, and date of disclosure in the patient's personal health record, where express consent is necessary,
- Investigate whether patient has put 'Lock Box' provision on their PHI
- Ensure express consent meets the following requirements:
  - Relate to the information
  - Be the consent of the individual (or substitute decision-maker where authorized)
  - Be knowledgeable; and
  - Not be obtained through coercions or deception (be voluntary)

Taddle Creek Physicians Form 4 - Consent to Disclose PHI can be used for third party disclosures.

- Not all third party disclosures require a consent, refer to the following tables for guidance:
    - Table 2 - Mandatory Disclosure
    - Table 3 - Disclosure for Health Related Programs & Legislation
    - Table 4 - Disclosure to Lawyers, Insurance Companies, Adjusters, Investigators
    - Table 5 - Disclosure to Legal Authorities and Law Enforcement.
6. Retention of PHI will adhere to minimum retention periods prescribed by law and for as long as needed to allow a patient to exhaust any legal recourse a patient has regarding a request for access.
7. As a general retention rule, Taddle Creek Physicians will retain PHI (and OHIP records),
- Adults: 10 years after the last entry date, or until the physician stops practicing
- Minors: 10 years after the day the patient turns or would have turned 18 or until the physician stops practicing.
8. Exceptions to the general retention rule include,
- Dispensing Medications (see Table 5/6)
- If a notice for an investigation/inspection under the Regulated Health Professions Act, Health Insurance Act or Coroners Act, has been received the records must be retained until the investigation/inspection is complete.
- If a patient is seeking access to his/her PHI and has not yet exhausted all avenues allowing for access.
- Where a claim of negligence may arise:
- Adults: A minimum of 15 years from the date on which the act or omission upon which the claim of negligence could be based occurred
- Minors: A minimum period of 15 years from the date the patient turned 18.
9. Taddle Creek Physicians will inform our health care professionals and staff about limiting use, disclosure and retention of PHI.

10. Taddle Creek Physicians will review our use, disclosure and retention practices regularly to ensure compliance with PHIPA.

*“Circle of care” is not defined in the Act but refers to those in the health care team who are actually involved in the care or treatment of a particular patient. The term “Circle of care” describes those who provide health care or assist in providing health care to a particular patient. The following are examples of health care professionals considered part of the ‘Circle of care’:*

*Health care practitioners and groups of health care practitioners,  
Public and private hospitals,  
Pharmacies,  
Laboratories,  
Ambulance services,  
Community care access corporations,  
Community service providers (defined in the Long-Term Care Act),  
Psychiatric facilities,  
Independent health facilities,  
Homes for the aged, rest homes, nursing homes, care homes and homes for special care, and  
Community health or mental health centres, programs and services whose primary purposes are providing health care,*

*“Lock box” is not defined in the Act but it is an important concept about patients’ ability to control their own PHI. Patients have the right to expressly instruct you not to use specified PHI for health care purposes. Patients can also expressly instruct you not to disclose specified PHI to others (even to others within their circle of care). The term “lock box” describes the limits that patients can place on the use and disclosure of their PHI.*

*If you disclose PHI about a patient to another member of the patient’s circle of care, but the patient has restricted (or locked) you from disclosing all of the PHI that you consider reasonably necessary to provide health care, you must flag for the recipient that the information is incomplete because the patient has “locked” it.*

*If you receive this kind of notice from another member of your patient’s circle of care, you may choose to discuss the fact that information is restricted with the patient. For example, you can talk about the impact of the restriction on treatment. But you must obtain the patient’s express consent before accessing and using the locked information.*

*Note, however, that a patient cannot restrict a use or disclosure that the Act otherwise permits or requires. The Act trumps the lock box. For example, you may disclose locked PHI where, in your professional opinion, you need to disclose the information to prevent serious bodily harm or to reduce a significant risk of it happening to any person.*

Approved By: Executive  
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**Table 1 - Taddle Creek Staff - Clinic Management System (CMS) Access Requirements**

<b>HC Professional</b>	<b>Scope of Practice/ Job Responsibility</b>	<b>CMS Access Required/Purpose</b>
Physicians (+ Consulting Specialists - Internist/Psychiatrist)	Orchestrate patient's care Provide patient care	<u>CMS Modules Access Required</u> eMR Scheduler Billing  <u>Purpose</u> To provide HC to patient To review billing
Nurse Practitioner	Orchestrate patient's care Provide patient care	<u>CMS Modules Access Required</u> eMR Scheduler  <u>Purpose</u> To provide HC to patient
Pharmacist	Perform patient medication interviews & assessments  Consult with Interdisciplinary Team Members on patient care  Educate targeted patients  Educate clinicians  Perform “Seamless Care” activities for patients (e.g. consult with hospital attending physicians and pharmacies)  Operate Pharmaceutical Clinics	<u>CMS Modules Access Required</u> eMR Scheduler  <u>Purpose</u> To provide HC to patient
Social Worker/ Mental Health Worker	Perform patient psycho-social assessments  Provide treatment including instrumental, supportive, psycho-educational and crisis interventions  Provide short-term counseling services  Coordinate referrals and facilitate access to other health care providers and community organizations  Participate in treatment planning with other team members  Monitor, record and report symptoms and changes in patients’ conditions	<u>CMS Modules Access Required</u> eMR Scheduler  <u>Purpose</u> To provide HC to patient
Registered Nurse (+ Diabetes Nurse)	Provide nursing care and treatment (e.g. administer medication)	<u>CMS Modules Access Required</u> eMR

HC Professional	Scope of Practice/ Job Responsibility	CMS Access Required/Purpose
Educator)	<p>Perform patient health care assessments</p> <p>Collaborate with members of interdisciplinary health team and consult and interact with other service providers such as laboratory and radiology services</p> <p>Monitor, record and report symptoms and changes in patients' conditions</p>	<p>Scheduler</p> <p><u>Purpose</u> To provide HC to patient</p>
Dietitian	<p>Patient Nutrition Assessments</p> <p>Reviews patient's clinical information obtained through physician referral, lab reports &amp; health records</p> <p>Provide patient treatment and management (e.g. establish goal oriented treatment interventions, develop care plans and monitor the effectiveness of dietary changes)</p> <p>Collaborate with members of an interdisciplinary health team</p>	<p><u>CMS Modules Access Required</u> eMR Scheduler</p> <p><u>Purpose</u> To provide HC to patient</p>
Medical Secretary	<p>Manage booking/referral processes for clinical staff</p> <p>Process billing on physicians' behalf</p>	<p><u>CMS Modules Access Required</u> eMR Scheduler Billing (if submitting claims)</p> <p><u>Purpose</u> To provide admin support To perform backup</p>
Administrator	<p>Perform Assessments (risk, quality and privacy)</p> <p>CMS System Administration</p> <p>Train/teach/assist staff on CMS</p> <p>Plan/co-coordinate daily work assignments</p> <p>Evaluate clinician performance</p> <p>Compile required ON MOH/LTC statistics (e.g. rostered/new patients)</p> <p>Prepare budgets</p> <p>Program planning &amp; evaluation</p>	<p><u>CMS Modules Access Required</u> eMR Scheduler Billing</p> <p><u>Purpose</u> To provide admin support</p> <p>To compile statistics for ON MOH/LTC</p> <p>To perform required assessments (quality, risk and privacy assessments)</p> <p>Forecast patient needs for program planning</p> <p>Evaluate Program outcomes</p>

<b>HC Professional</b>	<b>Scope of Practice/ Job Responsibility</b>	<b>CMS Access Required/Purpose</b>
Financial Controller	Financial Control	None required

**Table 2 - Mandatory Disclosure**

<b>To whom disclosure must be made</b>	<b>What information must be disclosed</b>	<b>Authority</b>
Aviation Medical Advisor	Information about flight crew members, air traffic controllers or other aviation licence holders who have a condition that may impact their ability to perform their job in a safe manner	<i><b>Aeronautics Act</b></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><b>Public Hospitals Act</b></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’ privileges, employment or practice for reasons of professional misconduct, incapacity or	<i>Regulated Health Professions Act</i>

<b>To whom disclosure must be made</b>	<b>What information must be disclosed</b>	<b>Authority</b>
	incompetence	
College of Physicians and Surgeons of Ontario	Information about the care or treatment of a patient by the physician under investigation	<b><i>Public Hospitals Act</i></b>  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	<b><i>Coroners Act</i></b>
Minister of Health and Long-Term Care	Information for data collection, organization and analysis	<b><i>Public Hospitals Act</i></b>
Ontario Health Insurance Plan	Information about the funding of patient services	<b><i>Public Hospitals Act</i></b>
Order, warrant, writ, summons or other process issued by an Ontario court	Information outlined on the warrant, summons, etc.	<b><i>Personal Health Information Protection Act</i></b>
Physician assessor appointed by the Ministry of Health and Long-Term Care	Information to evaluate applications to the Underserved Area Program	<b><i>Public Hospitals Act</i></b>
Registrar General	Births and deaths	<b><i>Vital Statistics Act</i></b>
Registrar of Motor Vehicles	Name, address and condition of a person who has a condition that may make it unsafe for them to drive	<b><i>Highway Traffic Act</i></b>
Subpoena issued by	Information outlined in the subpoena	<b><i>Personal Health Information</i></b>

<b>To whom disclosure must be made</b>	<b>What information must be disclosed</b>	<b>Authority</b>
an Ontario court		<i>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 receiving benefits under the <i>Workplace Safety and Insurance Act</i>	<i>Workplace Safety and Insurance Act</i>

**Table 3 - Disclosure for Health Related Programs and Legislation**

<b>Person requesting health record or patient information</b>	<b>Purpose</b>	<b>Consent Needed</b>	<b>Authority to release information</b>
Ambulance services operator or delivery agent or the Minister	Administration/enforcement of the <i>Ambulance Act</i>	No	<i>Ambulance Act</i>
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 under the RHPA, or <i>Social Work and Social</i>	Administration/enforcement of the	No	<i>Personal Health Information Protection Act</i>



<b>Person requesting health record or patient information</b>	<b>Purpose</b>	<b>Consent Needed</b>	<b>Authority to release information</b>
<i>Services Act, or Board of Regents under the Drugless Practitioners Act</i>	relevant statutes		
Deputy Minister of Veteran’s Affairs or person with express direction	To review the information about the care received by a member of the Canadian Armed Forces	No	<b><i>Public Hospitals Act</i></b>
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>
Minister Inspector	Administration/enforcement of the <i>Public Hospitals Act</i>	No	<b><i>Public Hospitals Act</i></b>
Minister Inspector	Enforcement of the <i>Drugs and Pharmacy Regulation Act</i>	No	<i>Drugs and Pharmacy 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</i>
Public Guardian and Trustee, Children’s Lawyer, Residential Placement Advisory Committee, Registrar of Adoption of Information, Childrens’ Aid Societies	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</i>

**Table 4 - Disclosure to Lawyers, Insurance Companies, Adjusters, Investigators**

<b>Person requesting health record or patient information</b>	<b>Purpose</b>	<b>Consent Needed</b>	<b>Authority to release information</b>
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>

**Table 5 - Disclosure to Legal Authorities and Law Enforcement**

<b>Person requesting health record or patient information</b>	<b>Purpose</b>	<b>Consent Needed</b>	<b>Authority to release information</b>
Head of penal or custodial institution or an officer in charge of a psychiatric facility where the patient is being lawfully detained	To assist with health care or placement decisions	No	<i>Personal Health Information Protection Act</i>
Investigator or Inspector	To conduct an investigation or inspection authorized by a warrant or law	No	<i>Personal Health Information Protection Act</i>
Police without a warrant	Legal authorities and law enforcement	Yes	Express consent
Police without a warrant	Where there are reasonable grounds to believe that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily	No	<i>Personal Health Information Protection Act</i>

<b>Person requesting health record or patient information</b>	<b>Purpose</b>	<b>Consent Needed</b>	<b>Authority to release information</b>
	harm		
Probation and Parole Services	Legal authorities and law enforcement	Yes	Express consent

**Table 6 - Retention Periods For Records Relating To Drugs Dispensed Under The Ontario Drug Benefit Plan**

<b>Document</b>	<b>Retention Period</b>
Statement of daily transaction totals	2 years from the statement preparation date
Summary remittance or reject statement from the Minister	2 years from the statement receipt date
Claim for payment or reversal submitted to the Ministry, with a record of the claim submission date	2 years from the claim submission date
Monthly Ontario drug benefit eligibility card or copy of the cards for each eligible person for whom a drug is dispensed	2 years from the first drug dispensing date
Prescription with a no substitution direction and accompanying copy of the Health Canada adverse drug reaction form	2 years from the receipt date
Ministry confirmation that drug is to be supplied if it meets the applicable clinical criteria set out in Part III of the Formulary	2 years from the confirmation receipt date
For each extemporaneous preparation supplied for an eligible person, the formula, including the compounding time, all of the ingredients and the quantities and cost of those ingredients	2 years from the supply date
Where the acquisition cost of a drug is claimed, a copy of the supplier's invoice and a detailed calculation in accordance with section 14 of the cost of purchasing the drug product	2 years from the receipt date

**Table 7 - Retention Period For Patient Records Relating To Dispensing Of Drugs Under *The Drugs And Pharmacies Regulations Act***

<b>Document</b>	<b>Retention Period</b>
Required dispensing records	6 years after the last entry date or until the physician stops practicing