

This **Memorandum of Understanding (“MOU”)** dated December 17th 2020 between Her Majesty the Queen in Right of Ontario, as Represented by the Minister of Health (the **“Ministry”**) and Ontario Health (**“OH”**) (each a **“Party”** and collectively **“Parties”**).

1.0 INTRODUCTION

1. The Ministry is the executive sponsor of the Ontario Health Data Platform (the **“Project”**), a collaborative initiative that aims to accelerate research and analytics within Ontario to help the province better manage and respond to the COVID- 19 pandemic as stated in the Project Purpose (defined below).
2. The Project is a collaborative effort across several organizations, including the Ministry, Queen’s University at Kingston (**“Queen’s”**), OH and the Institute for Clinical Evaluative Sciences (**“ICES”**). Each of OH and ICES is entering into its own MOU with the Ministry for the Project Purpose.
3. A key component of the Project is the OHDP-Q, a high-performance computing environment for the linkage of large health data sets to further the Project Purpose.
4. The Ministry is the Health Information Custodian of the Personal Health Information (**“PHI”**) maintained in the OHDP-Q for the Project Purpose.

2.0 PURPOSE

The purpose of this MOU is to:

- (a) establish a governance framework for the Parties to work collaboratively to determine the PHI requested of OH by the Minister for the Project Purpose;
- (b) specify the process to be followed by the Parties when the Minister has determined that disclosure of PHI by OH is necessary and has requested OH to disclose such PHI for the Project Purpose;
- (c) document the PHI requested by the Minister and disclosed by OH to the Minister for the Project Purpose;
- (d) clarify the accountabilities of each of the Minister and OH; and
- (e) confirm the manner in which this MOU will be updated and publicly posted.

3.0 DEFINITIONS

“IPC” means the Information and Privacy Commissioner of Ontario.

“OHDP-Q” means the Project’s analytic environment, supported by Queen’s., acting as the Ministry’s PHIPA Agent.

“PHIPA” means the *Personal Health Information Protection Act, 2004*.

“PHIPA Regulation” means O. Reg. 329/04 (General) under PHIPA.

“Project Purpose” means:

- (a) researching, analyzing, investigating, preventing, responding to or alleviating COVID-19 or its effects; or
- (b) evaluating or monitoring the impact of COVID-19 on the management of, the allocation of resources to or planning for all or part of the health system.

“Request Letter” means a letter from the Minister in which the Minister requests that OH disclose PHI to the Minister pursuant to s. 18(11) of the PHIPA Regulation.

The Terms **“Disclose”**, **“Health Information Custodian”**, **“Identifying Information”**, **“Minister”**, **“Personal Health Information”** or **“PHI”**, **“Prescribed Entity”**, **“Research”** shall have their respective meanings as under PHIPA or the PHIPA Regulation.

4.0 AUTHORITIES UNDER PHIPA

1. PHIPA and the PHIPA Regulation establish rules for the collection, use, disclosure and retention of PHI that apply to:
 - (a) OH, as a “Prescribed Entity”; and
 - (b) the Minister, together with the Ministry, as a “Health Information Custodian”.
2. Where the Minister has determined that certain PHI is necessary for the Project Purpose, the Minister may request that OH disclose that PHI, and OH shall comply with the request as required by subsection 18(11) of the PHIPA Regulation; however subsection 18(12) of the PHIPA Regulation provides that OH is not required to disclose PHI to the Ministry if the disclosure is otherwise prohibited by law or by the terms of an agreement to which OH is a party.
3. The Ministry has developed a framework for appropriate oversight and accountability of the Project, under which the Ministry will comply with applicable laws, including PHIPA, relating to, and be responsible for the collection, use, disclosure, retention and destruction of the PHI on the OHDP-Q.
4. The Ministry may, in accordance with PHIPA and for the Project Purpose:
 - (a) use the PHI collected by the Ministry, and
 - (b) disclose the PHI collected by the Ministry to researchers only for research purposes.

5.0 PRINCIPLES FOR DISCLOSURE

1. The Ministry is committed to respecting and upholding the confidentiality and security of PHI in its custody and control, including the privacy interests attaching to certain vulnerable populations, and to also respect data governance principles set out by the IPC, PHIPA, the expectations of Ontarians, and those pertaining to the First Nations, including the Ownership, Control, Access, and Possession (“OCAP”) principles.

2. Before the Minister makes a request to OH to disclose PHI for the Project Purpose under s. 18(11) of the PHIPA Regulation, the Ministry will consult with OH on the proposed request. If required, Ministry and OH will work together to address /resolve any matters prior to any PHI being disclosed.
3. To preserve patient privacy, OH agrees that, before it discloses any PHI to the Ministry for the Project, it will implement privacy-enhancing technologies.
4. A privacy governance framework will be implemented by the Ministry prior to the use of PHI for the Project Purpose.

6.0 TRANSPARENCY

1. The following schedules are to be appended to the MOU and/or posted on the OH and OHDP website:

Consultation process for proposed requests for PHI	Schedule 'A'
Request Letter(s) from the Minister to OH requesting the disclosure of PHI (as the letter(s) become available);	Schedule 'B'
Descriptions of the PHI requested by the Minister and disclosed by OH (as the schedule(s) become available and updated from time to time).	Schedule 'C'

2. The Parties will keep the Schedules to the MOU up to date in order to ensure that the public is informed in a timely manner of the PHI that is being disclosed by OH to the Ministry for the Project.
3. The Ministry will also post any policies, including supporting documentation in relation to the collection, use, disclosure, retention, and destruction in relation to the PHI collected pursuant to a request made under s. 18(11) of the PHIPA Regulation.
4. The MOU and any amendments will be posted at:

<https://computeontario.ca/covid-19-health/privacy-security/> and

the OH website at:

English site- <https://www.ontariohealth.ca/corporate-documents>

French site - <https://www.ontariohealth.ca/fr/documents-corporatifs> and

the Parties will co-ordinate the timing of the posting.

7.0 AMENDMENTS TO THE MOU


The Parties will at a minimum review the MOU every six months or earlier upon joint agreement, to determine if amendments are required. Any amendments to the MOU will be set out in writing, including in respect of any schedules. Either Party may make a written request to review the MOU upon providing 30 days' notice in writing to the other Party.

8.0 TERM

This MOU will remain in effect until July 30, 2022, the date s.18(11) and 18(12) of the PHIPA Regulation are set to expire, or upon a 60-day written notice from one party to the other, whichever comes first.

IN WITNESS WHEREOF the Parties have executed this Memorandum of Understanding.

Ontario Health

By:  _____

Name: Anna Greenberg
Title: Interim Executive Lead
Clinical Institutes & Quality Programs

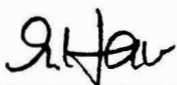
Date: December 17, 2020

By:  _____

Name: Ashley Dent
Title: Senior Counsel and Interim Chief Privacy
Officer
Legal, Privacy and Risk

Date: December 17, 2020

**HER MAJESTY THE QUEEN IN
RIGHT OF ONTARIO as represented
by the MINISTER OF HEALTH (the
"Ministry")**

By:  _____

Name: Greg Hein
Title: Assistant Deputy Minister, Digital Health Division

Date: **DEC 17, 2020**

SCHEDULE 'A' – CONSULTATION PROCESS FOR PROPOSED REQUESTS FOR PHI

1. CONTACTS

The Ministry and OH shall each identify an individual to be the contact person for their respective organizations to collaborate on a proposed request under subsection 18(11) of the PHIPA Regulation.

2. PROCESS

1. **Advance Notice.** The Ministry will advise OH of the proposed request with a mutually agreeable time frame for PHI.
2. **Transfer Planning.** The Ministry and OH will jointly develop a PHI transfer plan for the PHI requested.
3. **Third Party Notice.** OH and the Ministry will jointly notify all third-party data providers, both new and existing, as necessary, about OH's intent to use and disclose the PHI for the Project Purpose.
4. **Remediation.** The Minister and OH will work to address any concerns raised by OH and/or the third-party data providers, as per a mutually agreed resolution process.
5. **Transparency.** The Ministry, in consultation with OH, will prepare a new or amended Schedule 'C' to the MOU, with a description of the PHI to be disclosed, and will document that PHI in a Request Letter to be issued to OH by the Minister.
6. **Execution.** The Minister will request via a Request Letter (in the form provided in Schedule 'B') that OH disclose the PHI to the Minister, and OH will respond in turn and provide confirmation once the requested PHI has been prepared and is ready for secure disclosure and transfer to the Ministry.
7. Once the request letter has been issued by the Minister, that letter will form Schedule 'B', which together with Schedule "C" shall be incorporated into the MOU and posted in accordance with 7.0 (1) of this MOU.