



PRIVACY CONSIDERATIONS FOR DELIVERING E-MENTAL HEALTH SERVICES

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Ontario Centre of Excellence
for Child & Youth Mental Health

Centre d'excellence de l'Ontario en santé
mentale des enfants et des adolescents

The emergence of COVID-19 in populations across the globe has had a significant impact on the delivery of face-to-face child and youth mental health services in Ontario. In order to continue to meet the needs of children, youth and families, many service-providing agencies are rapidly moving to deliver care through telecommunication technologies. To support our community partners during this challenging time, the Centre of Excellence for Child and Youth Mental Health (the Centre) and Children's Mental Health Ontario (CMHO) have compiled:

- a summary of privacy considerations that outline the main governing bodies and legislation that should be consulted when delivering virtual care; and
- links to practice guidelines, toolkits and other resources published by professional colleges, associations and institutions relevant to the privacy considerations for the delivery of e-mental health services in Ontario.

The resources shared were gathered through a rapid, non-systematic scan of practice guidelines with the goal of providing timely support to service providers exploring alternatives to face-to-face mental health care for children, youth and families. The resources shared were not collected through an exhaustive search or systematic review but reflect information available at the time of writing. As new practice evidence emerges, recommended resources may evolve.

Within this resource, the following terms are used interchangeably to refer to the provision of client care using telecommunication technologies as alternatives to face-to-face services: e-mental health, telemental health, telehealth, telepsychology, e-services, telepractice, online treatment, video counselling, tele-rehabilitation.

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Privacy legislation and considerations

Privacy legislation and governance processes aimed at protecting an individual's health information are shared across federal and provincial/territorial jurisdictions, professional policies, and organizational policies. Each province and organizational body will legislate appropriate practices to ensure the protection of personal health information (PHI), including access, collection, use and disclosure of information.

Child and youth mental health agencies in Ontario are governed by the [Child, Youth and Family Services Act](#) (CYFSA) and by the Personal Health Information Protection Act [Personal Health Information Protection Act](#) (PHIPA).

Legal obligations for privacy, confidentiality and consent are complex in the child and youth mental health sector due to overlapping:

- federal and provincial/territorial governance
- common law
- equitable principles
- statutory principles
- professional guidelines and policies
- organizational policies and procedures

We strongly recommend legal and relevant information technology (IT) consultations and review when implementing standard operating procedures and frameworks in an organization. This document does not provide legal advice and is to be used for information purposes only.

Organizational policies need to be in place to guide the use of e-mental health services and PHI. To help keep patients and families' PHI safe, and to safeguard against liability:

- Organizations should ensure that all staff members are informed of the procedures, policies and risks associated with each form of e-mental health tools.
- Staff members may consult the [Office of the Information and Privacy Commissioner of Ontario](#) or a privacy officer or expert for up-to-date advice and guidance regarding the security of certain e-mental health technology or physical setting.
- Staff members should consult with their professional association regarding e-mental health regulations and practice guidelines, with attention to [competency requirements and procedures relating to privacy and confidentiality](#) .
- Staff members must comply with all privacy and security requirements both during e-mental health counselling or treatment sessions and when in contact with the client through other electronic means, including but not limited to appointment set-up and confirmation, follow-up calls and emails.
- Organizations and staff members should document all privacy and security measures taken.
- Organizations should review and update their policies relating to the privacy and security of their e-mental health services, including policies on managing security breaches and handling client complaints.
- Organizations need to connect with their insurance provider regarding liability coverage related to delivering e-mental health services.
- For a more thorough assessment of the organization's use of new e-mental health platforms or third-party providers, a [privacy impact assessment](#) (PIA) may be needed. The PIA is an



extensive review to assess the impact of a new technology or electronic process on the privacy of personal health information.

- Clinicians need to be aware of, and competent in, addressing privacy and security issues while delivering e-mental health services.
- Clinicians need adequate training on relevant clinical policies and procedures (e.g. how to handle clients who may not be able to ensure privacy where they are, how to handle interruptions).

English resources

Federal and provincial privacy policies and standards

Federal

- [The Privacy Act](#)
- [The Personal Information Protection and Electronic Documents Act \(PIPEDA\)](#)

Provincial (Ontario)

- [Personal Health Information Protection Act \(PHIPA\)](#)
 - [What you need to know about privacy law: An overview of the Personal Health Information Act, 2004](#) (overview of PHIPA by Erica Richler)
 - [Frequently asked questions: PHIPA](#)
- [Information and Privacy Commissioner of Ontario](#)
 - [How government's response to COVID-19 ushered in new privacy protections](#) (blog post)
 - Due to recent changes, the Information and Privacy Commissioner of Ontario has advised that the use of e-signatures for the release of information is sufficient. However, service providers must ensure that the e-signature is provided using a sign button or checkbox. When an e-signature is used, you must be reasonably satisfied that you have confirmed the identity of the individual. For further information, see the [tips and FAQ on working from home during the COVID-19 pandemic](#)

Professional bodies

Psychological associations and colleges

- Ontario Psychological Association
 - [Guidelines for best practices in the provision of telepsychology](#)

Counselling and psychotherapy associations and colleges

- Canadian Counselling and Psychotherapy Association
 - [Guidelines for uses of technology in counselling and psychotherapy](#) (see page 6)
 - [Additional resources regarding these guidelines can be found on their website](#)
- College of Registered Psychotherapists of Ontario
 - [Standard 3.4 Electronic practice](#)
 - [Electronic practice — Professional practice guideline](#)
 - [Security practices checklist — Electronic practice](#)



Social work

- Ontario College of Social Workers and Social Service Workers
 - [Professional and ethical: Communication technology practices and policies for a digital world \(see pages 1-2\)](#)
 - [Communication technology & ethical practice: Evolving issues in a changing landscape](#)
 - [Top 10 considerations for using communication technology in practice](#)

Rehabilitation services

- Canadian Alliance of Physiotherapy Regulators
 - [Tele-rehabilitation — resources \(see page 2\)](#)
 - [Tele-rehabilitation – Guidelines for Physiotherapists](#)
- College of Occupational Therapists
 - [Guidelines for telepractice in occupational therapy \(see pages 6-7\)](#)

Toolkits and resources

Mental Health Commission of Canada

- [Toolkit for e-mental health implementation \(see page 51\)](#)

Virtual care platforms

Ontario Telemedicine Network

- [Privacy centre](#)
- [OTN privacy toolkit](#)
- [Direct-to-patient video visits toolkit](#)
- [Privacy and security tips](#)
- [OTN training reference manual — Clinical consultations](#) (sector agnostic)

Zoom

- [Zoom and PIPEDA/PHIPA Compliance](#)
- [Zoom for healthcare](#)

French resources

Politiques et normes fédérales et provinciales en matière de protection des renseignements personnels

Fédéral

- [Loi sur la protection des renseignements personnels](#)
- [Loi sur la protection des renseignements personnels et les documents électroniques \(LPRPDE\)](#)

Provincial (Ontario)

- [Loi sur la protection des renseignements personnels sur la santé \(LPRPS\)](#)
- [Commissaire à l'information et à la protection de la vie privée de l'Ontario](#)
 - [Le gouvernement instaure de nouvelles mesures de protection de la vie privée dans le cadre de la lutte contre la COVID-19](#) (billet de blogue)
 - En raison de changements récents, le Bureau du commissaire à l'information et à la protection de la vie privée a indiqué que l'utilisation de signatures électroniques pour la divulgation de renseignements est suffisante. Toutefois, les fournisseurs de services doivent s'assurer que la signature électronique est fournie à l'aide d'un bouton de connexion ou d'une case à cocher. Lorsqu'une signature électronique est employée, vous devez être raisonnablement convaincu que vous avez confirmé l'identité de la personne. Pour obtenir de plus amples renseignements, consultez les conseils et la foire aux questions sur le travail à domicile pendant la pandémie de la COVID-19 [les conseils et la foire aux questions sur le travail à domicile pendant la pandémie de la COVID-19](#).

Associations et ordres de counseling et de psychothérapie

Association canadienne de counseling et de psychothérapie

- [Lignes directrices concernant le recours aux technologies en counseling et psychothérapie \(voir page 6\)](#)
- [Ressources pour mettre en application les lignes directrices sur leur site Web](#)

Services de réadaptation

Alliance canadienne des organismes de réglementation de la physiothérapie

- [Réadaptation à distance – ressources \(voir page 2\)](#)

Ordre des ergothérapeutes de l'Ontario

- [Lignes directrices sur les services d'ergothérapie à distance](#)

Outils et ressources

Commission de la santé mentale du Canada

- [Trousse d'outils pour la mise en œuvre de la cybersanté mentale \(voir page 51\)](#)

Plateformes de soins virtuels

Réseau Télémédecine Ontario

- [Centre de la protection des renseignements personnels](#)