



VIRTUAL VISITS VERIFICATION PROGRAM TERMS AND CONDITIONS

Please note these Terms are subject to change without notice.

Last Update: October 14, 2022

Version: 2.0

Virtual Visits Verification Program

In support of the Ministry of Health's ("the Ministry") Digital First for Health Strategy, Digital Health Information Exchange Policy, and pursuant to the *Connecting Care Act*, Ontario Health has established provincial standards for virtual care solutions through the Virtual Visits Verification Program ("VVV" or the "Program"). VVV operates a process to enable virtual care solutions, whether they are vendor or innovative pilots, projects or programs developed and operated by one or more health service providers ("HSP"s or "HSP Innovators"), to become verified. In cases where multiple HSPs are participating in an innovative pilot, project, or program, a Lead HSP will be responsible for the liabilities and obligations of the collective HSPs and representing the collective HSPs in submitting to become verified ("Lead HSP"). Solution Providers are required to meet all Mandatory Requirements for patient-to-provider video and/or secure messaging, as applicable and as specified in the Virtual Visits Solution Requirements ("Requirements"). HSP's may under certain conditions gain approval for a variance where, if justifiable, one or more Mandatory Requirements may not be met at the time of submission. HSPs may include solo practitioners, clinics, home and community care organizations, hospitals or any other health service provider type that is fully or in part funded by the Ministry. Program information, including the Virtual Visits Solution Requirements and the Verified Solution List, can be found on the Verification Site at ontariohealth.ca/verification.

These terms and conditions ("Terms") govern the overarching relationship between Ontario Health and Solution Providers (referred to herein as "you" or "your") and outline the conditions for submissions and verification ("Verification").

VVV enables Solution Providers to attest to and demonstrate that their solutions support safety, privacy, and security enhanced virtual visits (videoconferencing and secure messaging) enabled for interoperable health information exchange. To that end, Ontario Health will maintain and make available through its ontariohealth.ca website a [Verified Solutions List](#) of participating Solution Providers that attest, up-front and on an annual basis, their readiness and commitment to continuously ensure that they meet all Mandatory Requirements.

[Ontario Health's Verification Site](#) is used by Solution Providers to understand the VVV Program and supporting processes and their obligations within it, and by HSPs to identify solutions that Ontario Health has verified as safe and secure for use in clinical practices. A current version of the Terms is always available online at ontariohealth.ca/verification for your reference. You are responsible for reading any revised Terms and complying with same. In the event of a conflict between these Terms and the Website Terms and Conditions, these Terms shall govern, but only as it relates to the Virtual Visits Verification Program.

The VVV Program and Requirements were developed in consultation with the Ministry of Health (“Ministry”), OntarioMD and other healthcare stakeholders across the province. The Office of the Information and Privacy Commissioner of Ontario was consulted with respect to the program in general. Use of a verified solution by clinicians and healthcare organizations is also completely voluntary, however, clinicians and healthcare organizations should consider if use of a verified solution is recommended or required by contracts or initiatives they do, or may wish to, participate in. HSP use of a verified solution is also completely voluntary, however, may impact clinician and healthcare organization eligibility for provincial programs.

The Submission Process

Information regarding the VVV Program and submission criteria are described at ontariohealth.ca/verification. The submission package includes: (i) Attestation Letter; (ii) Schedule A: Solution Provider and Solution Information; (iii) Schedule B: Verified Solution Requirements; (iv) Schedule C: Privacy Impact Assessment (PIA) Summary; (v) Schedule D: Threat Risk Assessment (TRA) Summary; and (vi) Schedule E: Ontario Health Communications Protocol. Note that to meet Schedule D requirements, Solution Providers may submit a SOC 2 Type 2 audit in place of a TRA.

As a first step in the process, Solution Providers that are interested in becoming verified are required to request from Ontario Health a submission package via email at verification@ontariohealth.ca.

As part of your submission, you must include an Attestation Letter where only the variables identified in open text fields may be modified; any other modifications to the letter will result in your submission being rejected. It is your responsibility to ensure that you attest to meeting the most recent version of the Virtual Visits Solution Requirements. The Attestation Letter is an agreement between the Solution Provider and OH where the Solution Provider attests to meeting all Mandatory Requirements as specified in the Virtual Visits Solution Requirements.

In cases where all submission criteria are not included in your submission, Ontario Health will notify you of same and you may re-submit after having remediated any identified gaps. Provision of all submission criteria does not guarantee that your submission will be accepted or successful or that your solution will be published on the Attestation Letter is an agreement between the Solution Provider and Ontario Health where the Solution Provider attests to meeting all Mandatory Requirements as specified in the Virtual Visits Solution Requirements.

There are no fees applicable to the VVV Program. Notwithstanding the foregoing, you hereby understand, acknowledge, and agree that you shall remain responsible at all times for all costs associated with the preparation of your submission, and for ensuring that your solution and services meet all Mandatory Requirements.

The Virtual Visits Verification Program

Ontario Health operates the VVV Program which involves the following responsibilities:

- a) establishing, operating, and updating the VVV Program;
- b) authoring and updating the Verified Solution Requirements;
- c) receiving and reviewing Solution Provider submissions;
- d) assessing Solution Provider attestations;
- e) through services performed on Ontario Health's behalf by Third Parties (as hereinafter defined), performing validation ("Validation") tests whereby Solution Providers demonstrate compliance with Mandatory Requirements, as well as collecting substantiation materials in order to validate that all Mandatory Requirements are met;
- f) publishing verified solutions for public consumption on the Verified Solutions List and withdrawing solutions that are determined to be non-compliant with one or more of the Mandatory Requirements;
- g) reporting to the Ministry and system partners on virtual care activity in Ontario;
- h) managing service partnerships where Ontario Health designates other organizations as responsible for certain activities and functions; and,
- i) marketing, communication, and ongoing engagement with Solution Providers and HSPs.

You hereby agree and acknowledge that: (i) Ontario Health will engage key external stakeholders with whom your Confidential Information (as hereinafter defined) is shared ("Third Parties"); and (ii) you have all rights, and have obtained all necessary consents, to provide the Confidential Information in your submission to Ontario Health and Third Parties.

You agree to cooperate with any additional reviews and provide all necessary information as requested by Ontario Health, or its Third Parties, to ensure Ontario Health's comprehension of your solution and Validation of your solution's compliance with requirements of the program and with the Mandatory Requirements as specified in the Virtual Visits Solution Requirements.

Ontario Health will accept and review submissions as they are received; no priority will be extended to any Solution Provider. Further, Ontario Health provides no guarantee on the length of time to complete submission review or to publish successfully verified solutions on the Verified Solutions List. Solution Providers and Health Service Providers are encouraged to email verification@ontariohealth.ca with questions about to the VVV Program.

There are two phases in the VVV Program:

1. Attestation

- a) Based on the package provided by Ontario Health following Solution Provider expression of interest in participating in the VVV Program, sent via email, Solution Providers will complete the submission (the "Submission"), including the Attestation Letter and Schedules A to E.
- b) The Submission will be complete with all mandatory business and solution information as required and signed by the CEO, or other individual with authority to bind the organization.

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- c) Completion and provision of the Submission will mean the Solution Provider's acknowledgement and acceptance of the Terms, disclaimers, and Virtual Visits Solution Requirements.
 - d) In the Submission, Solution Providers must attest to meeting all Mandatory Requirements.
 - e) Ontario Health will review the Submission and follow up with Solution Providers as necessary for clarity and/or requests for missing information.
 - f) Passing the Attestation Phase enables Solution Providers to progress to the Validation Phase.
 - g) After successful completion of the Attestation Phase and before the Validation Phase, status on the Verification Site is published as Verified.
 - h) Ontario Health will provide Solution Providers with remediation guidance on required updates, changes, or revisions to their solution and/or submission in instances where Ontario Health has determined that a Submission has failed to meet all requirements.

2. Validation

- a) This phase may be undertaken immediately after Attestation or scheduled for a later point, but in no event will this phase occur beyond one year of the date the solution becomes Ontario Health Verified.
- b) Within one year of Verification, Solution Providers are required to demonstrate compliance with Requirements through participation in scenario tests and submission of substantiation materials.
- c) Should Ontario Health identify any issues, Ontario Health, or its designated Third Party, will notify you of same and you may remediate and re-submit.
- d) Successful completion of the Validation Phase will allow Ontario Health to publish the solution on the Verified Solutions List as Validated.

Re-Attestation is required on a yearly basis and PIAs and TRAs must be refreshed every 3 years from the date the PIA and TRA were conducted, or sooner should there be a change to the solution, underlying technology infrastructure, or service that impacts PHI, including but not limited to secure handling, collection, use or disclosure, of PHI. Solution Providers may submit a SOC 2 Type 2 audit in place of a TRA. SOC 2 Type 2 audits are refreshed annually per guidelines established by the American Institute of Certified Public Accountants (AIPCA).

Solution Providers should approach Ontario Health should they identify any solution changes, such as software version upgrades and cybersecurity events, that may impact compliance with Mandatory Requirements. The Virtual Visits Solution Requirements will be updated periodically and where changes may impact compliance with Mandatory Requirements, Solution Providers must notify Ontario Health. Ontario Health will send change notifications to Solution Providers via the email address(es) provided in Schedule A. It is your obligation to ensure that you notify Ontario Health should the information included in Schedule A change. The Solution Provider's privacy and security subject matter experts, or third parties if assigned/contracted, must be identified in Schedule A, and are deemed responsible person(s) for maintaining ongoing compliance with Mandatory Requirements, as is the signatory to the agreement between Ontario Health and the Solution Provider. Responsible privacy and security person(s) must be identified by name and industry credential(s). A yearly Attestation, in the form dictated and provided to Solution Providers by Ontario Health, must be made in order to maintain inclusion on the Verified Solutions List.

Variance

Under certain conditions HSP Innovators may be verified on a variance basis. HSP Innovators can apply for a variance (“Variance”) where they believe there is justification for non-compliance with one or more Mandatory Requirements on the basis that it is determined by Ontario Health to be in the public’s best interest. HSP Innovators, whether or not they are seeking a Variance, are required to submit an HSP Innovation Intake Form that is provided by Ontario Health. HSP Innovators are required in their submission for a Variance to specify when they expect to be compliant with Mandatory Requirements, and if there is no remediation plan to become compliant, to express clear and compelling justification for sustained non-compliance.

HSP Innovators with an approved Variance will be identified as such on the Verified Solutions List. A determination as to whether a variance is in the public’s best interest will be made by Ontario Health and a Variance can be withdrawn by Ontario Health at any time. A Variance is required to be renewed annually at the time of Re-Attestation.

Where a Variance is required, the HSP Innovator, or in the case of a collaborative, the Lead HSP Innovator, shall present an evaluation plan up front, and documentation including reports, analyses, etc., are required to be provided on an annual basis at the time of Re-Attestation. HSP Innovations need not be grant funded research studies. The scope of evaluation may be technical, workflow, health outcomes or any other meaningful analysis. This condition does not apply where an HSP Innovation has been approved to operate in sustainment mode.

Dispute Resolution

Any disagreement, dispute, or inquiry regarding the inclusion, suspension, or removal from the Verification Site (“Dispute”) that arises through the Virtual Visits Verification Program must follow the dispute resolution process detailed below. At all times the parties will make all reasonable efforts to resolve the Dispute.

Any Dispute may be escalated in writing to Ontario Health’s Virtual Visits Verification Program team at verification@ontariohealth.ca.

The Virtual Visits Verification Program business lead will assess the Dispute and engage with you to ensure understanding by both parties of the issue in dispute, to ensure that the Dispute is appropriately documented and to discover whether the Dispute may be resolved by you and Ontario Health’s business lead.

If resolution is not achieved, the Dispute will be escalated to the VVV Program Director, and thereafter to the one or more members of Ontario Health’s Digital Leadership Team (DLT), to determine an appropriate course of action. Where required, matters will be escalated to Ontario Health’s Chief Executive Officer (CEO), or the CEO’s delegate, who maintains final decision-making authority.

Ongoing Solution Provider Obligations and Yearly Attestation

To maintain your solution listing on the Verified Solutions List, you will make best efforts to comply with the then-current Mandatory Requirements. You will be required to submit a yearly Attestation to this effect. Should there be changes or enhancements to your solution or services that impact governance, accountability, privacy and/or security, you may be required to update your risk assessments (PIA, and TRA or SOC 2 Type 2 audit) and provide a summary of same to Ontario Health for review in to maintain Verification status. Notwithstanding any changes, you will be required to submit new PIA and TRA Summaries to Ontario Health every three (3) years in accordance with stated Requirements.

You acknowledge and understand that you must immediately notify Ontario Health if you are no longer able to meet any Mandatory Requirement(s) and that the status of your solution listing may change to reflect 'Under Review' or may be 'Withdrawn' should you be unable or unwilling to remediate identified compliance gaps. A remediation plan will be reviewed, and then if deemed satisfactory to address any gaps, may be accepted by Ontario Health to maintain the solution on the Verified Solutions List on a temporary basis, denoted as 'Under Review', until such time that the solution has been successfully verified as meeting all Mandatory Requirements. A remediation plan is a written summary, submitted by the Solution Provider to Ontario Health, specifying the Requirement(s) where compliance gaps have been identified, the actions the Solution Provider plans to take to resolve said gaps, and the timeline for resolution. A remediation plan is required for a Variance unless the HSP Innovator can justify that continued variance is necessary. In such cases, a remediation plan to achieve full compliance is not required.

As is the case for all verifications of HSP Innovations, variance cases must be re-assessed annually. In cases where a remediation plan was agreed to, the HSP Innovator is required to demonstrate that remediation has been complete on the relevant Requirement(s) through Validation testing according to the agreed to timeline in the remediation plan. HSP Innovators are required to inform Ontario Health no later than one month prior to the remediation deadline that they are on track to remediate all identified gaps. If remediation is incomplete by the agreed deadline, the HSP Innovator is required to provide justification and to submit an updated remediation plan for consideration of an extension. Extensions will be given on an exceptional basis.

HSPs, Healthcare organizations and providers may have other obligations under the *Personal Health Information Protection Act, 2004* (PHIPA) or may as a best practice have additional requirements for Solution Providers to meet and/or require additional implementation risk assessments or testing to be conducted. Your organization is responsible for ensuring that your solution complies with all applicable legislative and regulatory requirements. The submission of a PIA and TRA summary (or SOC 2 Type 2 audit) and participation in the VVV Program does not constitute compliance with PHIPA or that if a clinician or healthcare provider uses the solution that they are in compliance.

Ontario Health Obligations

Ontario Health is the program administrator, responsible for establishing, revising, approving, and publishing provincial Virtual Visits Solution Requirements, receiving, and reviewing Solution Provider submissions, publishing Verified solutions on the Verified Solutions List and for ongoing governance and oversight of the

Program. In furtherance of this obligation, Ontario Health may send out mandatory surveys and requests for information. When this occurs Solution Providers must respond in a prompt and timely manner. Ontario Health may conduct market scans from time to time and may contact you to participate in same; your participation is voluntary.

No Solution Provider will be extended preferential treatment or promoted in favour of another as a result of participating in the program. For clarity, Ontario Health will in no way be involved in any procurements performed by health care providers or organization.

Ontario Health will administer the program and maintain the Verification Site in so long as the Ministry determines it is of value to the healthcare community within Ontario. Ontario Health has no obligation to the Solution Provider beyond those expressly stated in these Terms.

Reserved Rights

In addition to any other reserved rights detailed herein, whether express or implied, Ontario Health hereby reserves its rights to alter, augment, and change the Virtual Visits Verification Program or supporting documentation and requirements, at any time. In such event, you may be asked to submit additional documents and partake in additional assessments, reviews, or Validation in to maintain inclusion on the Ontario Health Verification Site; additionally, this could require the execution of additional legal documents. You acknowledge and understand that failure to do so could result in your solution status being changed or your solution being moved from the [Verified Solutions List](#) to a [Withdrawn Solutions List](#)

If any such change requires the sharing of data captured by your solution, the parties shall seek to enter into separate legal agreements, as necessary, to govern such activity.

Ontario Health hereby reserves its rights to remove a solution listing at any time, for any reason, including but not limited to, if issues with your solution are identified, either by Ontario Health or through the Office of the Information and Privacy Commissioner or Ontario (or from other jurisdictions), healthcare organizations, providers within Ontario, that may put into question or refute the attestations made through the Program.

Privacy and Confidentiality

Ontario Health is designated as an 'institution' within the meaning of the *Freedom of Information and Protection of Privacy Act* ("FIPPA") and as a result, all persons may have a legal right of access to information in the custody and/or control of Ontario Health, subject to a limited set of exemptions. Notwithstanding any provision in these Terms, you acknowledge and agree that these Terms and any records or information related to the Virtual Visits Verification Program, or any portion thereof, may be disclosed in accordance with the provisions of FIPPA, based on an access request to a party, an order of the Information and Privacy Commissioner or as otherwise required under applicable law. If your organization is designated as an 'institution' within the meaning of FIPPA, Ontario Health acknowledges and agrees that these Terms and any records or information related to the Virtual Visits Verification Program, or any portion thereof, may be disclosed in accordance with the provisions of FIPPA, based on an access request to a party, an order of the

Information and Privacy Commissioner or as otherwise required under applicable law. In the event Ontario Health receives a Freedom of Information request through FIPPA, notice will be provided to any individual wherein their personal information, records (both as defined by FIPPA), Confidential Information or any eligible information will be disclosed through this process. Such notice will provide the following information: (i) the legal authority for the collection; (ii) the reason for the collection; and (iii) who to contact for more information.

Ontario Health will only collect personal information where the collection is specifically authorized by law, used for the purposes of law enforcement or necessary for the administration of a lawfully authorized activity. Ontario Health will only use and disclose personal information as allowed or required by law.

In the context of this Program, Ontario Health's authority to collect personal information is generally taken from the *Connecting Care Act*, and Ontario Health's Memorandum of Understanding and Accountability Agreement with the Ministry.

To administer the Virtual Visits Verification Program, Ontario Health will maintain and operate the Verification Site and collect, use, and retain information, as it is obtained through interaction with the site. This may include IP addresses.

The Verification Site and related webpages will be available in the public domain. You hereby understand, acknowledge, and agree that, if you are successful in verifying your solution(s), your organization's name will be published on the Verification Site.

"Confidential Information" means all information or data disclosed by you in connection with your submission and any subsequent discussion related to the Virtual Visits Verification Program and/or the Virtual Visits Solution Requirements, that you clearly identify, mark and note as confidential, including, but not limited to, programs, codes, methods, techniques or process, formula, design, prototype, device, equipment or machine, financial information, PIA and TRA summaries (or SOC 2 Type 2 audits), PIA and TRA (or SOC 2 Type 2 audits) table of contents, intellectual property, and research and development. For clarity, Confidential Information does not include the information identified herein that will be posted on the Verification Site or any information or data that is or becomes publicly known. Both the parties have mutual obligations of confidentiality with respect to one another's Confidential Information. The Confidential Information shall be disclosed only on a 'needs to know' basis to Ontario Health employees, consultants, agents, vendors, and Third-Party service providers of a party.

For clarity, names of solutions and Solution Providers are not published or otherwise made available publicly by Ontario Health during the Program's review stage. The Program team, which may include Third Parties, is bound by confidentiality and/or non-disclosure agreements and will be bound by substantially similar confidentiality obligations as detailed in these Terms. Outside of the uses detailed herein, Ontario Health will use reasonable efforts to maintain the confidentiality of submissions but only so far as the Program allows, having regard to the involvement of Third Parties in such processes. Once a solution has been Verified and approved for publishing it will be listed on the Verification Site.

Limitation of Liability and Indemnity

Under no circumstances will Ontario Health and its directors, employees, consultants, agents, vendors, independent contractors, and third-party service providers have any responsibility or liability for any loss or damage whatsoever (including without limitation direct, indirect, special, incidental, consequential, punitive, exemplary or other damages, and including without limitation to any loss of profit, costs, expenses, harm to business, business interruption, reputation, loss of information of programs or data, loss of savings, loss of revenue, loss of goodwill, loss of tangible or intangible property, legal fees or legal costs, wasted management or office time or damages of any kind whatsoever), whether based in contract, tort, negligence or any other legal basis, arising out of or in connection with the Virtual Visits Verification Program or the Verification Site (including without limitation any damages suffered as a result of the use, inability to use, failure of, or any omissions or inaccuracies in, this website, any linked websites or linked social media platforms, or any of the services or content of the foregoing), even if Ontario Health has been specifically advised of the possibility of such damage or loss, or if such damage or loss was foreseeable.

Furthermore, you warrant that your organization and the solution is compliant with all relevant laws (including, but not limited to, PHIPA) and with the mandatory privacy and security requirements referenced in the Virtual Visits Solution Requirements document published and updated by Ontario Health and that you accept all risks and liabilities in the event of a breach or complaint related to same.

You agree at all times to indemnify, defend and hold harmless Ontario Health , its directors, employees, consultants, agents, independent contractors, vendors and third-party service providers against all actions, proceedings, costs, claims, damages, demands, liabilities and expenses whatsoever (including legal and other fees and disbursements) sustained, incurred or paid by Ontario Health directly or indirectly in respect of any breach of these Terms or any information related to your solution and submission. Additionally, where there is a Lead HSP representing the members of a collaborative, the Lead HSP shall be responsible for the indemnification obligations herein on behalf of the members of the collaborative.

Changes, Suspension and Termination

Ontario Health may, at any time without notice or liability, and for any reason whatsoever, terminate, change, suspend or discontinue any aspect of the Virtual Visits Verification Program and supporting processes and the Verification Site.

Intellectual Property

Each party shall retain all rights in all intellectual property rights owned or controlled by such party. Except as may be otherwise permitted through these Terms, neither party grants any ownership or license rights to its intellectual property to the other party.

Public Disclosures

Should your solution be published on the Verified Solutions Site, you may provide the link to the site in general correspondence with clients and potential clients, along with including same in proposals in response to tenders posted by provincial agencies or government entities within the healthcare sector.

Except as may be otherwise permitted herein, you may not, without the express prior written consent of Ontario Health , in any manner (including, but not limited to, advertising or marketing literature, customer lists, web sites, press releases, social media, or any other document or communication (in electronic or paper form)): (i) disclose or publish the fact that you have any relationship with Ontario Health; or, (ii) use or display a trade name, official mark or trademark of Ontario Health.

If Ontario Health provides express written consent to (i) disclose or publish the fact that it has any relationship with you; or, (ii) use or display a trade name, official mark or trademark of Ontario Health, such consent is subject to all conditions communicated by Ontario Health, and Ontario Health shall have the right to withdraw its consent for any reason, including but not limited to if Ontario Health believes that a use or display of its trade name, official mark or trademark reflects unfavourably upon the reputation of Ontario Health, or the goodwill attaching to its trade name, official mark or trademark.

Governing Law

These Terms will for all purposes be governed by and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. The parties hereby defer to the exclusive jurisdiction of the Courts of the Province of Ontario.

Assignment

You may not transfer or assign any rights granted to you hereunder without the prior written consent of Ontario Health, and any transfer or assignment made without that consent is void and of no effect.