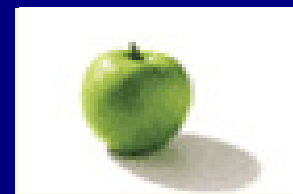


Information Manager Agreements with Third Party Contractors

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Agenda



1. Health Legislation
2. Information Manager Agreements
3. Information Sharing Agreements
4. Exchange Protocol
5. Service Provider Agreements
6. Which Agreement? When?



HIA, PHIA, HIPA

- **All disclosures from one custodian to another must meet the requirements of the appropriate legislation.**
- **The legislation is paramount**
 - Cannot opt out of health legislation
 - Cannot replace health legislation definitions
 - **CAN** narrow the scope of the legislation



Health Legislation cont'd

- Health legislation seeks to protect the privacy and confidentiality of an individual's health information.
- Health legislation permits an individual access to his/her own health information.



Health Legislation cont'd

- Collection, use and disclosure of health information is only permitted for defined purposes.
- Health legislation is primarily based on implied consent when disclosing information from custodian to custodian.
- Health legislation does not require consent for the collection of health information.

Information Manager Agreements



Information Manager Agreement (IMA)

- Authorized in PHIA, HIPA and HIA.
- As defined, requires the IM to use or disclose the information **only** for the purposes authorized by the agreement.
- Where a trustee or custodian is also an information manager, they can only act as an IM and have no other rights with respect to that information.

IMA cont'd



IMA cont'd

- The IM must comply with the Act, regulations and agreement.
- The trustee or custodian continues to be responsible for the compliance with the Act and regulations in respect of the information disclosed to the IM.

IMA Template



An IMA typically requires a service provider to:

- keep health information/personal information confidential
- comply with confidentiality legislation (i.e. health legislation and FOIP)
- access information only as needed to provide IM/IT services
- disclose information only to employees or contractors who have a need to know in providing the services or as directed by the custodian
- protect information against unauthorized access, use or disclosure
- comply with security policies and procedures of custodian
- inform custodian of any breaches or loss of information (or potential) and assist in remedies or recovery
- inform custodian of any public access requests and assist custodian in responding
- store information in province only
- permit custodian to audit compliance, including access to facilities of service provider
- upon termination, return or destroy information as directed by custodian
- be liable to and indemnify custodian for breaches

Information Sharing Agreements



Information Sharing Agreements (ISA)

- Agreements between trustees/custodians that specify how health information will be shared (used and disclosed) between them.
- Must be in compliance with health legislation.
- Can be more restrictive than health legislation if trustees/custodians agree to limit permissible uses and disclosures.

ISA Template



What an ISA can cover:

- Compliance with law
- Definitions (of terms used in ISA, in keeping with legislation)
- Duties/Responsibilities of Participants
- Use, Disclosure and Protection Authorities
- Breaches of Privacy, Security or Data Integrity
- Dispute Resolution Process
- Indemnification
- Can reference an Exchange Protocol (EP)

Exchange Protocols



Exchange Protocol (EP)

- EP establishes specific rules for collection, use and disclosure of health information.
- Can be attached to an ISA (as a schedule) thereby binding trustees/custodians to its rules.
- More flexible than an ISA.
- Must comply with but (like the ISA) can be more restrictive than health legislation.
- The AB Netcare IEP is one form of an EP.

Service Provider Agreements



Service Provider Agreements (SPA's)

- Establish the IM/IT services being provided by a vendor.
- Will include, e.g., service levels (SLA's), payment terms, termination, licencing terms, liability, indemnity, confidentiality, IP ownership, etc.

Which Agreement? When?



- Will always require a Service Provider Agreement (SPA).
- Can have IM provisions in your SPA or a separate IMA.

Which Agreement? When?



- Will need **only** an SPA and IMA (or SPA with IM provisions included) when contracting with a service provider who is not a trustee/custodian (i.e. vendor).
- Health legislation must be referenced and language must be consistent with it.

Contracting with Non-Trustee Vendor



Requires:

- Service Provider Agreement

and

- Information Manager Agreement

Which Agreement? When?



- Will still need SPA and IMA (or SPA with IM provisions included) when contracting with a trustee/custodian service provider (i.e. region) **AND**, where health information is shared, may want ISA as well.
- ISA may also include an exchange protocol (EP).
- Health legislation must be referenced and language must be consistent with it.

Contracting with Trustee Vendor



Requires:

- Service Provider Agreement
and
- Information Manager Agreement

May also include

- Information Sharing Agreement
- Exchange Protocol

Questions?



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