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ACTION for Health Theme III:

Legal Issues

March 2008

ACTION for Health

Document Status:

- | | |
|--|--|
| <input type="checkbox"/> Published Paper | <input type="checkbox"/> Practitioner's Pointers |
| <input type="checkbox"/> Working Paper | <input type="checkbox"/> Briefing Note |
| <input type="checkbox"/> Report | <input type="checkbox"/> Research Tool |
| <input type="checkbox"/> Draft | <input type="checkbox"/> Overview |
| <input checked="" type="checkbox"/> Presentation | <input type="checkbox"/> Other |

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ACTION for Health

Theme III: Legal Issues

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Topics

- Range of Legal Issues
- Information Intermediary Liability

Physician Licensing and Telehealth

- Licensing provincially based
- No borders in telehealth
- Provincial/territorial requirements vary:
 - PEI – would require physician to be licensed in province
 - Quebec – would not require physician to be licensed in province
 - Silence
- Problems

Electronic Patient Records

- *Copyright Act*
- Physician's notes
- Patient information
- Potential uses of electronic patient records

Liability in Negligence

- Elements of Negligence
- Case: Information intermediaries
- Issue: Would information intermediaries be liable for directing patrons to health information or sources that ultimately proved harmful?

Elements of Negligence

- Duty of Care
- Standard of Care
- Harm
- Causation
- Remoteness

Duty of Care

- Nature of relationship between the parties
- Actions of intermediary

Standard of Care

- Reasonable person
- What is the standard of care of an information intermediary?
- Legislation/regulations/policy/guidelines

Harm

- Need for injury
- Type of injury

Causation

- Actions of intermediary and injury
- But-for test

Remoteness

- Kind of injury
- Responsible for everything?

If Liability is Found:

- Contributory negligence
 - Would a prudent person rely on information found by an intermediary to make medical decisions?