ACTION for Health Theme III:

Legal Issues
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ACTION for Health

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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?