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Alberta Health Services Executive Leadership Team

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Intellectual Property Policy (#1137)

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NOTE: The first appearance of terms in bold in the body of this document (except titles) are defined terms – please refer to the Definitions section.

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OBJECTIVES

- To outline the rights and obligations of Alberta Health Services (AHS) and **intellectual property creators (IP creators)** in the disclosure of **intellectual property (IP)**.

APPLICABILITY

Compliance with this document is required by all Alberta Health Services employees, members of the medical and midwifery staffs, students, volunteers, and other persons acting on behalf of Alberta Health Services (including contracted service providers as necessary).

ELEMENTS

1. Disclosure

- 1.1 The IP creator shall report IP that is capable of being protected and of potential commercial value to the Vice President, Provincial Clinical Excellence (VP, PCE) by submitting an AHS *Intellectual Property Disclosure Form (IP Disclosure Form)* describing the AHS-owned IP, as defined in the AHS *Intellectual Property Policy*.
- 1.2 A copy of the *IP Disclosure Form* shall be sent by the IP creator to the IP creator's immediate AHS supervisor, if applicable.
- 1.3 The VP, PCE shall advise the IP creator in writing when the assessment regarding **commercialization** potential of the IP is completed.

2. Confidentiality and Preserving Intellectual Property Rights

- 2.1 AHS is committed to encouraging and facilitating publication of research findings. This commitment is balanced with the reality that public disclosures (e.g., publication and/or presentation about the IP) before filing IP protection could jeopardize the ability to secure IP protection or invalidate future IP positions.
- 2.2 The IP creator shall refrain from publicly disclosing the IP until AHS has had a reasonable opportunity to conduct due diligence and assessment of the IP. The following applies to such disclosures:
- a) The IP creator shall complete the *IP Disclosure Form* in accordance with this Procedure and the *AHS Intellectual Property Disclosure Form Procedure* and submit the Form along with the proposed public disclosure documentation to the VP, PCE.
 - b) AHS shall advise the IP creator in writing, after having had a reasonable opportunity to identify commercially useful IP, if the proposed public disclosure contains information that could compromise protecting the IP.
 - c) The IP creator may proceed with public disclosure if the identified information is removed, or the IP creator may delay public disclosure for a further 90 days to enable the IP to be protected.
 - d) The IP creator shall reasonably consider advice from AHS in removing information from public disclosure if the IP can only be protected through Confidentiality and Non-Disclosure Agreements (NDA) (e.g., know how) in accordance with the *AHS Intellectual Property Confidentiality and Non-Disclosure Agreements Procedure*.
 - e) The IP creator shall reasonably consider special circumstances delaying the IP protection where AHS seeks the IP creator's consent for an extension beyond the 90-day period.

DEFINITIONS

Commercialization or **commercialize** means the transfer or commercial exploitation or any combination thereof undertaken with respect to IP and includes, without limitation, licensing, sale, or further development through a spin-off company or joint venture.

Intellectual property (IP) means:

- the intangible nature of works or creations that is unique and original;
- any tangible expression thereof;
- the rights arising from the legal protection of IP, including copyright, trademarks, patents, industrial designs, and integrated circuit topographies; and
- know-how and other trade secrets.

IP includes, but is not limited to, technology, technical information, data, databases, formulae, computer software, computer code, drawings, graphics, designs, concepts, ideas, apparatus, processes, research tools, prototypes, methods, techniques, and all original literary, dramatic, musical, and artistic works, all print, multimedia electronic and audiovisual materials, manuals, program packages, and educational materials.

Intellectual property creator (IP creator) means the originator of IP who is an AHS employee, an individual working in association with an AHS employee, an individual using AHS resources, or a partnership of one or more individuals or organizations.

REFERENCES

- Alberta Health Services Governance Documents:
 - *Intellectual Property Policy* (#1137)
 - *Intellectual Property Confidentiality and Non-Disclosure Agreements Procedure* (#1137-03)
 - *Intellectual Property Disclosure Form Procedure* (#1137-07)
- Alberta Health Services Forms:
 - *Intellectual Property Disclosure Form*

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