

Introduction and Purpose:

The Canadian Intellectual Property Office states “the premise underlying intellectual property (IP) throughout its history has been that the recognition and rewards associated with ownership of inventions and creative works stimulate further inventive and creative activity. Intellectual property establishes a right and identifies ownership of intellectual creativity”¹.

Copyright is a component of the Intellectual Property Law of Canada. Copyright does not protect the “idea” but it does protect the “expression of the idea.” Copyright is automatic; effective from the moment the work is created.² If a person develops an idea, expressing it in writing or otherwise and does so on their personal time, then that person is both author of the work and owner of the copyright to that work. If it is developed on company time, the employer owns the copyright but the creator retains authorship. This then holds true for students depending on how the works were created³. In addition, the creator retains “moral rights” where the creator has the right to have his/her name on the work or be anonymous and to have his or her reputation protected (protect integrity of the work and prevent distortion of the work).⁴

The purpose of this guideline is to outline the rights of the student and the rights of the Health Care Organization (HCO) in relation to ownership and copyright of works created by the student during the course of the practice education experience.

Definitions:

Also refer to: Standardized Guideline definitions in Practice Education Guideline (PEG) Introductory Module.

Authorship: the creator of an artistic, literary, musical, dramatic or digital work (retaining intellectual property rights).

Copyright: the sole right to produce or reproduce a work (or substantial part of it) in any form.⁵ In Canada, all original works are protected by copyright, including books, journal articles, songs, video recordings, websites, computer software.

¹ Canadian Intellectual Property Office. (2013). *What is intellectual property?* Canadian Intellectual Property Office, An Agency of Industry Canada, Ottawa, Canada. Retrieved March 24, 2013 from: <http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/home>

² Canadian Intellectual Property Office. (2012). *A guide to copyright.* Canadian Intellectual Property Office, An Agency of Industry Canada. Ottawa: Canada. Retrieved March 24, 2013 from: <http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/wr02393.html#whatis>

³ Intellectual Property Institute of Canada. (2013). About copyright. Retrieved March 24, 2013 from: www.ipic.ca/english/general/copyright.cfm

⁴ Noel, W. & Breau, G. (2005). *Copyright matters – some key questions and answers for teachers.* 2nd Ed. Council of Ministers of Education; Canadian School Boards Association; Canadian Teachers’ Federation. Canada. [\[http://www.cmec.ca/else/copyright/matters/CopyrightMatters.pdf\]](http://www.cmec.ca/else/copyright/matters/CopyrightMatters.pdf) Retrieved May 12, 2006.

⁵ Canadian Intellectual Property Office. (2012). *A guide to copyright.* Canadian Intellectual Property Office, An Agency of Industry Canada. Ottawa: Canada. Retrieved March 24, 2013 from: <http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/wr02393.html#whatis>

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Creator(s): a sole individual or group of individuals working collaboratively and/or cooperatively, to make, conceive, reduce to practice, author or otherwise make a substantive intellectual contribution to the creation of intellectual property.

Intellectual Property: the legal rights that result from intellectual activity in the industrial, scientific, literary and artistic fields. IP rights, whether in the form of patent, trade-marks, copyrights, industrial designs, [also, integrated circuit topographies, plant breeders' rights] reward this intellectual activity.

Moral Rights: the creator's right to be associated with the work by name, and include the creator's right to the integrity of the work. Moral rights remain with the creator of a work, even where the work, or the copyright in the work has been sold or assigned⁶.

Student Material or Work Product: any material/original work created in whole or in part by a student while in a practice education placement such as written material (brochures, posters, handouts), digital work (presentations, websites, programming language, video recordings), artwork (paintings, drawings, songs), or other work.

Practice Guideline Standards:

Intellectual Property is defined within each HCO.

This guideline does not apply to:

- scholarly works such as essays, reports, assignments or materials students produce to meet the requirements of the education program, or
- Scientific or scholarly discoveries, research data, and research tools as the result of research activities conducted in the HCO. The HCO should have a policy that addresses the development of intellectual property that may arise out of research.

The HCO "owns" the rights to intellectual property developed by students when at least one of the following conditions applies:

- Created in a facility, owned or operated by the HCO, unless created as scholarly work, or
- Used HCO resources (personnel, confidential information, equipment, supplies, visual identity [logo]), or
- Used funds administered by the HCO, or
- Created as a result, in whole or in part, of work undertaken within an employee relationship or under contract with the HCO.

The creator (eg: student) owns the rights to intellectual property when none of the above circumstances apply.

Students may (in consultation with a representative from their Post Secondary Institution [PSI]) transfer or assign copyright of student material or work product to the HCO through some type of formal documentation when:

⁶ Canadian Intellectual Property Office. (2013). *What is intellectual property?* Canadian Intellectual Property Office, An Agency of Industry Canada, Ottawa, Canada. Retrieved March 24, 2013 from: <http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/home>

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- the intellectual property in the student material / work product could provide future benefits to a HCO'S systems or activities, and/or patient care;
- the primary purpose of the practice education experience is to carry out an activity or task where the outcome or results are specifically agreed to be used for the benefit of the HCO and/or its patients.

When students transfer or assign copyright of student material or work product, they retain “authorship” of the document or material.

The HCO needs to initiate a written agreement addressing ownerships and copyright prior to the start of the student's work or as soon as possible after its merits are recognized. Any assignment of intellectual property, license or transfer of copyright must be set out in writing in order to be valid.

If the student material or work product, in all or in part, will be displayed or used for presentation, either within the HCO, PSI or at an external event, the HCO and PSI will determine the authorship and recognition of students and staff involved.

If there is no mechanism to negotiate ownership of copyright, then the materials cannot be reproduced without student (author) permission.

No materials or work products may be created or produced using the HCO visual identity (i.e. logo) outside of use within the HCO without prior permission of the HCO.

Legal advice may be sought out as necessary by either party.

Roles, Responsibilities and Expectations:

Health Care Organization:

Establish position on intellectual property/copyright and communicate to PSIs.

Identify the organizational contact responsible for intellectual property and related permissions, transfers and negotiations. Inform PSI of contact / contact information.

Provide necessary documentation for student signature when transfer of copyright is required/requested by the HCO.

Post Secondary Institution:

Inform students re: HCO position on intellectual property/copyright prior to the practice education experience.

Provide information for informed consent re: student signature for transfer of copyright to HCO.

Student:

Practice in accordance with the HCO policies/protocols related to intellectual property.

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Resources and References:

Canadian Intellectual Property Office. (2013). *What is intellectual property?* Canadian Intellectual Property Office, An Agency of Industry Canada, Ottawa, Canada. Available at:

<http://www.cipo.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/home>

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Council of Ministers of Education; Canadian School Boards Association; Canadian Teachers'

Federation. Canada. Available at: <http://www.cmec.ca/else/copyright/matters/CopyrightMatters.pdf>

Vancouver Island Health Authority. (2008). *Intellectual property. Policy_Section number 20.* Vancouver, Island Health Authority, Victoria, BC.

Guideline Review History:

Revision #	Date	Author(s)	Brief Description of Change (reason for change)
Original	February 2007		
1	March 2013	Heather Straight (VCHA), Carrie Edge (FHA), Barb Bedell (PHC), Debbie McDougall (BCAHC); Deb Filieul (Langara)	Revised to new template Content updated HA librarians consulted References updated