

Contracts - Education Affiliation Agreements

OVERVIEW OF ISSUE

Affiliation agreements are contracts between a healthcare organization and an educational institution for the purpose of providing instruction in the healthcare organization to healthcare students (or learners). The agreement defines the roles and responsibilities of both organizations and addresses risks to staff, patients, faculty and students. Whether one or multiple students, no practicum or education experience/training should take place prior to the review and execution of the affiliation agreement.

HIROC recommends subscribers have their corporate counsel (and privacy officers if personal health information is involved) review all contracts.

Refer to related Risk Notes for details: Contracts – Important Provisions, Contracts – Insurance Clauses, Contracts – Indemnification Clause with Hold Harmless and Defense Provisions

KEY POINTS

- Clear wording is required with respect to each party's daily oversight, supervision and training of the students.
- Educational facilities should be required and **ensure** students have the necessary immunization, training and experience requirements and police checks before placement.

THINGS TO CONSIDER

Supervision and Training Accountabilities

- The contract should use clear wording with respect to:
 - How each party will be involved in **daily oversight supervision and training** of students, including each party's authority, roles and responsibilities where supervision and training is shared between the two parties;
 - Responsibilities for ensuring student familiarity and compliance with healthcare organization policies/procedures.
- Both parties should agree to designate representatives/liaisons to facilitate communications and planning with respect to the educational experience/training.

Obligations and Responsibilities – Healthcare Organization

- The contract should:
 - Offer 'reasonable' access (versus full/guaranteed access) to the healthcare organization's facilities and supplies.
 - Require the healthcare organization to orient their own employees and appointed staff to their obligations under contract.

Obligations and Responsibilities – Education Facility

- The contract should include the educational facility's agreement to:
 - Assign faculty to monitor and evaluate the students' performance during the program;
 - Require and **ensure** students:
 - Have the necessary immunization, training and experience requirements, as defined by the healthcare organization, before placement;
 - Provide the healthcare organization proof of police record check for vulnerable population, before placement;
 - Are duly registered and in good standing at the college/university as necessary for participation in the program.
- Orient their own employees and appointed staff to their obligations under contract, including compliance with health and safety, intellectual property, privacy and confidentiality and clinical and administrative policies, procedures and guidelines, including an acknowledgement of the consequences for non-compliance.

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- Additionally, the contract should include the educational facility's agreement:
 - To immediately notify the healthcare organization of any incident or event involving a student or education facility staff (e.g. incident compromises patient or staff safety, privacy and health/safety breaches);
 - Of possible constraints on the healthcare organization to perform its obligations under the agreement (i.e. subject to availability of resources, its operation and administrative needs and ensure the safety of its patients); and accordingly, the healthcare organization's discretion to change, substitute or terminate any program or practice education experience to meet these needs;
 - Of the healthcare organization's statutory roles and responsibilities (e.g. Public Hospital's Act).

Complaints/Dispute Resolution and Suspension of Students/Education Facility Staff

- The contract should include:
 - A clear process for reporting and resolving unprofessional/disruptive behaviours, disputes and complaints of discrimination, harassment or violence;
 - Acknowledgement by the educational facility that the healthcare organization can – 'at anytime' - temporarily or permanently remove or suspend one or more students or educational facility staff (e.g. unprofessional or unsafe behaviour).

Privacy and confidentiality

- The contract should include:
 - Clear breach of privacy reporting practices, including disciplinary steps;
 - Acknowledgement by the educational facility that no student or educational facility staff will be granted access to personal health information unless they have signed a confidentiality agreement approved by the healthcare organization.

Insurance and Indemnification

Note: if the healthcare organization is contracting practitioners (e.g. physicians) to conduct training/clinical instruction, the practitioner should provide proof of liability protection (e.g. the Canadian Medical Protective Association for physicians).

- Professional and general liability insurance have limits of at least \$5 million per occurrence for both the educational facility and the student including: products and completed operations; personal injury; cross liability; contractual liability; 30 day notice of cancellation; material change.
- Mutual indemnification clause includes the student.
- The student/education facility's insurance time period coincides with when the students will be on placement at the healthcare facility.
- Non-Canadian educational institutions: students required to sign a waiver establishing Canadian jurisdiction for legal action; education institution advised in writing of HIROC's territorial limitation and agreement to provide coverage for their students.



REFERENCES

- HIROC claims.
- BC Academic Health Council. (2007). [Education institution affiliation agreement template](#).
- BC Academic Health Council. (2009). [Affiliation agreements in British Columbia \(BC\): Frequently asked questions](#).
- Miller Thomson. (2002). [Affiliation agreements](#).
- Pessione H. (2011). Contracts 101. [HIROC Webinar].
- Wakulowsky L. (2015). Practical tips for reviewing affiliation agreements with educational institutions. [HIROC Webinar].