

# Copying of non-South Australian Health Documents

## 1 Overview

As a South Australian Health employee you have particular protection against infringing copyright when you copy documents as part of your job. However, **it is important to consider the issues covered in section 4** before copying to ensure that you are copying within the law.

## 2 What is copyright and copying?

### 2.1 What is copyright?

In general terms, copyright is the exclusive right for a copyright owner to do certain things with their copyright material – for example, to copy the material. In Australia, copyright is granted automatically by the *Copyright Act 1968* (Cth) (Copyright Act).

Copyright covers a wide range of material, but this Fact Sheet addresses copyright of electronic and hard copy documents (including patient assessment forms, journal articles, books, images, and printed educational, training and informational material).

Generally, if a person makes a copy of a document without permission from the copyright owner, they will infringe the copyright owner's copyright. As a SA Health employee, however, you have special copyright protection, as described in section 3.

### 2.2 What is copying?

Examples of when a person makes a copy include:

- making a photocopy;
- scanning a hard copy into electronic format; and
- printing an electronic document.

### 2.3 The difference between 'copying' and 'communicating material to the public'

Your legal protection for 'copying' is different to that for 'communicating material to the public'. 'Communicating' copyright material in this context means making material available on an internet site (i.e. to the whole world) or transmitting it electronically to someone (e.g. by email). If you wish to make copyright material available on the SA Health internet site, or send documents to multiple recipients outside the SA Government by email, you are required to notify the copyright owner. SA Health may be required to pay compensation as a result. This obligation to notify the copyright owner does not apply where copyright material is published on the SA Health intranet site (i.e. to SA Health employees) only.

Simply providing a hyperlink to a website is not generally considered to be a 'communication to the public' for copyright purposes. However the practice of linking raises various legal issues beyond the scope of this Fact Sheet. For example, ensure that links to external sites do not provide any implicit endorsement, commercial advantage, or exhibit any



ethical or political bias and that they are identified as separate from SA Government information. It is recommended that links are made to home pages and to reputable organisations and that they comply with an organisation's hyperlink policy where applicable.

### **3 Your protection as a SA Health employee**

#### **3.1 You will not infringe copyright if you copy material that you need to do your SA Health job**

As a SA Health employee, you will not infringe copyright when you copy documents as part of your job if the copying directly relates to the provision of SA Health services. This protection applies even in the presence of a copyright notice that expressly states certain restrictions about copying, etc. For example:

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### **4 Potential restrictions on copying or use of documents**

#### **4.1 A contract can prevent you from copying**

It is possible that you (or some other part of SA Health) might agree in a contract with a copyright owner (or someone else) not to copy certain material. In such circumstances, it is recommended that you treat that contractual obligation as binding.

Contracts may be formed in many different ways. For example (depending on a number of factors) a contract might be formed by:

- verbal agreement even if there isn't anything in writing
- exchange of correspondence (e.g. emails or letters)
- formal signed agreement

- placing a purchase order
- submitting an application or registration form, either electronically or in hard copy
- selecting a check box on a website that indicates agreement to terms and conditions.

You should check with your Manager or the Legal Unit before agreeing to terms that restrict your ability (or the ability of any other SA Health employee) to freely copy material from another organisation.

#### **4.2 Some documents must only be used by qualified personnel**

The copying of some documents may not be appropriate for other reasons. For example, some patient assessment forms can only be administered by properly qualified personnel.

#### **4.3 Copying can affect a document's integrity**

Photocopying a document can affect its quality and potentially its usefulness and this should be considered prior to making copies.

#### **4.4 Ensure that you are using current material**

Suppliers may from time to time provide corrections or updates to their documents. Units within SA Health should implement procedures to ensure that staff members are aware of such corrections and use the current versions of materials.

#### **4.5 Comply with other legislation, policies or codes of conduct**

Healthcare providers must ensure that their copying and sharing of material also comply with policies or codes of professional organisations by which they are bound.

#### **4.6 Comply with confidentiality obligations**

SA Health employees must also have regard to their obligation not to make unauthorised use or unauthorised disclosure of documents which contain confidential information.



## 5 Further Information

View the following sources of information on this topic.

Queensland Government: Queensland Health Intellectual Property

[http://www.health.qld.gov.au/ohmr/html/rcpu/intel\\_prop.aspp](http://www.health.qld.gov.au/ohmr/html/rcpu/intel_prop.aspp)

The section on Government Sector Licences from Copyright Agency Limited

<http://www.copyright.com.au/licences/government>

Information from the Australian Copyright Council

<http://www.copyright.org.au/find-an-answer/>

**WARNING:** This fact sheet contains general comments only and should not be relied on as specific advice. The contents do not constitute legal advice. Formal legal advice should be obtained for particular matters.

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