
INTELLECTUAL PROPERTY PROTECTION – TECHNOLOGY TRANSFER

Introduction

Document Type	Policy
Function(s)	Corporate Services
Health Service Group (HSG)	ADHB Generic
Department(s) affected	All ADHB services
Patients affected (if applicable)	n/a
Staff members affected	All ADHB staff members
Key words	Intellectual property, technology transfer
Author – role only	Manager Research
Owner (see ownership structure)	Chief Executive
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Purpose

This policy outlines the standard ownership arrangement and intellectual property protection pathway arising from inventions or knowledge created by employees of Auckland District Health Board (ADHB).

Scope

This policy applies to all employees of ADHB and may be varied only by written agreement* between ADHB and the employee.

This policy does NOT apply to employees of the University of Auckland, who are obliged to act in accordance with relevant University policies.

***Note: “written agreement”** includes conditions that may be specified in an individual’s employment contract.

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Section:	Staff	Issued by:	Manager of Research
File:	Intellectual Property May12.doc	Authorised by:	Chief Executive Officer
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Introduction, Continued

Associated documents

The table below indicates other documents associated with this policy.

Type	Document Titles
Board Policy Manual - Staff	<ul style="list-style-type: none">• Clinical Research - Approval• Research - Financial Management
Reference	<ul style="list-style-type: none">• Individual Employment Contracts (IEA), Sections 10 & 14

INTELLECTUAL PROPERTY PROTECTION – TECHNOLOGY TRANSFER

Intellectual Property (IP)

Application

In the event of any inconsistency concerning the ownership of research arising between this policy (or an agreement made under this policy) and an employee's individual employment contract, the terms which are most beneficial to the employee will apply (i.e. if the terms of this policy are more beneficial to the employee than those stated in their employment contract, then this policy shall take precedence).

Definition

Intellectual Property (IP) is defined as any new and useful process, machine, composition of matter, life form, article of manufacture, software, copyrighted work or tangible property.

It includes such things as new or improved devices, circuits, chemical compounds, drugs, genetically engineered organisms, data sets, musical processes or unique and innovative uses for existing inventions.

IP may or may not be patentable or copyrightable. It is created when something new and useful has been conceived or developed, or when unusual, unexpected or non-obvious results, obtained with an existing invention, can be practiced for some useful purpose.

One or more individuals, each of whom, to be an Inventor, must have conceived of an essential element or have contributed substantially to its conceptual development, can create IP.

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Policy

Intellectual Property

The standard Medical and Non-medical Individual Employment Contract (IEA) assigns all copyrights, trademarks, and patents to ADHB, should these arise from the normal course of employment. Exemptions from such agreements to assign may be authorised when:

- ADHB elects not to file a patent application and the Inventor is prepared to do so, or
 - The equity of the situation clearly indicates such release should be given (e.g. when an employee works part-time for Auckland District Health Board). Further research or development of that invention involving the use of ADHB resources or patients would require standard ADHB research project approval.
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Expectations

- It is the employees' responsibility to notify ADHB in writing, via the Research Development Office, of any patentable material likely to be developed. This notice will be circulated to the employee's General Manager and the ADHB Legal Department.
 - ADHB will conduct a preliminary assessment and evaluation and respond to the employee in writing within ninety (90) days of receiving this notice.
 - If ADHB declines to accept any rights of ownership by assignment or otherwise, then all rights will revert to the Inventor.
 - If ADHB chooses to proceed with patenting or copyrighting, then the terms of ownership will be negotiated with the employee on a case by case basis. These terms will specify the proportions of shared ownership and responsibility between Auckland District Health Board and the employee.
 - In the case of externally sponsored research, it is the role of the Research Development Office to ensure that contracts and agreements between Sponsors and ADHB shall be made, which clearly set forth the IP position of all parties.
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Policy, Continued

Patent Responsibilities and Administration

The Auckland District Health Board Research Development Office is responsible for implementation of this policy, including the following:

- Receiving and replying to written notices of potential inventions and discoveries.
 - Evaluating inventions and discoveries for patentability, as well as scientific merit and practical application, and requesting the filing and prosecution of patent applications.
 - Evaluating the patent or analogous property rights or equities held by Auckland District Health Board in an invention, and negotiating agreements with co-operating organisations, if any, with respect to such rights or equities.
 - Negotiating licenses and license option agreements with other parties concerning patent and/or analogous property rights held by Auckland District Health Board.
 - Directing and arranging for the collection and appropriate distribution of royalties and fees.
 - Assisting Auckland District Health Board in negotiating agreements with co-operating organisations concerning prospective rights to patentable inventions or discoveries made as a result of research carried out under grants or contracts.
 - Approving exemptions from the agreements to assign inventions and patents to Auckland District Health Board.
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