



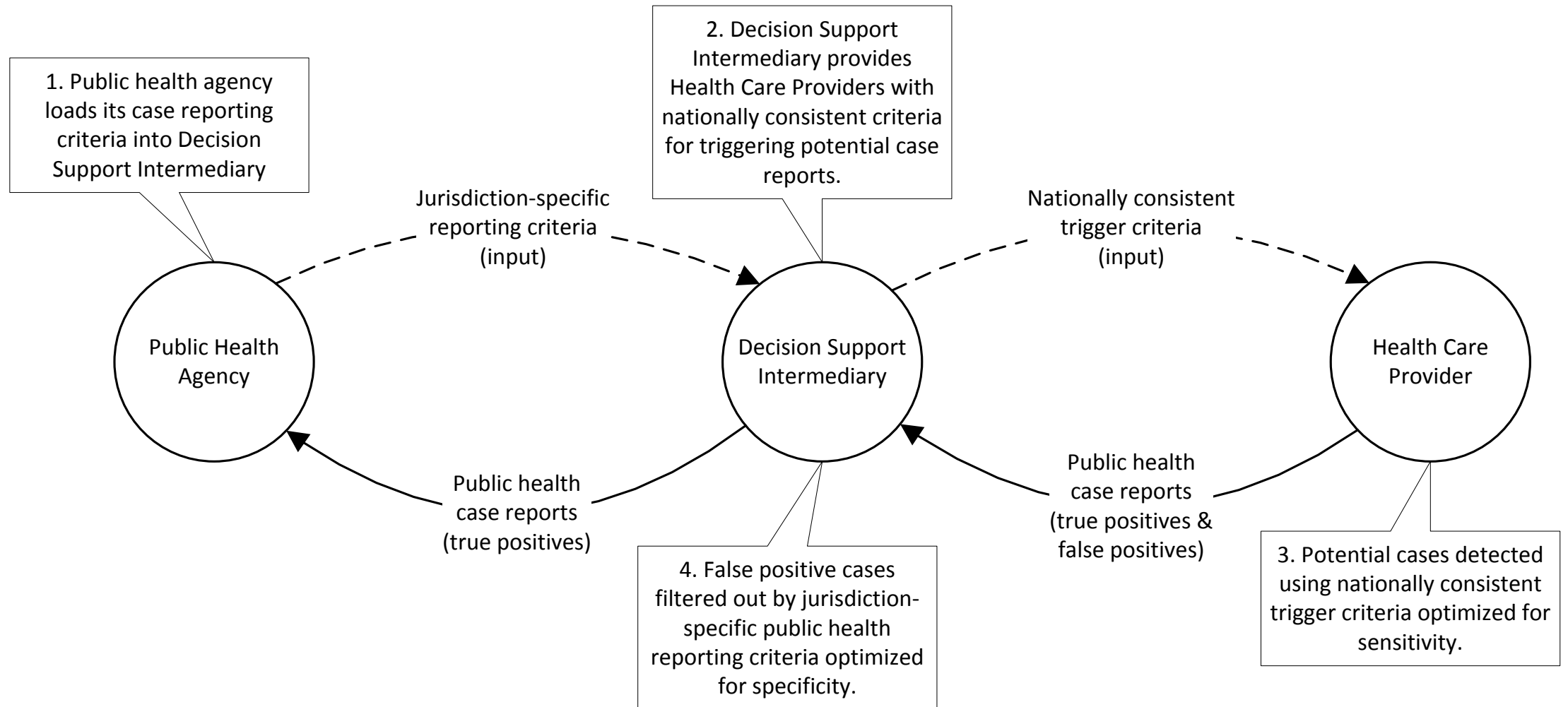
eCR Implementations: Preliminary Legal & Regulatory Recommendations

February 24, 2017

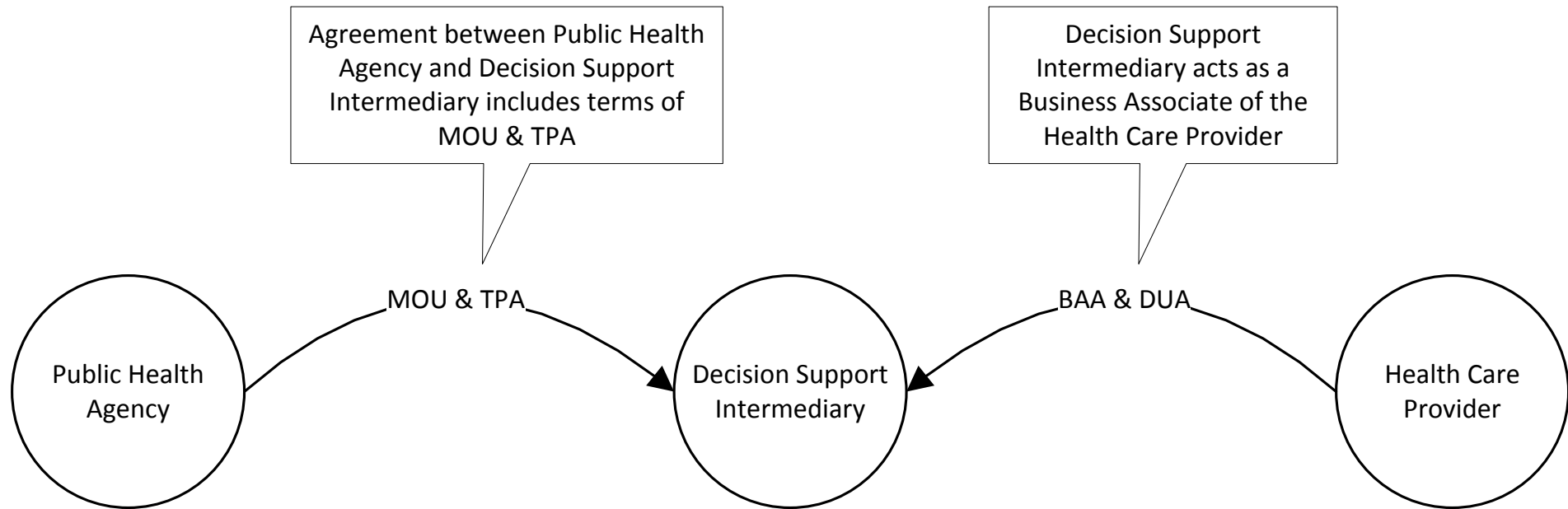
Overview

- Outline recommendations for short-term vs. long-term approach for legal and regulatory eCR compliance with privacy and confidentiality
- Describe next steps for eCR implementation sites and Digital Bridge governance body

eCR Overview



Recommended Agreements Framework – Short term for initial implementation sites



BAA = business associate agreement
DUA = data use agreement
MOU = memorandum of understanding
TPA = trading partner agreement

Recommended Content for BAA/DUA

- BAA
 - Definitions
 - General Provisions
 - General Uses and Disclosures
 - Obligations of APLH (BA)
 - Obligations of Provider (CE)
 - Insurance, Indemnification
 - Termination, Amendment
 - Obligations to Manage, Destroy Data
 - Regulatory References
 - Assignment, Severability
 - Entire Agreement, Jurisdiction, Waiver
 - Authority, Notices
- DUA
 - Definitions
 - Permitted Use
 - System Access Policies
 - Use Cases
 - Expectation of Participants
 - Representations and Warranties
 - Disclaimers
 - Term and Termination
 - Miscellaneous Provisions

Recommended Content for MOU/TPA (Draft posted to Basecamp)

- Purpose, Background, Definitions
- Project/Opportunity
- Joint Responsibilities of Parties
- APHL Role and Responsibilities
- PH Agency Role and Responsibilities
- Open Records Laws
- Data Retention/Security
- Term and Termination
- Ownership of Data
- Warranties
- Indemnification, Limitation of Liability
- Amendment; Waiver
- Severability
- Entire Agreement; No Assignment
- Governing Law
- Notices

Long-Term Strategy

During initial eCR implementations (aka “short-term”), Digital Bridge will also plan longer term strategy for legal and regulatory compliance:

- Increase acceptability among health care, governmental partners
- Increase scalability through reduction of point-to-point agreements
- Inform evolution of eCR technical architecture
- Will likely entail examining “trust networks”, e.g.:
 - Sequoia/eHealth Exchange (<http://sequoiaproject.org/ehealth-exchange/>)
 - DirectTrust (<https://www.directtrust.org/>)