



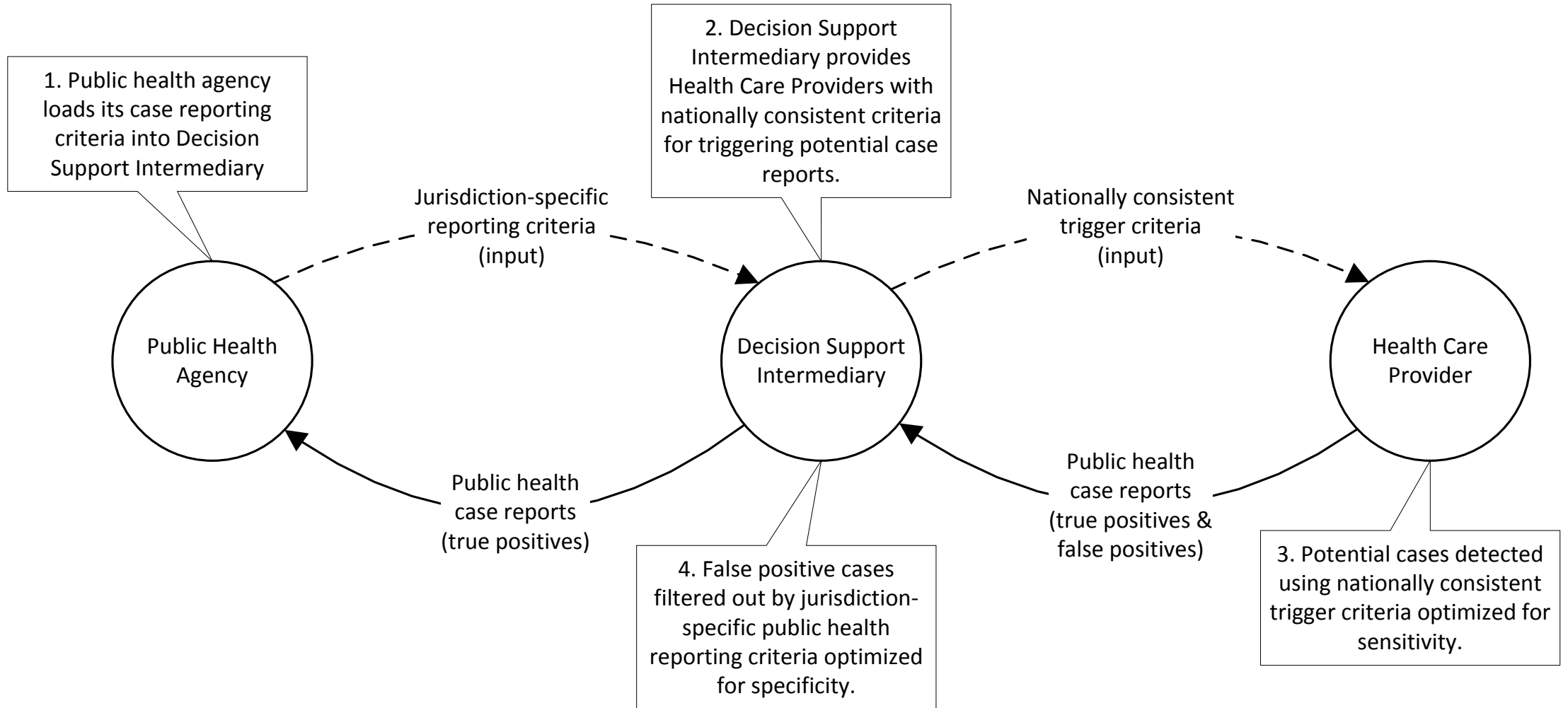
# eCR Implementations: Preliminary Legal & Regulatory Recommendations

February 24, 2017

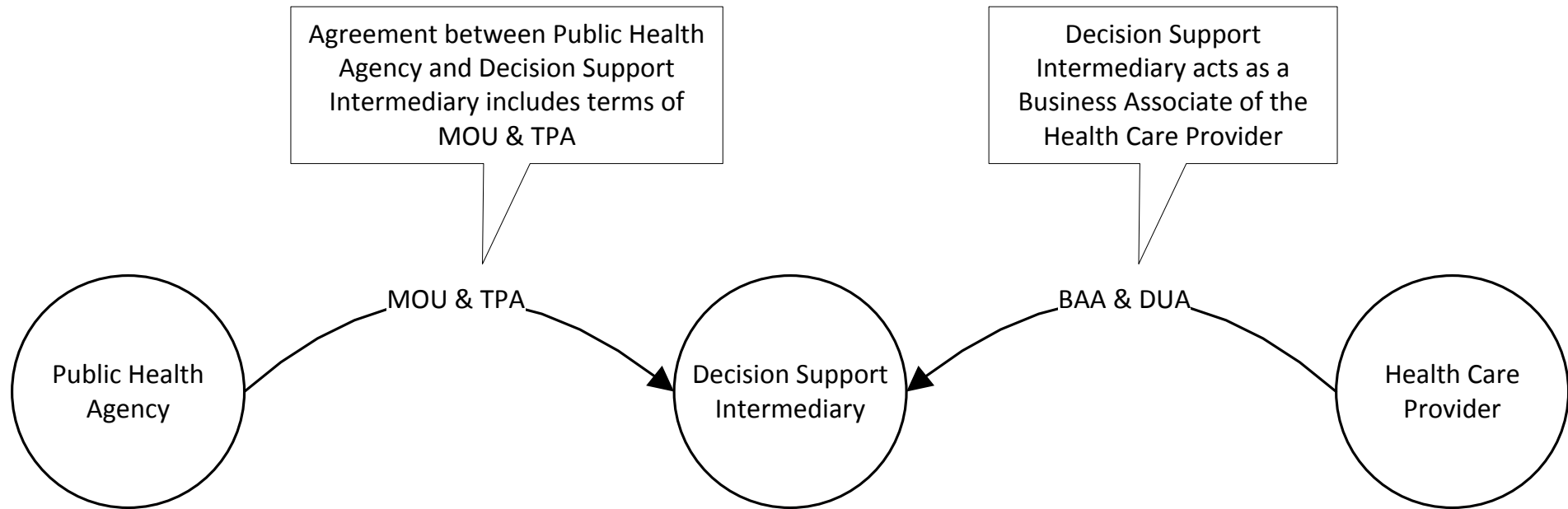
## Overview

- 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 APHL (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/>)