



HANDLE WITH CARE

Volume 9, Issue 1

Summer 2012

In this Issue:

- ◆ Health Team Leader's Message
- ◆ Risk Wise Answers—Use of Web Cams in Private Homes to Capture the Actions of Health Care Workers
- ◆ Risks of a Photocopier
- ◆ HCPP has a New Property Loss Form
- ◆ Hospital Corners—Patients Performing Work as Part of Their Therapy
- ◆ Context Matters

Please feel free to copy and distribute as necessary.

If you would like to receive an electronic version of this publication just drop us a line at HCPP@gov.bc.ca and we will add you to our distribution list.

A Risk Management Newsletter for the Health Care Protection Program's Members

Health Team Leader's Message

Breaking down silos is one of the ways to ensure an integrated approach to risk management. Whether your risk management program is called Enterprise Risk Management or Integrated Risk Management is irrelevant. What is important is that your organization supports a culture that contributes to sharing of information across conventional boundaries. The potential for this is not always apparent in health care, where the sensitive nature of some information could have a tendency to be applied to all information.

At the Risk Management Branch, where HCPP is housed, our consultants talk about construction risks and infection control risks in the same conversation. We analyze the risks of security posed by the use of photocopier machines and, at the same time, the privacy risks of surveillance cameras being placed in private homes. Whether the risks fall into the categories of Legal, Financial, Contractual, Political, Personnel, Operational or other, our lens is a wide angled one.

In this issue of Handle with Care, for example, our article titled **Risks of a Photocopier** will be of interest to all departments who use these machines particularly as old ones are replaced with

new, more modern equipment. Everyone who uses these machines should be aware of the risks and how to mitigate them.

HCPP frequently responds to questions related to volunteers and others, such as patients who perform work as part of their therapy. What happens when these individuals are paid a stipend or honorarium? Read about it in this issue of **Hospital Corners**.

We live in a world saturated with surveillance. What are the implications for care givers when a patient wants to use cameras to monitor quality of service? Our advice on this matter can be found in **Risk Wise Answers**.

Lastly, **Context Matters** uses the Olympic Games to demonstrate the importance of analyzing risks in context.

As always, we welcome any suggestions for future articles, risk tips you would like to share or initiatives you may like to showcase. Please do not hesitate to send your comments/suggestions to us at HCPP@gov.bc.ca. ◀

Linda Irvine, Director—Client Services
Health Care Protection Program

Reminder: Risk Management Conference

- ◆ RIMS 2012 Annual Conference —September 9 - 12, 2012 Saskatoon, Saskatchewan
<http://rimscanadaconference.ca/>

Risk Wise Answers

What are the Risks of Patients using Web Cams to Record Care Provided in their Own Homes?

The miniaturization and low cost of camcorders and other recording devices such as closed circuit television cameras has led to a wide range of applications for these devices. The use of these devices by B.C. public bodies e.g. Health Authorities, is governed by the *Freedom of Information and Protection of Privacy Act*. The use of these devices by private organizations in B.C. such as businesses and not-for-profit entities is generally governed by the *Personal Information Protection Act*. Surveillance cameras in stores and public buildings are common and the legislation generally requires that signs be posted notifying the public that the cameras are present and that images of the people may be captured.

However, the above privacy legislation does not generally apply to recordings made for personal or domestic purposes, such as video-recordings of health care providers made by patients in their own homes. B.C.'s *Privacy Act* makes it a tort for a person to, wilfully and without a claim of right, violate the privacy of another. The scope of the legislation does not specifically exclude private homes. However, the nature and degree of privacy to which a person is entitled in a situation is that which is reasonable in the circumstances, giving due regard to the lawful interests of others. Patients and their families could argue that they need to monitor the actions of health care providers and may believe that they have the right to record the actions of these workers. The patient or family should seek consent from the health care providers they wish to record prior to the action. In sensitive areas such as bathrooms, health care providers should expect total privacy, and cameras will only be permitted if specifically brought to the attention of the health care provider and consent obtained, with recordings absolutely restricted to the matter (e.g. wound care) to which the consent applies.

Even if patients and their families are able to record health care providers in their private homes, there are several reasons why workers may choose not to be recorded while providing care. The main risk is the lack of control over the use or distribution of the images recorded. The images may be edited and altered to present a

completely different and possibly fraudulent picture of the care provided. The altered images could be used to implicate the health care worker in an action or the altered images could be posted on any number of social media sites and broadcast to a large audience. The health care provider would have no control over what comments may be posted with the images and the comments may be very uncomplimentary and unfair to the health care provider or the health authority. Also, health care providers may not want their pictures and names revealed on public web sites, with no opportunity for the images to be retrieved or eliminated.

The use of webcams or other recording devices should be discussed with the patient or family while the service agreement is being reviewed. The patient and family should be aware of the steps to take if they have concerns about the care the patient is receiving, who to talk to and how to follow through with a complaint. The patient and the family should be clear that home care will not be provided if cameras, hidden or not, are to be used in the absence of consent. If recording devices are discovered, services will be discontinued until the cameras are removed and if the patient refuses to stop recording, services will be withdrawn and the patient may obtain the services from other care providers in the community.

While the use of digital documentation of some aspects of health care is beneficial and appropriate, for example, pictures of wounds or areas of edema, visual recordings of health care providers working in private homes is not in the best interests of the health care provider unless there has been prior discussion and consent granted. ◀

Kathie Thompson, Dip. Nursing, B.B.A, FCIP, CRM
Senior Risk Management Consultant and

Kash Basi,
Senior Claims Examiner/Legal Counsel



Risks of a Photocopier

In today's office environment the photocopier is ubiquitous but it isn't just a photocopier anymore. Many photocopiers are now referred to as Multi-function Devices (MFD) and have a number of input sources, these can include the internet or a Local Area Network, and a phone line allowing them to be used as printers, scanners and fax machines as well. Most of us will look at that piece of office equipment and see a tool that makes our lives easier, but it is important that we also recognize the risks that are associated with it.



That useful office tool can also pose a significant information risk to our business or enterprise and it is important that we identify those risks and takes steps to limit them. Possibly the most recognized risk is that the document you have just copied will be left in the machine and someone else will come by and pick it up compromising that document's information. Some of the newer machines have an alarm installed to warn you when you

forget the original, but not all, and, if you are in a rush you may be well away from the machine before it starts beeping at you. Similarly, if your office is using a centralized printer and you neglect to retrieve a document you have printed it will be available for anyone else to pick-up, read or take-away as they see fit. This problem is exacerbated by having numerous printers attached to your Local Area Network that you can choose to use. To avoid making a copy of your document available to strangers you must ensure that you print to the right location. In some organizations you can select a printer located across the street or across the city or even further away.

A growing risk in today's copyright aware society is that an employee will make an illegal copy and that your business or organization will become liable for that employee's actions. It is important to know what can and cannot be copied and ensure that the people using the machine understand this as well. Your organization's policy should be posted prominently near your copier/printer.

If your copier is a MFD then you also have to consider the machine's scanning function. Once the document has been scanned and is

resident in the machine's memory it has to be sent to your desktop or email account requiring you to enter an email address as the destination for your new electronic copy. If you enter the wrong address where might it go and what is the potential damage? Unfortunately, you cannot assume that the document is just gone. In most cases when you cannot find it, it is not because the document wasn't sent but because the document was sent to the wrong place.

One recently discovered vulnerability for scanners is that some makes and models can be remotely activated over the Local Area Network or the internet (depending on your network configuration). This function is called Webscan in Hewlett Packard Scanners and can be activated over the web through a browser and the image saved. This function is by default turned on. Using simple command scripts vulnerable scanners can be found and operated remotely and anyone that leaves an original behind on the scanner bed is at risk.

Of increasing importance is a feature of photocopiers that is relatively unknown despite the fact that it is now common in all new copiers and most printers. In order for photocopiers and printers to queue jobs they require embedded memory. Today's photocopiers use a hard drive to store the image that it is reproducing and depending on the photocopier's settings and the size of the hard drive that image may outlast the life of the copier and as a result, be available to anyone enterprising enough to try and extract it. When it is time to replace your photocopier what happens to the old machine? Some businesses recover the hard drive from the photocopier before it is taken away in order to ensure its destruction but others allow that hard drive to leave the office and be sold to a "new user". What will that new owner do with the photocopier? Best case scenario the machine is used properly and there is never any loss of data from the hard drive. Unfortunately, there are those who are willing to take the time to review numerous files in order to find data that will allow them to steal an identity or simply profit from the information stored on the hard drive.

(continued on page 4)

Risks of a Photocopier (continued from page 3)

There are a variety of methods that can be employed to reduce the risk of data stored on the hard drive being compromised. The first is to purchase a machine that deletes the data after it has completed the print or scan job. This option is available on many machines today although some brands charge a fee to have that option turned on. The next option is to have the hard drive wiped when the machine is being taken out of the office. Unfortunately, this option may not be available on all machines and often cannot be done by the average user. This of course places a great deal of dependence and trust on the repairman or salesperson to ensure that your data is safe when the machine leaves your office. Finally, you can have the hard drive removed and then physically destroy it to protect your data. This may be your best option to protect the information that has been stored on your copier's hard drive.

Similarly, even the most basic printers have some built-in memory that stores the print jobs

that are sent to it. In some cases, if the printer runs out of paper the current print job will reside in memory until more paper is added. This is convenient if one is aware that they have not received the entire document but if there are only a few pages missing from the end it is not unlikely that they will be missed. Then, when more paper is added the final pages print out for whoever is loading the paper. Again, your information may be ending up in someone else's possession.

Although today's photocopiers and printers create a number of data-loss risks these can be mitigated and dealt with relatively easily and with minimal cost. Like so many areas in this day and age, education and awareness of the risks go a long way to reducing the likelihood that a loss will occur. ◀

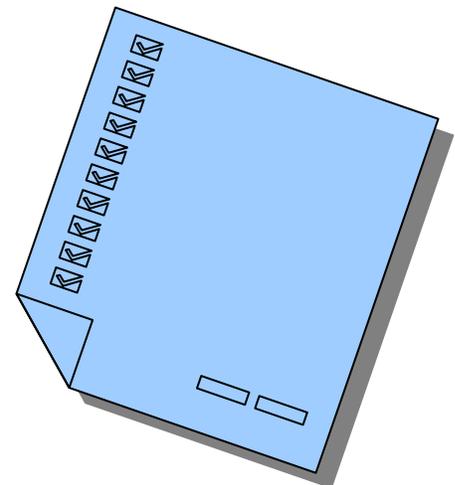
Dave Foxall
Risk Mitigation Consultant

New Property Loss Reporting Form at HCPP

Did you know HCPP has a new reporting form for Property, Boiler & Machinery, and Crime losses? You can find it under the Forms Tab on our website at www.hcpp.org.

New models of property ownership and maintenance such as Public Private Partnerships and Consolidation create a need for HCPP to gather additional details to determine appropriate coverage and clarify insurable interest. This form attempts to draw out additional information and, if questions appear repetitive, please keep this objective in mind.

This new form provides HCPP with information it needs to make important decisions related to the investigation of claims as early as possible. Please destroy copies of the old form, and replace with this new and improved version. ◀



Hospital Corners— Quick Risk Tip

Patients Performing Work As Part Of Their Therapy – Third Party Liability Is Not The Only Risk For The Health Care Agencies.

There are times when Health Care Agencies (HCAs) arrange for patients to perform work as part of their therapy as it is considered beneficial to a patient's treatment and recovery (e.g. some mental health programs). To protect both the HCA and patients against third party bodily injury or property damage risks that may arise from such a program, HCPP extends third party liability coverage to patients as "Additional Interests" while performing unpaid work as long as they are under the direction or approval of the HCA. It is important here to note the terms "unpaid work" and "under the direction of the HCA" for HCPP coverage to be effective.

HCPP has been asked if the practice of offering patients a stipend or honorarium to cover their costs would be considered paid work, thus excluding them from receiving HCPP coverage. HCPP does not consider a patient receiving a stipend or honorarium as performing paid work so liability coverage would be in place as long as they are under the direction of the HCA. It also makes sense that patients performing work would need to be under the direction of the HCA for HCPP liability coverage to be effective as there may be times when patients could be performing work for other entities or businesses. If this was to occur, the other entity or business should be covering the patient under their commercial general liability policy.

There are other important risks from this practice that HCAs should carefully consider before having a patient perform work as part of their therapy:

a) Patient injury - If a patient was injured while performing unpaid work as part of their therapy, he or she would not be considered an employee who is covered by Workers' Compensation through WorkSafeBC. Without this coverage in place, the patient would have the option to proceed with a legal claim against the HCA (or other responsible organization) should there be a work related injury; however, the patient would have to

establish negligence to receive compensation. It should be noted that any HCA who considers obtaining waivers from patients to protect themselves against potential patient workplace injury claims, especially in mental health programs, may find this practice not legally binding. HCAs should discuss the viability of using waivers with their legal counsel and also consider the ethical implications of this practice; and

b) Employer/employee relationship – When allowing patients to perform work as part of their therapy, HCAs must look at any such relationship carefully as an employer/employee relationship may be established even though this was never the intent. If a patient was injured and believed there was an employer/employee relationship in place, he or she could contact WorkSafeBC who would complete an assessment. The patient may also contact the Canada Revenue Agency (CRA) claiming there is an employer/employee relationship relating to compensation and benefits and the CRA would investigate. Either governing body may deem an employer/employee relationship exists and the HCAs would be required to pay all past benefits owed plus any applicable penalties. As noted, this may not be the intent of an HCA when assisting a patient during their therapy but it is a risk nonetheless which should be considered carefully in consultation with the HCA's legal and/or human resources department.

The HCAs may see benefits to patients performing work as part of their therapy but, as with any program, HCPP recommends completing a risk assessment to help you consider all the risks before proceeding. ◀

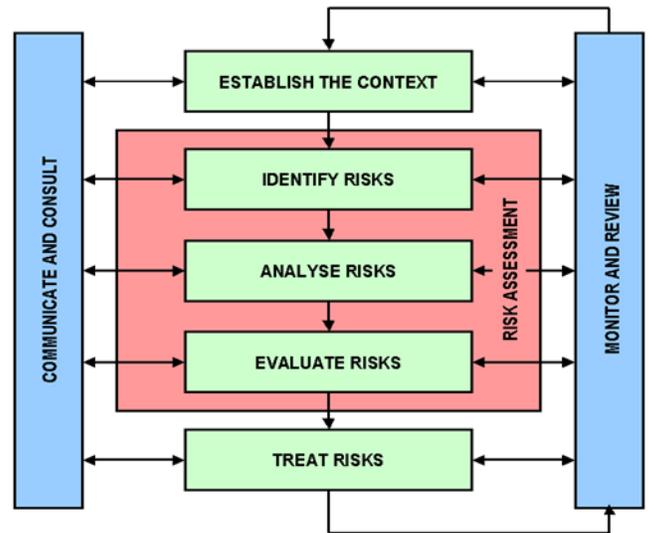
Jeff Milne CIP, CRM, ABCP
Risk Management Consultant

Context Matters

The standard provincial risk management process diagram illustrates the elements of a formal risk assessment. You'll note the first step, Establish the Context, is not included as part of the risk assessment. It's done before risk identification and often gets neglected or skipped altogether. It is, however, perhaps the single most important step.

Let's use the example of the 2010 Winter Olympic Games to illustrate the importance of carefully considering context.

Planning for BC to host the Games began well over a decade before the Olympic torch was lit. The Vancouver 2010 Bid Society was formed 1998. A risk assessment was conducted to help the development of the formal bid for the Games – the “pitch” to the International Olympic Committee (IOC).



Pre-Bid Context from the year 2000:

- BC had experienced eight consecutive years of employment growth, and a consistent annual growth in GDP of over 5%
- We had not yet witnessed the 9/11 attack on the World Trade Centre (2001), Madrid train bombings (2004) or London Underground bombings (2005)
- The world had not yet experienced SARS, Bird Flu, Indonesian Tsunami, Hurricane Katrina
- Annual snowfall at Cypress averaged 150"

Games-time Context from 2010:

Fast forward ten years to the months before the 2010 Games began:

- We were well into the 2nd year of a global economic crisis; the BC government went from a \$4 Billion budget surplus in 2006/07 to a budget deficit of \$2.7 Billion
- Terrorism was now a household word; we had grown accustomed to the huge changes in travel security; Canada had troops fighting Taliban in Afghanistan; Bin Laden had explicitly targeted Canada; and the “Toronto 18” had been arrested on terror-related charges
- The H1N1 Pandemic was declared by the World Health Organization (WHO) in early June, 2009 and remained until August, 2010—well after the Games were over
- January 2010 turned out to be Vancouver’s warmest in 35 years; one of the main Olympic venues, Cypress Mountain, was closed to the public a month before the Games to conserve snow

Any risk manager who suggested even one of these events as a risk back in 2000 would have been labelled a naysayer. Imagine the reaction of folks if he or she had suggested **all** these conditions would change so radically. Yet we all now understand the significant influence these conditions had on planning for the Games and risks they brought with them. They fundamentally changed the way we envisioned delivering on our Olympic commitments. Few contexts change this radically, but the Olympic experience serves as a great lesson to carefully consider the context in which you plan to operate, deliver services, or manage a project.

HCPP can help you establish the context in which you operate, and facilitate an examination of what conditions might change that can affect your ability to deliver on your goals and objectives. Contact us at HCPP@gov.bc.ca for support with conducting your next risk assessment. ◀

Chris MacLean, MA, CRM
Manager, Enterprise Risk Management

About Our Organization...

We are the Client Services Team for the Health Care Protection Program (HCPP). HCPP is a self-insurance program which is funded by the Health Authorities of BC. The program is housed within the offices of the Risk Management Branch of the Ministry of Finance which also has responsibility for similar programs such as the Schools Protection Program, and the University, College & Institute Protection Program. As part of the services of our program, we provide risk management services including risk mitigation, risk financing and claims and litigation management to HCPP member entities including all the Health Authorities and various other stand-alone health care agencies in the Province of BC. ◀

-
- Linda Irvine – Director, Client Services (250) 952-0849 Linda.Irvine@gov.bc.ca
- Megan Arsenault—Risk Management Consultant (250) 356-6815 Megan.Arsenault@gov.bc.ca
- Kash Basi—Senior Claims Examiner/Legal Counsel (250) 952-0839 Kash.Basi@gov.bc.ca
- Roberta Flett, Senior Claims Examiner (250) 952-0834 Roberta.Flett@gov.bc.ca
- Dave Foxall – Risk Mitigation Consultant (250) 356-8718 Dave.Foxall@gov.bc.ca
- Kevin Kitson – Senior Claims Examiner/Legal Counsel (250) 952-0840 Kevin.Kitson@gov.bc.ca
- Blair Loveday – Senior Claims Examiner (250) 952-0841 Blair.Loveday@gov.bc.ca
- Jeff Milne – Risk Management Consultant (250) 952-0784 Jeffrey.Milne@gov.bc.ca
- Darren Nelson—Assistant Claims Examiner (250) 952-0845 Darren.Nelson@gov.bc.ca
- Kim Oldham – Director, Claims and Litigation Management (250) 952-0837 Kim.Oldham@gov.bc.ca
- Dragana Petzing – Risk Management Consultant (250) 356-6814 Dragana.Petzing@gov.bc.ca
- Kathie Thompson – Senior Risk Management Consultant (250) 952-0848 Kathie.Thompson@gov.bc.ca
- Grant Warrington – Senior Claims Examiner/Legal Counsel (250) 952-0844 Grant.Warrington@gov.bc.ca
- Sharon White – Senior Risk Management Consultant (250) 952-0850 Sharon.P.White@gov.bc.ca

Handle With Care is published twice a year by the Health Care Protection Program

CONTACT INFORMATION

MAILING ADDRESS:
PO Box 3586
Victoria BC V8W 3W6

PHONE:
(250) 356-1794

FAX:
(250) 356-6222

CLAIMS FAX:
(250) 356-0661

E-MAIL:
HCPP@gov.bc.ca

We're on the Web!
See us at:
www.hcpp.org

What do you think about “Handle With Care”? We always love to hear your comments. Please send us your feedback!

Are there any topics you would like us to cover? Email us at HCPP@gov.bc.ca

It should be clearly understood that this document and the information contained within is not legal advice and is provided for guidance from a risk management perspective only. It is not intended as a comprehensive or exhaustive review of the law and readers are advised to seek independent legal advice where appropriate.
