Professional Liability, Risk Management and Loss Trends for Medical Radiation Technologists

Canadian Association of Medical Radiation Technologists

BCMART

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Overview

- Canadian Legal System Negligence and the Standard of care
- Risk and Liability for Medical Radiation Technologists
- Understanding Policy Implications and Coverage
- Risk Management
- Claims and litigation process
- Organizations behind the program
Legal System – Standard of Care

- Two general sources of law
  - Statute
  - Common Law
- Two general types of law
  - Civil
  - Criminal

- How to breakdown a Malpractice allegation?
  - Duty
  - Breach
  - Cause
  - Harm
Medical Radiation Technologists Liability

Causes of Action

Negligence

Organizational & Corporate Liability

Respiratory Therapist

Liability of Supervised Acts

Consent

Individual Liability

Defamation

Vicarious Liability

Breach of Contract
Risk and Liability for Respiratory Therapists

- Civil actions alleging malpractice or negligence
  - Omission
  - Error causing injury to a patient
  - Failure to perform professional services
  - Injury or damage to a third party through business operations

- Criminal proceedings arising from care
  - Abusive behavior / Verbal or Physical
  - Assault

- Complaints and disciplinary proceedings related to a licensing body
Risk and Liability for Medical Radiation Technologists

- Liability for the acts of others
  - Vicarious Liability

- Delivery of professional services
  - Assessment / screening
  - Evaluation / Professional Opinion

- Communication / Educational Information and Professional Advice
  - Charting
  - Confidentiality
  - Consent

- The Use of Equipment
  - Educating
  - Awareness of anxiety
  - Use of equipment
Risk and Liability for Medical Radiation Technologists

Additional Exposures within a Private Practice

• Confidentiality and Protection of Patient Information

• Authorization

• Types of Consent
  – The patient must be in a position to choose freely
  – The patient must understand the nature and purpose of the procedure

• Contractual Agreement
  – Hold harmless and indemnification
  – Entity Exposures
Policy Implications / Independent Coverage

• Importance of individual coverage
  – Where does your policy cover you?
  – Process of legal action
  – Reputation / License

• Malpractice Coverage
  – What / Who defines the capacity in which you are covered?

• Coverage Highlights
CSRT PLI Specifics

- **Annual Policy is December 31 to December 31**
- **“Claims Made” policy form**

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**11/29/2007**

Act / Incident takes place. A patient/client is injured, caused by an error of the Insured Medical Radiation Technologist during a standard procedure.

**29/01/2009**

Insured patient/client files a suit against the Insured. The Insured Medical Radiation Technologist files a claim.
CAMRT Program Options and Limits

**Professional Liability**

Limit: $1,000,000 per claim / $5,000,000 per year  
(Options for higher limits are available upon request)

**Includes:**

- Penal Defense: $100,000 per claim / $100,000 per year
- Legal Expenses: $25,000 per claim / $100,000 per year
- Loss of Earnings: $500
- Sexual Abuse Therapy: $10,000
- Deductible: Nil

- Coverage applies to claims which give rise to suits or judicial proceedings first brought against the Insured in Canada
Coverage Extensions

- Defense cost coverage will pay all reasonable expenses during the investigation or defense of a claim
  - Loss of earnings
  - Legal defense reimbursement
  - Penal defense reimbursement
    - Provides coverage up to the selected limit for legal costs and expenses derived in the defense of a case filed under the criminal code
    - The insurer will provide reimbursement if found not guilty
    - The criminal charge must arise from your practice as a Respiratory Therapist
    - The proceedings must pertain to alleged misconduct while rendering professional services
Legal Trends

- Frivolous Allegations
  - Economic Implications

- Regulatory Action

- Beyond Professional Liability and Into the Realm of Criminal Action

- Discrimination

- Confidentiality
Legal Trends

• Ethics

• Advanced Technology and Training

• Changing Patient / Practitioner Relationships

• Litigation

• Demographics
Important Considerations and Evolutions

- Legislation
  - Scope of practice evolution

- Coverage requirements
  - Extended Reporting Periods
  - Records Management

- International Practice

- Team practice settings

- Request to perform functions outside of a scope of practice

- Statute of limitations

- Risk management review
Claims and Litigation

• Litigation
  – Error is Made causing a serious unexpected mishap
  – A dissatisfied patient raises a red flag
  – What to do in the event of a lawsuit
  – Process

• It is the insured’s responsibility to report all claims or potential claims

• Report to Aon as soon as possible.
  – Aon Claims specialist will triage

• If unsure, contact Aon to discuss
Claims Reporting

- All information is confidential

- Reporting
  - Date you were served
  - If a demand letter is presented, include a copy
  - State reasons for anticipating the claim
  - Nature of alleged act
  - Alleged injuries or damages involved
  - Details of how you first became aware
Claims Example

• Professional liability allegation
• Malpractice
• Criminal Allegation
• Regulatory
Local Offices

Calgary
Edmonton
Grande Prairie
Halifax
Hamilton
Kamloops
Langley
London
Montreal
Oakville
Ottawa
Quebec City
Regina
Sarnia
Saskatoon
Sherbrook
St-John’s
Thunder Bay
Toronto
Vancouver
Victoria
Whitehorse
Windsor
Winnipeg
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