



RISK NOTE

Subject: **CHECKLIST FOR EARLY REPORTING OF POTENTIAL LIABILITY CLAIMS**

This Risk Note relates to third-party liability losses. For guidance related to Health Care Agency (HCA) property, please refer to Risk Note, *Managing Small Third Party Property Claims*. For fraud claims, please refer to Risk Note, *Employee Fraud* for guidance.

Listed below are those incidents which carry a significant probability that allegations of negligence will arise. These incidents and any other incidents which cause you concern should be reported to the Health Care Protection Program (HCPP), when they occur (or if they are not immediately apparent, as soon as they are identified). Failure to provide timely reporting of claims may result in denial of coverage in specific cases.

- Death or brain damage that is unexpected or unexplained, while the patient is receiving care, including but not limited to situations where the coroner is involved and intends to investigate the matter and question hospital personnel;
- Significant hospital incurred trauma, for example, injury possibly resulting from any treatment or procedure, failure to provide care or treatment, failure of hospital equipment, or failure to properly maintain hospital premises;
- Surgery or other treatment for the repair of lacerations, tears or punctures discovered subsequent to the performance of an invasive treatment in the same body area;
- Surgical intervention which was not anticipated or planned when the consent for surgery was obtained or which was required as a result of activities occurring during the surgery, for example, removal of part or all of an organ, amputation etc.;
- Patients who are admitted, from within a hospital department or another health facility for conditions which indicate a prior failure of care or where an allegation of failure in the prior care has been made;

- Suicide or attempted suicide resulting in significant injury;
- The presence of a neurological deficit which may be related to treatment, for example, an allegation that an injection was given incorrectly, the presence of para or quadriplegia and any other deficit which was not present prior to hospitalization or surgery, etc.;
- Obstetrics: unusually complicated delivery or any delivery with poor outcome;
- The patient, their family, and/or other representative (such as legal counsel) has complained that hospital care resulted in significant injury or death, that compensation is sought, OR that they will sue the hospital;
- Falls and medication or other treatment errors which result in significant injury;
- Uninsured physician or other health professional involvement in patient care where the potential for liability exists;
- Error in identification of the patient or the site in any surgical or radiological procedure;
- Hospital incurred infection which results in extended hospital stay or rehabilitation, significant therapeutic intervention and/or significant patient injury;
- Breach of privacy where at least one of the following applies: compensation is sought; a breach by hospital personnel was intentional; there are numerous victims of the breach; OR legal counsel on behalf of the victim/s of the breach has contacted the hospital;
- Wrongful Imprisonment or Unlawful Detention: usually in the context of in-patient mental health care, where a certified or non-certified patient is detained and treated, with or without consent;
- Wrongful or Constructive Dismissal: allegations made by employees against the HA that they have been wrongfully or constructively dismissed in regards to their employment or employment status;
- Human Rights: where a patient, client, visitor or staff member expresses concern about, or alleges discrimination or harassment based on any one or

more protected grounds under the human rights code, including: race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical disability, mental disability, sex, gender identity or expression, sexual orientation, age etc.;

- Coroner, Ombudsperson and PCQO investigations where at least one of the other bullets above also applies;
- Any class action notice where at least one of the other bullets above also applies.

Note: This is not an exhaustive list. If there is any question as to whether an incident should be reported, please contact HCPP.

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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. If you have any questions about the content of this Risk Note please contact your organization's risk manager or chief risk officer to discuss.