

COMMUNITY Risk Management & Insurance

 A publication of the Nonprofit Risk Management Center

Volume 15, No. 2, June 2006

Avian Flu Precautions

by Barbara B. Oliver

A recent made-for-TV movie has given rise to questions from caring nonprofit leaders about what they should do to prepare for a potential avian flu pandemic. The answer is to step back from the fear the word “pandemic” engenders and look at three critical risk management issues: 1) infectious disease, 2) business continuity, and 3) communications.

Communicable Disease Policy

Avian flu is an infectious or communicable disease. Thus you’re looking at a situation where one infected employee or volunteer could infect a good portion or your entire workforce. Risk management of workplace health includes anticipating, recognizing, evaluating and controlling conditions in the workplace that may cause a worker to become ill.

Look first at how you handle such infectious diseases as the common cold, seasonal flu, pink eye, mumps, chicken pox and tuberculosis. What existing policies do you have that deal with infectious diseases? Does your policy:

1. provide cough/sneeze etiquette?
2. require people with an infectious disease to stay home until the transmission period has passed?
3. require people to go home if they discover they’re sick after arriving at work and stay there until the period of contagion has passed?

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Register Now and Save! 2006 Risk Management & Finance Summit for Nonprofits

CEOs, CFOs and risk management professionals from nonprofit organizations, we’re offering new topics and classes for you in Pasadena, Calif., Sept. 18–20. At the 2006 *Risk Management and Finance Summit for Nonprofits*, you may choose to attend one track or select courses from each of the three content areas to design a personal agenda that meets your specific needs. There is so much information to glean, you’d benefit from sending more than one staff member. Remember, additional staff from the same organization and location may attend the *Summit* at a reduced rate. The agenda is located at <http://nonprofitrisk.org/training/2006/summit/summit.htm>; there is a link to register on line.

EEOC Resources Offer Valuable Help

By Jennifer Chandler Hauge, Esq.



The Equal Employment Opportunity Commission (EEOC) is the enforcement body that will challenge an employer's hiring or employment practices when a discrimination complaint is lodged by an employee, a former employee or an applicant. However, the EEOC is also in the business of helping employers *avoid* acting in a discriminatory manner. In this way, the EEOC can be seen as a nonprofit's risk management partner.

Compliance Resources

Guidelines and fact sheets published by the Department of Labor and available on the EEOC's Web site are very helpful. Among the most helpful information recently made available is the EEOC's **2006 Compliance Manual**, available at www.eeoc.gov/policy/docs/race-color.html. Published in April 2006, the manual describes common pitfalls and best practices for employers striving to avoid discriminatory practices.

The 2006 Compliance Manual provides a list of the following best practices:

- Develop a strong Equal Employment Opportunity policy that is championed by senior management.
- Train all supervisors and senior staff on the policy.
- Enforce the policy and hold supervisors accountable for enforcement.
- Make employment decisions in a transparent manner and document them.
- Recruit, hire and promote with equal employment opportunity in mind and implement practices that widen and diversify the pool of applicants.
- Monitor equal employment opportunity by conducting self-assessments.
- Create objective, job-related qualification standards for each position.
- Identify and remove barriers to equal employment opportunity, such as word-of-mouth recruiting in non-diverse workplaces.
- Monitor hiring, compensation and performance appraisals for patterns of potential discrimination or apparent discriminatory practices.
- Provide training and professional development opportunities to encourage staff members' growth in their positions and opportunities for advancement.
- Promote a culture of diversity and inclusiveness.
- Encourage open communication and dispute resolutions.
- Prohibit retaliation and make every employee aware of the policy.

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EEOC Resources

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The most significant recent change in civil rights enforcement is reflected in the EEOC's admonition that *supervisor training* is a best practice. In fact, the prevalence of supervisory training in the workplace is credited with the reduction in the number of cases of sexual harassment in recent years. California has been a leader in this area with its state law mandate that all employers provide sexual harassment training to supervisors every two years.

Promoting a Culture of Inclusiveness

Ironically, most nonprofits are extremely aware of the need to be diverse, and to reflect, from the board of directors on down, the communities served by the nonprofit. However, actually having a diverse workforce is often difficult when your staff is small. Even if your nonprofit does not have the luxury of dozens of staff members with different backgrounds, striving to promote a culture of inclusiveness is a worthy goal.

There are many ways in which discrimination can be almost imperceptibly present: in work assignments (Do we only give certain people certain types of assignments?), performance measures (Do we hold certain types of people to different standards?), training and offering constructive feedback (Do we mentor some employees more than others?), and grooming standards (Do we overlook personal expression, such as tattoos or facial hair, of some employees but not others?).

With regard to hiring and promotions, the EEOC Compliance Manual stresses that job standards and minimum qualifications with respect to educational background and experience must be consistent with business necessity and specifically related to the job at issue. Employers should review job

requirements and descriptions without regard to whoever is presently doing that particular job, but instead identifying the requirements for anyone who might hold that position.

Recruiting new employees is an area where the EEOC's Compliance Manual highlights that the use of homogenous recruiting practices, such as word-of-mouth and using the same tried and true publications for announcing position openings, are particularly susceptible to claims that these practices inhibit workplace diversity.

Race and Color Harassment

In recent years, the concept of harassment that violates Title VII's standards of workplace equality has focused less on sexual harassment, and more frequently on harassment based on a person's race or color. In surveys conducted in 2004 and 2005, sexual harassment claims fell 11 percent from 2003 levels; with 90 percent of employers reporting that training on



sexual harassment policies regularly occurred at the workplace. In contrast, race and color harassment claims rose considerably in the same period, with only 56 percent of employers responding that training was offered.

Race and color harassment is unwelcome conduct that unreasonably interferes with a person's work performance or creates an intimidating, offensive or hostile work environment. To be actionable as a violation of law, the

“With regard to hiring and promotions, the EEOC Compliance Manual stresses that job standards and minimum qualifications with respect to educational background and experience must be consistent with business necessity and specifically related to the job at issue. Employers should review job requirements and descriptions without regard to whoever is presently doing that particular job, but instead identifying the requirements for anyone who might hold that position.”

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Avian Flu

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4. instruct a supervisor to send people home under specific conditions (i.e., elevated temperature; constant coughing or sneezing, or vomiting)?
5. recommend, if a safe and effective one is available, employees and volunteers get vaccinations? This is very important for healthcare workers or workers caring for young children and people over 65 years old, especially the frail elderly. (Currently there is no vaccine to protect against avian or other forms of pandemic flu.)
6. require a doctor's note if the person is absent for a specific number of days or due to a contagious disease?
7. allow you to schedule employees in shifts to reduce the change of exposure to the entire workforce?
8. permit vacation leave flexibility for staff to care for children if schools close or family members who fall ill?

If your nonprofit doesn't address these issues, your first step is to craft policies indicating how to manage all infectious diseases.

Business Continuity Plan

An infectious disease that causes a "pandemic" will, by definition, occur over a wide geographic area and affect an exceptionally high proportion of the population. People may not show up to work because they are ill, because they fear becoming ill or because they are taking care of ill family members.

A reduction in your available workforce requires business continuity planning. This plan focuses only on the mission-critical tasks, the steps required to fulfill them and who can do the jobs. The plan is put into effect regardless of the crisis that causes it. There are some variables that need to be addressed:

- How do you cross train your staff?
- What do you do if your current location is not usable (fire, flood, earthquake, used as a hospital, etc.)?
- What do you do if the entire community or county is affected?

Look at it more personally. If you have a staff of 10 and the only person who shows up is the bookkeeper, what does that person need to do to deliver mission-critical services? If your answer is nothing; rethink your plan. Is there another nonprofit that you could team up with in times of crisis? Is there a pool of retirees or workers from other industries that you could call on for help? How many people would you need at minimum to provide services? How would you structure tasks? How would you contact people?

Business continuity planning is worth the time and effort. You will learn a lot about your organization that will be useful on days when you are short staffed for any reason.

Communications Policy

"The fear of the disease or being exposed is greater than the statistical odds are," says Gary Niekerk, manager of corporate responsibility at Intel, in May 2006, *HR Magazine*.

The staff is reading and listening to the same news stories as you. They, too, are concerned for their health and the health of their families. Part of the success of your policies is educating employees and volunteers what to expect and how to proceed. Talking up your policies to your staff now will help them focus on their jobs when the crisis hits.

- Consider offering tools and resources to help their families plan for an emergency.
- Give staff honest information about health risks.

Summary

The Centers for Disease Control and Prevention, Trust for America's Health,

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Avian Flu

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American Society for Microbiology and the World Health Association agree that the world is overdue for an influenza pandemic, whether it's caused by the avian flu virus, H5N1 or another strain. Influenza pandemics come in waves lasting from four to 12 weeks. Experts predict medical shortages, prolonged government service disruptions, a run on essential goods and services, and power outages and brown outs.

Resources

Avian Influenza, www.pandemicflu.gov/general/avian.html

Business Continuity Planning, http://nonprofitrisk.org/tutorials/bcp_tutorial/intro/1.htm, free online course

Cover Your Cough, Centers for Disease Control and Prevention, printable formats available as a flyer or poster in English, Spanish, www.cdc.gov/flu/protect/covercough.htm

Guidance for Protecting Workers Against Avian Flu, OSHA, www.osha.gov/dsg/guidance/avian-flu.html

Interim Recommendations for Infection Control in Health-Care Facilities Caring for Patients with Known or Suspected Avian Influenza, CDC, www.cdc.gov/flu/avian/professional/infect-control.htm.

Pandemic Flu Planning Checklist for Individuals and Families, <http://pandemicflu.gov/planguide/checklist.html>

Stopping the Spread of Disease at Work, CDC, www.cdc.gov/germstopper/work.htm

Vital Signs: Anticipating, Preventing and Surviving a Crisis in a Nonprofit, Nonprofit Risk Management Center, <http://nonprofitrisk.org/pubs/vital.htm>

SAMPLE Leave for Exposure to Communicable Disease Policy

Purpose

The purpose of this policy is to protect employees and others from exposure to communicable diseases by allowing employees exposed to a communicable disease to take paid administrative leave.

Responsibility

Anyone who discovers evidence of a communicable disease that could seriously endanger the health of others in the workplace should report such findings to management. Management shall notify the local health department.

Note: The most recent list of reportable diseases compiled by the State Health Commission is found in the Administrative Code 10A NCAC 41A.101. This list is constantly updated as new diseases emerge.

Conditions

The conditions under which administrative leave may be taken are:

- Public Health officials quarantine an employee, or
- Public Health officials and the agency authority concur that the employee should be excluded from work.

Leave

If either of the above conditions occurs, the employee may be advised not to report to work for a specified period of time. In these cases, the agency may allow the employee to take paid administrative leave until the specified period of time ends or the employee becomes ill with the communicable disease, whichever comes first.

- If the employee becomes ill and it is determined to be work related, the Workers' Compensation Policy applies.
- If the employee becomes ill as a result of off-the-job exposure, the Sick Leave policy applies.

Verification

It is the employee's responsibility to provide the employer with a written confirmation from a Public Health official of any quarantine period.

Source: <http://hr.unc.edu/Data/SPA/leave/exposure>

2006 Risk Management and Finance Summit for Nonprofits—Sept. 18-20

For the second year in a row, three leading, California-based organizations have stepped up as hosts of the annual *Risk Management and Finance Summit for Nonprofits*. This year's event will be held in **Pasadena, CA,**

September 18-20. Record attendance at the 2005 conference held in San Francisco led the leaders of the Nonprofit Risk Management Center to choose a second California location for this year's conference.

With outstanding keynote presentations scheduled and an impressive lineup of thought-provoking educational sessions, this year's *Summit* is shaping up as a not-to-be-missed event.

Thanks to our Hosts!

The Center is grateful to the following nonprofit organizations for their service and commitment as hosts of this year's event:

- Nonprofits' Insurance Alliance of California (www.niac.org)
- CompassPoint Nonprofit Services (www.compasspoint.org)
- California Association of Nonprofits (www.canonprofits.org)

With Gratitude to our 2006 Corporate Sponsors

A record number of companies and organizations signed on as Corporate Sponsors of the *Summit*. This tremendous response has allowed the Center to offer a content-packed program at a minimal registration fee. We are grateful to these organizations for their generous *Summit* sponsorship:

- Arthur J. Gallagher & Co.
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- National Union Fire Insurance Company
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- Philadelphia Insurance Companies
- Riverport Insurance Company

Scholarships Sponsor

The Center is again grateful to the **Public Entity Risk Institute** for sponsoring the conference scholarships program. To apply for a scholarship, visit www.nonprofitrisk.org and click on the *Summit* link found in the left-hand column. For more information on PERI, visit www.riskinstitute.org.

3 Overlapping Agendas

The Summit offers a unique conference. Each day begins with a thought provoking plenary session to get your minds and laughter tuned up. Over the 2.5 days there are 25 topics offered in three overlapping agendas:

1. A wide range of risk management topics in three concurrent tracks
—*Nonprofit Risk Management Center*
2. Advanced finance curriculum for nonprofit senior managers with 5+ years of financial experience.
—*CompassPoint Nonprofit Services*
3. Accounting basics for new and veteran finance & program manager staff and advisors to nonprofits
—*California Association of Nonprofits*

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EEOC Resources Offer Valuable Help

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alleged harassment must be so severe or pervasive that it alters the alleged victim's terms and conditions of employment, as evaluated from the perspective of a reasonable person in the victim's position. For conduct to be "unwelcome," the victim may not have solicited or incited the conduct. It makes sense to raise awareness among staff that in subtle or overt ways, a person's conduct or words can be perceived as unwelcome harassment and can therefore violate the nonprofit's EEO policy. Training the entire workforce to be more sensitive to race and color harassment is a logical first step to reduce this risk. ■

About the Author

Jennifer Chandler Hauge is an attorney in private practice based in Convent Station, New Jersey. She is also co-author of the forthcoming second edition of *Taking the High Road: A Guide to Effective and Legal Employment Practices for Nonprofits*. This updated resource will be available for purchase from the Nonprofit Risk Management Center beginning in Fall 2006. Ms.

Hauge welcomes e-mail inquiries about any of the topics covered in this article. She may be reached at: jchandlerhaug@gmail.com.



Summit

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Plenary Sessions

Monday at 9:00 am, after you've had breakfast and taken a spin through the exhibit hall, the dynamic duo of **Bill Kizorek** and **John Powers** from Two Parrot Productions will educate and entertain you with their adventures from the world of risk management and surveilling workers' comp scofflaws.

Tuesday, you'll want to be up an' at 'em to grab a bite to eat, visit with exhibitors and be on deck at 9:00 am when **Bill Stainton** discloses "The 5 Best Decisions the Beatles Ever Made... and Why You Should Make Them, Too."

Pack Tuesday night, so you can be downstairs Wednesday morning for breakfast and then join attorney **Clark Kent Ervin** from the Aspen Institute who will speak at 9:00 am about "Life as the Bearer of Bad News: Not for the Faint of Heart." We will close the *Summit* with the awarding of the prizes donated by our generous exhibitors.

Concurrent Workshops

Some of the issues that will be addressed at this year's *Summit* include:

- Employee handbooks
- Transportation risk
- Risk management culture
- Downsizing
- Peer-to-peer abuse
- Risk management standards
- Putting your insurance program out to bid
- Criminal background checks
- Residential treatment risk
- Third party discrimination, and
- Facilitated discussions for: Religious group, Large nonprofits, CEOs, HR pros and CFOs.

Headquarters Hotel

Meet, greet, eat and sleep at the Westin Pasadena, Pasadena, CA, go to <http://nonprofitrisk.org/training/2006/summit/summit.htm>; click on the link.

See You in Pasadena

Past attendees will tell you, you'll have a great time and learn a lot!

Your Staff Has a Thousand Eyes

By George L. Head, PhD, CPCU, ARM, CSP, CLU, Special Advisor, Nonprofit Risk Management Center

“One reason it is so crucial to have many eyes and minds looking for a nonprofit’s loss exposures is that the one person ultimately responsible for risk management in a nonprofit almost always has many other responsibilities on which to focus. He or she can use all the thoughtful, responsible, yet imaginative help he or she can get for that first, vital step—identifying potential accidental losses.”

Only the very largest nonprofits in the U.S.—about one in a thousand—have a person on staff with a job title like “risk manager” or “insurance manager.” Instead, the most direct responsibility for preventing or financing recovery from almost every nonprofit’s accidental losses rests on the shoulders of its CFO, director of administration, human resources director, internal or external legal counsel—or even the nonprofit’s CEO. Thus, in 99.9 percent of this country’s nonprofits, risk management is a part-time function of someone who seemingly has a much “bigger job” to do.

In contrast, in a growing percentage of U.S. for-profit firms a single employee, fairly high in the organizational structure, has risk management as a primary or sole, job responsibility, most frequently with “risk manager” as the title.

Because the first step in effective risk management for any organization is to identify exposures to the potential accidental losses facing that particular organization, risk identification is one of the most crucial direct responsibilities of every risk manager. Therefore, most people primarily responsible for risk management in for-profit organizations spend a good deal of their work time

with the basic tools for identifying loss exposures: accident reports and loss histories, financial statements, news reports of losses that have befallen other firms in their industry, flowcharts of the firm’s operations, memos about actual and proposed changes within the firm, and—perhaps most importantly—personal inspections of the firm’s facilities and operation’s.

Value of Many Eyes—and Minds

But one person, with just two eyes and only one mind, can’t imagine—let alone actually see—all the potential accidental losses that may befall an organization. This is why many corporate individuals who are directly responsible for overall risk management ask numerous other managers and selected employees throughout their organizations to be additional sets of minds, eyes, and ears in detecting the loss exposures that arise, or may possibly arise in their daily work. Because of their front line positions, these added ears, eyes and minds are also well disposed to advise the risk manager of creative methods to avert an accident. However, it’s the risk manager who ultimately decides how best to deal with these possible loss exposures from the suggestions offered.

What is true for effective exposure identification in for-profit firms is even truer for nonprofits. One reason is it is so crucial to have many eyes and minds looking for a nonprofit’s loss exposures is that the one person ultimately



Photo by Brent Vermilyea. Featured here with permission from the photographer. For more information, visit www.faithinmagic.com.

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Your Staff Has a Thousand Eyes

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responsible for risk management in a nonprofit almost always has many other responsibilities on which to focus. He or she can use all the thoughtful, responsible, yet imaginative help he or she can get for that first, vital step—identifying potential accidental losses. Second, all nonprofits—from small to large—can call on several more groups for fresh insights into its loss exposures than a for-profit can. In addition to their employees and board members, most nonprofits also have volunteers, contributors, and clients who can provide unusual (and therefore possibly especially valuable) insights into a potential loss.

Be selective when inviting those extra eyes and ears to put their minds to loss exposure identification. Ask the most level-headed, business-savvy, members of your varied constituencies to give their thoughts on loss exposures personally to the person on your nonprofit's staff that is the most directly responsible for its risk management. Be sure to thank them for alerting the risk manager to their observations and suggested solutions, while making it clear that your "risk manager" is not obligated to respond to every suggestion anyone may have about a possible loss exposure. The person making the suggestion may have been mistaken, or the exposure may already be receiving risk management attention.

Although everyone associated with the nonprofit can't be on a risk management committee, you can involve everyone in managing the safety of themselves and those around them. Encouraging people to pick up and properly dispose of the banana peel, alert the proper person that a light has burned out and needs replacing, or that the exit door has been blocked goes a long way to creating a risk management culture or mindset in your nonprofit.

Risk Patrol Deputies

Many times these extra eyes and minds are formally called a risk management committee or risk patrol deputies, because they manage by walking around. It's worthwhile to offer these people some fundamental risk management notions about loss exposures to help them see both the individual loss exposures and how they fit into the bigger picture. For example, in thinking about the losses that any accident may impose on any organization, risk managers usually think about the 1) property (tangible and intangible), 2) personnel (employees and others), 3) liability (tort, contractual, and criminal), and 4) net income (reduced revenue and/or increased expense) losses that an accident may impose on an organization.

For any loss exposures or potential accidents they may suggest, ask your "risk patrol deputies" to consider how many of these four types of losses the exposure or accident may generate and how big these losses may be. The purpose is to get the deputies thinking as good risk managers do.

In closing, a note on our title, which was inspired by the 1960's popular song, "The Night Has a Thousand Eyes." Singer Bobby Vee senses the uncertainty of a romance at risk and although he has only his two eyes, his lover should not be romantically unfaithful to him overnight because there are a thousand eyes in the night that will discover this infidelity and reveal it to the singer. Like the singer, a risk manager has only his/her two eyes to spot potential loss until he/she employs those extra eyes of the risk management deputies, who potentially have a thousand eyes to find more of the whole truth about loss exposures.

The author welcomes comments or questions about the topic covered in this article. Dr. Head can be reached at George@nonprofitrisk.org.

Risk Management MARKETPLACE

Welcome to the **Risk Management Marketplace**, a regular feature in *Community Risk Management & Insurance*. Inclusion in the Marketplace does not constitute an endorsement by the Nonprofit Risk Management Center. To inquire about space availability for future editions of the Risk Management Marketplace, contact Suzanne@nonprofitrisk.org.

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