

# RISK COMMUNIQUÉ

## ***Electronic Communication Systems (Internet & Email Usage) – Risk Management for Management Liability & Employment Practices***

*Technological advancements have dramatically heightened the risk of personnel-related litigation for ambulance services. The increased accessibility of computers, Internet, email, television and cell phones raises the number of costly lawsuits facing employers. Hostile work environment claims often involve elements of technology, such as inappropriate email messages or Internet usage. Moreover, employers frequently are forced to address their employees' inappropriate utilization of technology, resulting in discipline such as suspension, demotion and termination.*

*This Communiqué offers risk management guidelines for addressing electronic communication systems within your organization. The goal is to assist your ambulance service in preventing technology abuses and reducing your exposure to personnel-related claims.*

### ***Developing and Implementing a Policy and Procedure***

Ambulance services are under a duty to implement written policies and procedures designed to provide a workplace free from harassment and discrimination, as well as to prevent confidentiality breaches. It is prudent risk management to develop or update policy governing all electronic communications, not just Internet and email usage. Employers face increasing risks with other forms of technology, such as personal cell phones (i.e., inappropriate pictures taken with these phones) and television viewing (i.e., displaying pornographic or other sexual content on your property).

Employees should also receive and sign a form acknowledging their understanding of the parameters of the electronic communication systems policy and the ambulance service's ability to monitor their usage. It is recommended that you retain legal counsel specializing in employment and labor law to review and approve policy language prior to implementation.

### ***Preventing Harassment and Discrimination***

Employees more willingly accept restrictions on their usage of electronic communication systems when employers integrate them with existing non-discrimination and harassment policies. Employers must clearly communicate that electronic communication systems are not to be used in any way that may be disruptive, offensive to others, or harmful to morale. The ambulance services policy should prohibit the display or transmission of sexually explicit pictures, messages, videos, or any transmission or use of communications that contain profane or offensive language, ethnic slurs, racial epithets, or anything that may be construed as harassment, discrimination, or disparagement of others based on race, color, national origin, gender, age, disability, religion, sexual orientation, or political beliefs. Additionally, computer software programs may also be purchased to help filter inappropriate subject matter.

### ***Employer's Right to Monitor***

Most national studies and surveys conclude that approximately seven of ten American workers access the Internet at work for non-work purposes and that more than one-half send and receive personal messages on their work email accounts.

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Granting employees access to electronic communication systems while on the job is a privilege and not a guaranteed personal right. Availability of technology on the job is designed to enhance business practices, rather than decrease productivity and increase legal liability for the ambulance service. While employees have a reasonable expectation of personal privacy at work, employers must communicate that these privacy interests are limited while conducting company business, on company property or using company-owned equipment.

Policies should indicate that all computer files, including emails sent or received, are considered and treated as if they are business-related information. They should also reflect that the employer not only has the capability, but reserves the right, with or without notice, to access, monitor, review, copy, and/or delete any computer files, including email sent or received, and all web site communications and/or transactions.

### ***Technology Filters and Safeguards***

Monitoring software is essential for preventing member access to inappropriate Internet sites and curbing email abuses. Computer filtering software can flag messages containing offensive, discriminatory or suspicious words. Ambulance services should consider installing an on-screen display of the electronic communication systems policy that would appear each time members log onto their computers. Such technology safeguards can help remind employees that their usage is monitored, and prevent incidents of harassment, malicious gossip and dissemination of confidential information.

### ***Discipline***

Many employers are being forced to discipline employees for abusing electronic communication systems. Penalties for those who violate the policy and engage in harassing, discriminatory or other inappropriate behavior typically would follow a progressive disciplinary process. However, in some circumstances, a first violation may be severe enough that termination may be the most appropriate finding. For example, accessing pornography is the most common prohibited computer activity that leads to disciplinary action. Policies should set forth the employer's right to determine and administer harsh and consistent discipline for those violating harassment, discrimination or confidentiality standards.