

**Students in Practicum:
Workers' Compensation Issues &
Work-Based Learning Liability**

*Presented by Joy M. Gänder, CPCU, ARM
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- I. Introduction and Scope of Discussion
- II. Communication and Common Sense is Key
- III. Risk Management Issues -
 - A. Liability
 - B. Workers' Compensation – Wisconsin Statute Chapter 102
 - C. Transportation Issues
- IV. Technical College Liability Insurance – Who is covered and for what?
- V. Affiliation Agreements – in the context of risk management and insurance

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**Students in Practicum:
Workers' Compensation
Issues and Work-Based
Learning Liability**
May 2, 2006
Presented by:
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Introduction & Scope of Discussion

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Communication and Common Sense is Key
Problems and Lawsuits = f (expectations not being met)

- Due to lack of information
- Perpetuated by a lack of communication

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Communication and Common Sense is Key

- Who
- What
- When
- Where
- Why; and
- How

What makes the most sense?

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Risk Management Issues – Liability

Wisconsin Statutes Offer Protection

- §895.46
- §893.80
- §345.05

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Risk Management Issues – Liability

Injuries to Students

The Basics – Liability Results When:

1. A duty is owed
2. There is a breach of that duty
3. Injuries/damages are sustained
4. The breach is the proximate cause of the injuries/ damages

It's rarely so clear.

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Risk Management Issues – Liability Injuries to Students

Owners/Users of Premises – Bound by the Safe Place Statute – §101.11

- Must provide a place that is as reasonably safe as possible
- Applies to employees and frequenters
- A non-delegable duty

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Risk Management Issues – Liability Injuries to Students

Owners of Premises – Bound by the Safe Place Statute – §101.11

- Can the college indemnify the practicum partner?
- Should the college indemnify the practicum partner?
- Who is in the best position to control what occurs on the premises?

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Risk Management Issues – Liability Injuries to Third Parties

The Basics – Liability Results When:

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Risk Management Issues – Liability Injuries to Third Parties

Possible allegations:

- Negligent acts of students
- Negligent instruction of students
- Negligent placement of students

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Risk Management Issues – Liability Injuries to Third Parties

Possible defendants

- Student
- Host
- College

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Risk Management Issues – Liability Injuries to Third Parties

Whose insurance will respond?

If named as a defendant (and claim is covered)

- Host
- College

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**Risk Management Issues – Liability
Injuries to Third Parties**

Who will ultimately pay
defense expenses and damages?

- Analyze the Affiliation Agreement
- What is the indemnitor’s financial health?

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**Risk Management Issues –
Workers’ Compensation**

Wisconsin Statute Chapter 102

Who shoulders the financial responsibility for students’
injuries occurring while participating in a practicum?

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**Risk Management Issues –
Workers’ Compensation**

Consider (in order of importance):

1. Control
2. Economic benefit
3. Wages

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**Risk Management Issues –
Workers' Compensation**

Decision Tree

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**Risk Management Issues –
Workers' Compensation**

Special Statute Applicable to Technical Colleges

Wis. Stats. §102.07(12)

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Risk Management Issues - Transportation

Options Available:

- Students transport themselves (ideal)
- Students transport themselves and others
- College facility or staff transports students

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Risk Management Issues - Transportation

Faculty/Staff Providing Transportation

- Check Motor Vehicle Records (MVRs) – are they valid?
- What activity appears?
- Require personal insurance to be carried – insurance follows the car

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Risk Management Issues - Transportation

15 Passenger Vans

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Technical College's Liability Insurance

Casualty Coverages: General, Automobile and Educator's Legal Liability

Who's an Insured? The college, its board and members, administrators, employees, volunteers and students (for some situations)

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**Technical College's Workers'
Compensation Insurance**

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Affiliation Agreements

It's all about communication and common sense.

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Affiliation Agreements

- Who
- What
- Where
- When
- Why: and
- How

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Affiliation Agreements

Mutual Indemnification

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Affiliation Agreements

Insurance Requirements for Host

- General Liability
- Automobile
- Workers' Compensation
- Specialty Coverage – Medical Malpractice,
Cosmetology E&O

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Conclusion

Call and/or e-mail questions:

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Workers' Compensation Coverage and Work-Based Learning Programs

Decision Tree

