

FALL 2011

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## Keeping Personnel Files and Medical Records Confidential



Take steps to protect the confidentiality of employee files and medical records.

By *John Cummings, HR/RM Program Manager*  
Betsy Webb, *Local Government Center*

Generally, you should treat personnel files as private records belonging to you and your individual employees. You do not want to allow just anyone in the municipality to rummage through the performance evaluations, salaries and job applications of fellow coworkers.

There are employees who have a legitimate need to view the information in a personnel file. For example, the Mayor, City Manager or even a supervisor may need to review performance evaluations to decide whether to promote an employee or possibly to review past disciplinary records.

In addition, municipal employees should have the right to inspect and copy their own personnel files. This review should be supervised by the municipality so that critical paperwork remains in the personnel file.

### Keeping Files Confidential

Treat personnel files like any other confidential municipal records. You can do this by keeping employee files in a locked cabinet. Make these files available only to those people in your municipality who have a legitimate business need to access the files.

For example, you might establish a policy that only the Mayor or City Manager, the individual employee's supervisor, and the employee have a right to see an employee's file. This will protect your employees' privacy and

limit opportunities for inappropriate documents to find their way into, or out of, the files.

Accessibility to these files may need to be re-examined or clarified within your municipality. If everyone in your municipality has a key to the personnel file cabinet, it may be time to get a new lock put on.

Supervisors may want to keep notes on how their employees are doing over the course of the fiscal year. It is important that this information, especially formal disciplinary documentation, gets moved to the official personnel file in a very timely manner.

Finally, your municipality should identify what information is going to be released, and who is in charge of releasing this information. If a citizen calls and wants an employee's start date, end date, job title and salary information, the municipality should have a centralized person to provide the pre-determined information. If your employees are aware of what they can release, and who is supposed to release it, you are less likely to divulge confidential material that could cause problems for the municipality or one of your employees.

If at any time there is a question on what type of information to release, and to whom, the municipality should contact its City or Town Attorney. It is also important to note that if it is decided that some of the records requested are potentially confidential and/or

*(Personnel files continues on page 3)*

# 80th Annual Montana League of Cities and Towns Conference

By Alan W. Hulse, MMIA CEO

As most of you undoubtedly know, the 80th Annual Montana League of Cities and Towns conference is scheduled to take place in Billings at the Crowne Plaza Hotel October 5th through October 7th. I believe the League has worked hard to put together a very meaningful agenda containing issues that are both timely and critical to municipalities in Montana. I am confident that any municipal official willing to take time from your schedule to attend this conference will find benefit in doing so.

The MMIA will be holding a meeting of the Board of Directors on Wednesday October 5th at 2:00 p.m. during the Conference. These meetings are open to the public, and we would welcome any members who would like to attend and observe your pool's Board in action. Additionally, on Friday October 7th the MMIA will hold our Annual Meeting of the

Membership. This meeting will begin at 9:00 a.m. (immediately following the MLCT Annual Business meeting). We would encourage members to attend this meeting and find out how your pools are performing. During the course of this meeting we will hold an election for open seats on the MMIA Board. If you have not placed your name in nomination, please attend to cast your vote and have a say in who will represent your community on the MMIA Board of Directors. Also, while at the conference please be sure to take time to visit the MMIA's booth during one of the scheduled breaks. This is a great opportunity to meet and get to know MMIA staff, get questions answered and yes, we will have great goodies that will be given away at our booth.

Finally, I would encourage anyone interested to participate in the 2nd Annual MLCT/MMIA 5k Fun Run/Walk. This event will be fun for all who wish to participate and is intended to promote wellness amongst our membership. The inaugural event was

held last year in Butte and was very well received. We had a great turn out, everyone had a great time and all who participated received t-shirts and other prizes. We are confident that this year's event will be as good, if not better than, last year and hope to have a great turn out. Proceeds from the event will be donated to a local charity of the host city's choosing. Last year the race raised \$520.00 which was donated at Butte Silver Bow's direction to the World Mining Museum. You can register online at [www.livingstonmontana.org/living/mlct\\_5k\\_run.html](http://www.livingstonmontana.org/living/mlct_5k_run.html) and the fee is \$20.00.

Hope to see you all in Billings October 5th through the 7th. ■



## MMIA RISK MANAGEMENT AND SAFETY AWARDS FOR FISCAL YEAR 2011

Congratulations to the following cities and towns! The cities listed below were the recipients of the 2011 Loss Control Awards. These were awarded to the city in each Class category with the lowest incurred dollar losses for the past five years in the workers' compensation and liability programs.

### Liability Program

Class 1: City of Havre  
Class 2: City of Anaconda-Deer Lodge County  
Class 3: City of Harlem

### Workers' Compensation Program

Class 1: City of Bozeman  
Class 2: City of Whitefish  
Class 3: City of Thompson Falls

Along with the City awards, MMIA recognizes the following towns which have been in the program from program inception without any incurred dollar losses.

### Liability

Towns of Fort Peck, Kevin, Melstone, Outlook and Winifred.

### Workers' Compensation

Towns of Hingham, Lavina and Richey.

Congratulations to each of these cities and towns and their contribution to the MMIA pool!  
By keeping losses to a minimum, whole pool losses are reduced. Keep up the great work!!



## EMPLOYEE SPOTLIGHT

MMIA is happy to welcome two new employees to our team!

**Rikki McQueary** is the newest addition to MMIA as the Application Integration and Database Analyst. Rikki brings 12 years of experience in the Information Technology arena along with an MBA. Rikki loves spending time with her family, ranching, and participating in various sports.

**Priscilla Ellis** joined us in June as our new Member Services Representative/Training Coordinator. She is a native Montanan with a Business degree from Montana State University. Away from the office she enjoys spending time with her family, hiking, running, fishing and camping.



*Welcome to the MMIA, Rikki (left) and Priscilla!*

*(Personnel files continued from page 1)*

private, the employee should request, in writing, to maintain the confidentiality / privacy of his/her personnel record. On the other hand, employees also have the right to waive confidentiality. It is also a good idea to get this kind of waiver in writing from the employee.

### Keeping Medical Records Separate

Special guidelines apply to medical information pertaining to your employees. The Americans with Disabilities Act (ADA), and now ADAAA, impose very strict rules for handling information obtained through post-offer medical examinations and inquiries.

Employers who are covered by the ADA / ADAAA must keep these medical records confidential and separate from other personnel records. This information may be revealed only to safety and first aid workers, if necessary to treat the employee or provide for evacuation procedures; to the employee's supervisor, if the employee's disability requires restricted duties or a reasonable accommodation; and potentially to government officials as required by law.

Some state laws also provide special protections for employee medical records. These laws may limit the way such records can be used or the people who can view them.

### What is HIPAA?

The Health Insurance Portability and Accountability Act (HIPAA) also imposes privacy obligations on many employers who provide group health plans. (Employers who administer their own plans and have fewer than 50 participants don't have to comply with HIPAA's privacy rules, and employers that sponsor plans that receive only enrollment information have minimal obligations.) Under HIPAA, employers are required to protect the privacy of employees' personal

health-related information by designating an in-house privacy official, adopting policies and procedures to keep this information private, and notifying employees of their privacy rights, among other things. For more information on HIPAA's privacy rules, go to the HIPAA website established by the federal Department of Health and Human Services, at [www.hhs.gov/ocr/hipaa](http://www.hhs.gov/ocr/hipaa).

If you provide healthcare coverage of any kind, including mental health services or counseling, you and your employees need to know about the Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA was enacted to assist in protecting employee privacy by keeping individuals' health information confidential and to help individuals transfer their health insurance or get a new policy if they've lost their coverage.

### What do Municipal Employers need to do?

- Notify employees about their right to employee privacy at work where medical data are concerned. Give them a HIPAA overview to familiarize them with the protection this law does and does not offer.
- Create privacy procedures concerning employee medical records in your municipality including how and where medical personnel files will be stored.
- Provide clear information about when and how your company and medical providers are allowed to access and use medical information maintained in confidential employee files.
- Appoint a privacy official, who must see that the privacy procedures are implemented and followed, and that the rules mandate full HIPAA compliance.
- Enact a complaint procedure for employees who experience a problem with your municipality's privacy policies or the way

their records and information have been handled.

- Protect all health-related records and make sure they are secure and available only to those with the proper authority to see them.

### Kinds of information protected

Any and all health-related information gathered about employees including, but not limited to, medical diagnoses and conditions, information covered under the new genetic privacy law (GINA law), medical treatments, prescriptions, health insurance information and psychiatric information that can be associated with an individual is protected by HIPAA regulations.

### Documenting your HIPAA procedures

Employers need to protect themselves by clearly documenting the actions and procedures they have taken to ensure employee health information remains private and secure. Become familiar with HIPAA compliance materials, and how this important medical privacy law applies to your company, then design a set of internal rules to safeguard all covered information.

Having a clear set of procedures and policies also helps to protect employees from accidental disclosure should a new staff member be asked to share protected information.

### Storing and transferring health information confidentially

It is also your responsibility to store medical records and other protected data separately from ordinary personnel records. Special personnel health data files, kept under lock and key and available only on a need-to-know basis, are the best way to protect yourself from accusations of HIPAA violations. ■

# How Do I Cover Art and Antiques?

By John D. Craig, Property Program Manager

**S**ECTION VI: FINE ARTS FLOATER (page 31) of the MMIA Memorandum of Property will tell you all about 'how and what' special properties are covered. What is often overlooked in our worries is the automatic coverage that exists for unscheduled properties. Your property pool has a \$2,500,000 per occurrence unscheduled fine arts coverage limit. Said another way: if there is a qualified loss event (occurrence), there is \$2.5 million in coverage for fine arts available, even though the items are not scheduled (reported to MMIA). The limit is shared with all members who lost art in the same event. Each new event carries a new limit. This blanket coverage includes all qualifying items as defined and coverage starts the instant you acquire insurable interest by ownership or by contractual agreement.

"So if I have all of this free automatic coverage, why would I choose to schedule my fine art and pay an assessment on it?" This is a good and fair question. Blanket coverage means that the market value will be determined with the proof of loss at the time of the claim. There will be the need for some type of basis for loss recovery valuation and that will usually be set by the claims adjust-



ment process. The claimant (you) usually has the burden of proof of loss. The unscheduled limit is shared and if accumulated losses exceed that limit there will be a ceiling recovery and/or a proration of limit among multiple claimants. By scheduling fine arts you are declaring its value up front and have set the minimum amount of loss recovery without a shared limit.

There are advantages and disadvantages to scheduling fine art. The obvious advantage is, knowing precisely what your minimum loss recovery will be. Further, if you have a large accumulation of fine arts in concentrated locations you can secure a dedicated coverage limit. The disadvantage is you must pre-establish legitimate market value, and this can only

be done through certifiable expert appraisal. To secure your dedicated coverage limit, you must pay an annual assessment.

So, in summary, your decision to schedule or not schedule comes down to individual risk management. What are the odds of a single event impacting so much fine art in your area that the \$2.5 million becomes all used up? Are you willing to trust post-loss value determination to satisfy full recovery desires? When it's gone you have to rely on forensic methods (educated guess) to value an object that no longer exists. Most fine art is irreplaceable and replication is usually never the same as original, but you face this dilemma with scheduled or unscheduled coverage. MMIA will be tightening up its scheduling requirements, and qualifying appraisals will be necessary before each item can be listed. The choice is up to you, but hopefully you now know how the coverage can work.

Art feeds the muse of our humanity and is often treasured beyond its market worth. As art custodians, municipalities should assure the public interest in the art within their control is protected from loss to everyday peril. This is probably best done by knowing its worth up front, but know that the MMIA has some coverage for you if you don't.

If you would like to find out more about Art and Antiques valuation please call me at (800) 635-3089 or send me an e-mail to [jcraig@mmia.net](mailto:jcraig@mmia.net). ■

# You Cover Railroad Crossings?

By John D. Craig, Property Program Manager

**Y**es, MMIA does cover railroad crossings. Many of our members have them, and those that do know that the street crossing signing and controls are owned and maintained by the railroads. In most cases though, they only exist when the municipality is willing to enter into a contract with the railroad to pay the cost of any accidental repair necessary to keep them operating.

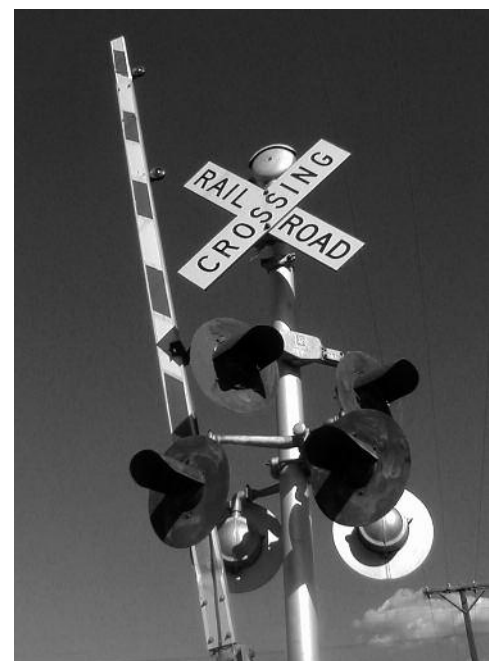
The railroad maintains total control of the operation, maintenance, and repair of these crossings but the municipality must pay the costs of accidental loss. These crossings can be very expensive sometimes costing several hundreds of thousands of dollars to construct. Major losses could be devastat-

ing to a community budget, so MMIA provides property loss coverage to help out.

To obtain coverage, property program members must first schedule the crossing by declaring its location and cost of construction or value of stated amount coverage limit. Like any other covered property, the member must first have an insurable interest by contract or agreement with terms committing them for the loss of property.

MMIA coverage is there as a tool for your risk management to balance your loss exposure with your willingness to absorb risk. Use it to your advantage.

If you would like to find out more about rail crossing coverage please call me at (800) 635-3089 or send me an e-mail to [jcraig@mmia.net](mailto:jcraig@mmia.net). ■





# Fourth Annual Bob Worthington Risk Management Achievement Award

By Priscilla Ellis, *Member Services Representative*  
Training Coordinator

Established in 2008, the Bob Worthington Risk Management Achievement Award (BWRMAA) recognizes exceptional member activities directed at managing municipal risk and preventing losses. The Claims and Risk Management staff of MMIA nominated people, groups, departments or members who have demonstrated proactive behaviors which positively affect their community. This directly affects the MMIA pool membership as well and should be seen as an example of “going that extra mile”. A finalist is recognized in each quarterly newsletter and a vote is taken among the MMIA staff to choose a winner. Each of the finalists showed an effort to demonstrate responsibility and proactive behavior for risk management. MMIA offers sincere congratulations to each of the finalists and challenges each member out there to be inspired toward future award nomination!

## 2011 WINNER CITY OF COLUMBIA FALLS

The City of Columbia Falls is being recognized for their dedication to their Wellness Program. The Employee Benefits program is no different than the other MMIA programs in its need to manage risk. One avenue is the Wellness Program. MMIA partners with our member cities and towns to provide education sessions, health screenings and incentives. Columbia Falls has taken this initiative and then gone the extra step, thanks in large part to the leadership of Deputy City Clerk, Barb Torres. They developed a Fitness and Activity Challenge to accompany the MMIA program.

Spearheaded by Barb, the City of Columbia Falls kicked off their challenge by purchasing pedometers for an employee walking program. Twenty-six of their thirty-

one employees participated covering over 4700 miles. By participating, employees have become more active; some even losing weight and cutting back on tobacco use. The employees are enthusiastic about continuing the program after its initial success, and feeling better because of it. This is a perfect example of what members of our pool can accomplish to support the management of risk. Not only do we congratulate Columbia Falls on being innovative and supportive but we want to challenge the rest of our members to follow suit. This is truly a great example of risk management.

The other finalists were Jim Nugent, City Attorney for the City of Missoula due to his focus on proactive behavior and the City of Billings for their steps to avoid injuries and reduce claims.

Again, congratulations to the City of Columbia Falls for taking initiative in wellness to promote healthier and more active employees. ■

## Fall Wellness Tip

Transitioning from summer to winter, fall is the perfect time to focus on health in preparation of the cold days approaching. Temperature affects our body's resistance to disease and infection so with cold weather coming, it's the ideal time to improve our immune system.

If you don't exercise, make it a goal to start today. Fall is the perfect time to go outdoors and enjoy the beauty that nature has to offer. Research says that moderate exercise (about 20 to 40 minutes a day, depending on your level of fitness) is directly related to a healthier immune system.

One study states that people who walked vigorously 40 minutes per day had half as many sick days as their inactive counterparts. This is because a workout will rev up your immune cells, causing them to circulate through the body faster. However, excessive strenuous exercise



(which equates to 90 minutes or more) can have the opposite effect and suppress your immune system so the trick is to find bal-

ance. Enjoy what Montana has to offer. Hiking, biking and walking are some awesome fall activities. ■



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	<b>Covered Drug Lists</b>	Displays a list of medications that are available through your plan.
	<b>Copayment Information</b>	Compares the costs of preferred and non-preferred medications at retail and mail service pharmacies.
	<b>Drug Dictionary</b>	Provides information on specific medications including common uses, precautions, side effects and warnings.
	<b>What's Covered</b>	Reviews the requirements or limitations on coverage of the medication to ensure that safe, clinically appropriate care is being provided at affordable costs.

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You can access our new mobile website now from any smartphone. Simply enter [catalystrx.com](http://catalystrx.com) into your smartphone browser or download the app by going to the Apple App Store or Android Market today!

**Please note that Catalyst Rx plans to launch an app for Blackberry soon.**



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Montana Municipal  
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Phone (406) 443-0907  
Toll Free (800) 635-3089  
Fax (406) 449-7440

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## Calendar of Events

- |                 |            |  |
|-----------------|------------|--|
| <b>October</b>  | <b>5-7</b> | MLCT, Billings                               |
|                 | <b>6</b>   | MMIA Board of Directors meeting,<br>Billings |
|                 | <b>7</b>   | MMIA Annual Meeting, Billings                |
| <b>November</b> | <b>11</b>  | Veteran's Day, holiday                       |
|                 | <b>24</b>  | Thanksgiving Day, holiday                    |
| <b>December</b> | <b>26</b>  | Christmas holiday                            |
| <b>January</b>  | <b>1</b>   | New Year's Day holiday                       |

