COLLINGWOOD PUBLIC LIBRARY

Collingwood – August 29, 2007

1. Children, Libraries & the Law 2. Protection of Privacy

By U. Shen Goh, LL.B., LL.M., Trade-mark Agent © 2007 Carters Professional Corporation



CARTERS PROFESSIONAL CORPORATION Société professionnelle Carters Barristers, Solicitors & Trade-mark Agents Affiliated with Fasken Martineau DuMoulin LLP Avocats et agents de margues de commerce Affilié avec Fasken Martineau DuMoulin S.E.N.C.R.L., s.r.l.

Offices / Bureaux

Ottawa (613) 235-4774 Mississauga (416) 675-3766 Orangeville (519) 942-0001

By Appointment / Par rendez-vous Toronto (416) 675-3766

Toll Free: 1-877-942-0001

Vancouver (877) 942-0001

London (519) 937-2333

www.charitylaw. 💽

COLLINGWOOD PUBLIC LIBRARY Collingwood – August 29, 2007

Children, Libraries & the Law

By U. Shen Goh, LL.B., LL.M., Trade-mark Agent © 2007 Carters Professional Corporation

CARTERSCA

CARTERS PROFESSIONAL CORPORATION BARRISTERS, SOLICITORS & TRADE-MARK AGENTS Attiliated with Fashen Martineau Dubloulin LLP

Offices in Ottawa, Mississauga & Orangeville Locations also in Toronto, London, Guelph & Vancouver IOH Test: 1-877-942-0001 GENTS WITH: CAFTERS.

CHILD AND FAMILY SERVICES ACT

 Child protection in Ontario is legislated by the <u>Ontario government</u>. Child protection services are proved by <u>local children's aid</u> <u>societies</u>, which have exclusive responsibility for the provision of the services under the <u>Child and Family Services Act</u>.

2

Abuse, Failure to Provide for Reasonable Care, etc.

79.(1) In this section,

"abuse" means a state or condition of being physically harmed, sexually molested or sexually exploited.

3

www.carters. 🕑

<u>79.(2)</u> No person <u>having charge</u> of a <u>child</u> shall.

(a) inflict abuse on the child; or

(b) by failing to care and provide for or supervise and protect the child adequately,

(i) permit the child to suffer abuse, or

(ii) permit the child to suffer from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development.

<u>79.(3)</u> No person having charge of a child <u>less than sixteen years of age</u> shall leave the child without making provision for his or her supervision and care that is reasonable in the circumstances.

4

<u>79.(4)</u> Where a person is charged with contravening subsection 79.(3) and the child is <u>less than ten years of age</u>, the onus of establishing that the person made provision for the child's supervision and care that was reasonable in the circumstances rests with the person.

5

Duty to Report Child in Need of Protection

<u>72.(1)</u> Despite the provision of any other Act, if <u>a person</u>, including a person who performs professional or official duties with respect to children, <u>has reasonable grounds to</u> <u>suspect one of the following</u>, the person shall forthwith report the suspicion and the information on which it is based to a <u>society</u>:

6



- 1. The child <u>has suffered physical harm</u>, inflicted by the person having charge of the child or caused by or resulting from that person's;
 - i. Failure to adequately care for, provide for, supervise or protect the child, or
 - ii. Pattern of neglect in caring for, providing for, supervising or protecting the child.

7

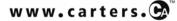
- 2. There is a risk that the child <u>is likely</u> <u>to suffer physical harm</u> inflicted by the person having charge of the child or caused by or resulting from that person's,
 - i. Failure to adequately care for, provide for, supervise or protect the child, or
 - ii. Pattern of neglect in caring for, providing for, supervising or protecting the child.

8

LEGAL OBLIGATIONS

Even where an organization may not have any legal obligations to act from a criminal perspective (e.g., inapplicable statutes or acts), the organization should beware of potential legal obligations to act from a civil perspective (e.g., tort or negligence).

9



DEALING WITH UNSUPERVISED CHILDREN IN THE LIBRARY

- When can parents leave children unsupervised?
- How should library respond to unsupervised children?

10

• What is the library's responsibility for unsupervised children if it closes early?

RESTRICTING CHILDREN'S ACCESS TO MATERIALS IN THE LIBRARY

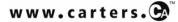
- Can libraries restrict access to memberships/cards?
- Can libraries restrict access to materials, such as restricted books and movies?
- Can libraries restrict access to computers and the internet?

11

PREVENTING CHILD ABUSE

- Should libraries have police checks for volunteers and staff?
- Should libraries report suspected child abuse?
- · Should libraries have a child abuse policy?

12



DISCLAIMER

This handout is provided as an information service by Carters Professional Corporation. It is current only as of the date of the handout and does not reflect subsequent changes in the law. This handout is distributed with the understanding that it does not constitute legal advice or establish a solicitor/client relationship by way of any information contained herein. The contents are intended for general information purposes only and under no circumstances can be relied upon for legal decision-making. Readers are advised to consult with a qualified lawyer and obtain a written opinion concerning the specifics of their particular situation.

© 2007 Carters Professional Corporation

CARTERS

CARTERS PROFESSIONAL CORPORATION BARRISTERS, SOLICITORS & TRADE-MARK AGENTS Attiliated with Fastern Martineau Dubloulin LLP

Offices in Ottawa, Mississauga & Orangeville Locations also in Toronto, London, Guelph & Vancouver ION Toll Free: 1:877-942-0001 CENTS WITH: LIPTE ALSO AUTO: LIPTE AUTO: LIP

