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Risk Management and Your Insurance Costs
LOWER INSURANCE COST
 Through Risk Management & Claims Management
LIABILITY ANALYSIS

Robert Bates, President Magnolia LTC
 & Secretary CCRRG
 Implementing a Process for Managing Risk
 Claims & Insurance

KNOWLEDGE IS POWER

- We are in the midst of, or beginning a Hard Market not seen since early 2000's
- Certain Carriers are exiting or reducing exposure in the LTC Market and/or states
- Pricing is increasing and coverages being tightened
 - Happening throughout the US

AON Study (CA Avg's)
 October of 2018

Claims Frequency

- Claims Frequency has remained below 1.15 per occupied bed
 - Some studies show it has increased even since AON Study
- AON study is about 7% of total beds
- CA Avg. is about the same as National



Claims Severity

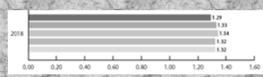
- Severity has been on increase since 2012
- Severity limited to \$1M per Claim
- Nationwide Avg. is \$210,000
- California Avg. is \$324,000



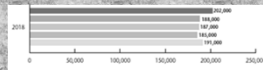
California Five Star Comparisons

- Charts show claim frequency is consistent across 5* ratings
- Frequency is 1.32 claims per 100 occupied beds
- Severity has been on steady increase since 2012
- Increase in loss rates for one-star is driven claim severity
- Loss rates in five star facilities is driven by frequency
- Loss rate for facilities is similar across rating categories

• Claim Frequency's by 5 *



• Claims Severity by 5*



• Distribution by 5*

	Rating				
	1	2	3	4	5
Approximate Occupied Bed Count	15,251	19,845	14,397	12,229	16,376
	18%	23%	17%	15%	22%

Managing Risk: “Risk” & “Risk Management” Defined

- To manage risk, you must first recognize it
- Risk:
 - ‘Potential for occurrence of avoidable or nonoccurrence in face of a duty’
- “Risk management”:
 - Is process of identifying, analyzing and evaluating current or potential risks;
 - developing steps to avoid/reduce where possible; protocol for responding when risk is realized (i.e. loss).

Roadmap

- Theme: Think big/Think creatively/Think
 - “Plaintiff” & “Regulator” & “Underwriter” & “Family”
- Risk Management has not changed it has evolved
- Areas/types/levels of risk have dramatically
- Risk management must be part of every decision, every day, by every staff member
- Must be systematic approach
 - standard response each time

What to do back at the Facility

- Define risk & risk management
- Steps for systematizing risk management
- Identify risk areas/how you identify others
- Impact on insurance coverage/rates
- Tools to aid in risk management
- RM's relationship to overall operations

Insurance Carrier Ramifications

What does the U.W. look for?

Insurance Application

- 3 to 5 years loss runs
 - Know your claims
 - Explain large losses or frequency
 - Especially open claims
 - Work w Carrier on open claims
- Narrative on Changes Made



Changes in Operations

- Changes to Key Manager(s)
 - Adm., DON other Key Staff
- New Contracts (Risk?)
 - Managed Care
- Changes in License or Operations
- Care Level Changes
 - Wound Care; Traeh Program; Sub Acute, etc.
 - Provide Verbiage of Changes

Application and Underwriting

- Application
 - If Good Story **Tell it!!!**
 - Quality Awards, i.e. AHCA: "Quality Award Program", CAHF: "Showcase Award"; Community Recognition, etc.
 - If Bad Story & There is a Story – **Tell It.**
 - Bad claim–What did you do to change "Shock Loss"
 - Has to be more than "the Adjuster settled when they should not have" or "Carrier paid too much to settle".
 - Let new/existing carrier know you want to be involved with Claims or Settlement.
 - Bad Survey-If reason, explain it
 - Above all be honest

Why Analyze Incidents?

- To establish cause and minimize future incidents or event
- To determine causes and contributing factors to the incident
- To identify corrective actions
- To assess the risks of future activities

What's the Goal of Loss Prevention/Risk Control Methods?

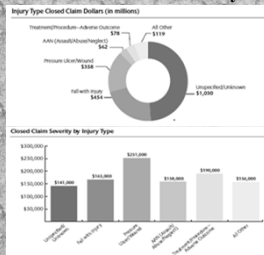
- **Avoid** the risk altogether
- **Prevent** the frequency of loss
- **Reduce** the severity or cost of loss
- **Contractually transfer** the risk
 - Independent contractor agreement
 - Mutual indemnification clauses
 - Equal Insurance coverage(s)

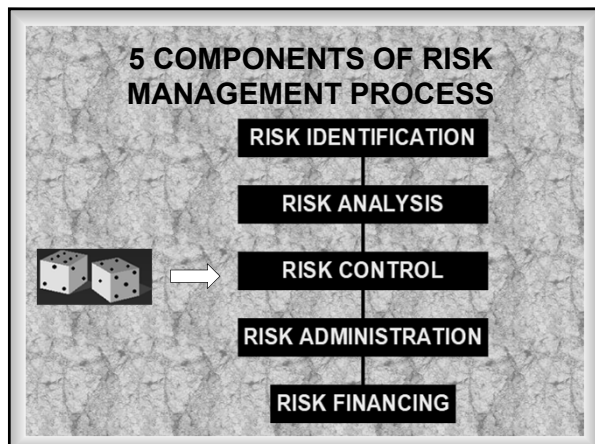
Cost and Cause of Claims

Causes of Loss

- Elder Abuse
 - Assault & Neglect
 - Attorney Fees
- Violation of Resident Rights
 - Attorney Fees
- Standard of Care Issues
 - Pressure Ulcer/Wound
 - Fall w Injury
 - Elopement
- Negligent Hiring
- Strict Liability

Claim Dollars and Severity





RISK RATING (RR) = LEVEL OF RISK

- **E = EXTREME RISK**
 - involve senior management immediately, emergency situation, consider not doing the activity.
- **H = HIGH RISK**
 - management attention required for business and policy decisions, risk control, insurance types and limits, etc.
- **M = MODERATE RISK**
 - management should be kept informed of risk control, insurance types and limits, etc.
- **L = LOW RISK**
 - manage by routine procedures, insurance types and limits could be flexible.

E = Extreme Risk:

- First, consider not doing the activity
 - New Admission(s), Contracts?
- Evaluate how much a potential loss could cost?
 - Lawsuit?, Negative Survey?
- Risks at this level may warrant more than \$1M in coverage.
 - Standard Coverage
 - \$1M/\$3M – \$1M XL = 15% to 20% of Premium

H = High Risk:

- Could a potential loss cost in excess of \$1 million?
 - If so, ask for more coverage.
- Make sure your assessment considers all costs of potential losses.
- Risk Management
 - Typically would not recommend less than \$1 million for High rated risks.

M = Moderate Risk:

- Standard limit of insurance is \$1 million.
- Assessment should consider all costs of potential losses.
- If assessment reveals potential loss in excess of \$1 million
 - risk may actually be high (see H for High Risk).

L = Low Risk:

- If risk is minimal, this is the area where coverage and limits may potentially be flexible.
- Standard limit is still \$1 million.
 - In the case of minimal risks, potential to make a business decision to lower the limits of coverage
 - Higher Deductible as option
- Jurisdiction of Facility
- If the Risk Assessment reveals only minute risk, you might consider a business decision to structure policy differently

Whose in Charge? Identifying Risks

- Who is in charge of the facility/company risk management/assessment program
- Key components
 - Analysis of prior insurance claims
 - Prior incidents & trending at facility
 - Trending and analysis of occurrences will yield many of your Risk areas

Managing Loss When Avoidance Doesn't Work

- Includes several components:
 - Effective, thorough, controlled investigations
 - Investigation protocol
 - Notice to carrier or TPA of claim or "incident" ASAP
 - Failure to notify may result in a Reservation of Rights (**ROR**)
 - Notice to required law enforcement/regulatory
 - Managing injuries of residents(PL) Family (GL)
 - Communicating your concern & actions taken
 - Managing claims/litigation/status w/ insurer

Document of all your efforts

- Documentation of all efforts to identify risks; avoid them, manage liability and loss; and modification of future activities
- Goal: mitigate liability:
 - May impact insurance coverage or rates
 - Surveys
 - efforts to avoid impact citation/sanction
 - Civil actions
 - punitive damages/criminal negligence
 - Criminal cases
 - Issue of intent and knowledge

Important Attributes of:
Risk Management & Risk Intervention

- The risk areas and specific risks are:
 - Care based and other general risks
 - Vehicles, Property, Liability exposures
 - Actions and omissions
 - State and federal law and ordinary negligence
 - Insurable and non-insurable
- Message: Think broadly about Management/Risk Intervention

Important Attributes of
Risk Management & Intervention

- Must nail down accident/investigation protocol
- Required facility reporting protocol
- Risk Management Coordinator & Risk Management Committees
- Effective claims management
 - Develop relationship with your insurer
 - Use them as a resource

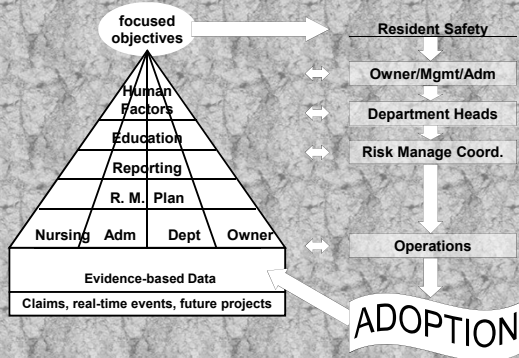
Important Attributes
Risk Management & Intervention

- Critical element overriding all of this is working with & training employees:
 - To recognize and report new risks/incidents
 - To respond to risk & incidents
 - Participate in internal/external
 - If Significant Incident document all participants
 - Consider getting statement from employee, visitor, family, etc.
 - Develop systems audit forms where possible

Sources for Identifying Risk Areas

- Your surveys
- Your claims history
- Your family council
- Your QAPI Team
- Your Risk Mngt Team
- Your association newsletters/mailings
- Your insurer
- Your colleagues
- DHS/CMS/OIG
- Special emphasis areas
 - Nutrition/weight loss
 - Elopement
 - Decubitus
 - Falls prevention
 - QAPI

Resident Safety Strategy



Summary

- Risk Management/Assessment
 - Reduce Claims and Insurance Cost
 - Enhance Resident and Family Satisfaction
- Questions???
