

Tackling Risk Management



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Quality In-Cite

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1: Tackling Risk Management



Risk Management Tools



- Professional Liability Insurance
- Risk Management Plan
- One Time Risk Assessment

Risk Management



- Risk Management is not simply purchasing insurance. Although insurance is one risk management tool.
- Risk Management involves identifying, measuring, and treating exposures to loss that result from the performance of services.
- Exposure is basically something that could cause financial harm.
- A comprehensive risk management program involves four basic steps. Exposures need to be:
 - Identified.
 - Quantified
 - Treated
 - Monitored

Key Metrics that Risk Management is operating well



- 5 star rating
- Re-hospitalization rates
- Occupancy
- Quality Measures
- Regulatory Survey Outcomes
- Claim frequency and severity
- Customer Satisfaction
- Low Turnover rates

2: Browns Management Meeting after 0-16 season



- Call Trissie
- Explain executive management, senior management, culture, addressing issues



Administrator and Director of Nursing experience and culture



- Turnover in these positions: Higher claims
- Implementing culture change
- Effective Leadership
 - Achievement of Results
 - Development of Follower Support
 - Task orientation skills
 - Relations orientation skills
 - Managers do things right, but leaders do the right things
- High performing organization



Quality In-Cite Analysis



- Senior Management Interviews
- Facility Management Interviews
- Culture, Systems, Processes
- Average # of Deficiencies /Severity/Repeats trends
- Enforcement activity
- State / National Benchmarks
- 5 star rating portfolio analysis: Trends, domains, drivers
- Staffing analysis using CMS analysis and phone interviews

3: Pre-Draft Browns Meeting - Need defensive players to tackle risk management



- I really want to call my advisor Keith Parnell on tackling this risk management item and John Stibley for Underwriting
- Talk about the different states and how the tort reform affects frequency and severity (FL, TX, IN); tort environment; loss history analysis for different states



Landscape of the LTC Industry



- AON Study
 - Long term care loss rates increasing 6% annually
 - Overall forecast for 2017 is \$2,350 per bed
 - Frequency is increasing by 4% annually
 - Severity is increasing by 2% annually
 - Severity projection for 2017 is \$218,000 per claim
 - Loss rates in trouble states:
 - FL \$7,400
 - KY \$7,500
 - WV \$7,360
 - AR, OK, CO and St. Louis, Chicago, Detroit not addressed



Changing Landscape of the LTC Industry



- False Claims Act - whistle blower
- Increase in facility acquired pressure ulcers (2.8% increase)
- Infection control
 - Flu, Hep C, Legionaries, Superbugs, scabies
- CMS Star Ratings - Survey process
- Over medication - Antipsychotics - Opioids - National Drug Problem
- Behavioral health, Hospice in SNF, Staffing issues
- Corporate Compliance
- PDPM - Patient Driven Payment Model

Changing Landscape of the LTC Industry



- Arkansas SJR 8 passed House and Senate and goes to the people for vote
 - Caps non-economic damages at \$500,000
 - Caps punitive damages at \$500,000
 - Caps attorney fees at 33 1/3 %
- National Tort reform
 - Congressman Steve King, Chairman of the House Judiciary Subcommittee on the Constitution and Civil Justice introduced H.R. 1215 "Protecting Access to Care Act" passed the full House Judiciary Committee on March 1st, 2017
 - Unlimited awards for actual damages
 - \$250,000 cap for noneconomic damages
 - State Flexibility - Federal will not preempt any State Law
 - Limitation on attorney fees
- Kentucky - SB 4
 - Medical review panels would scrutinize the merits of malpractice lawsuits
 - In the event of an Arbitration Agreement, must go to court to determine if binding



4: Browns drafted the
linebacker. How is he in
coverage? On the field with
the Linebacker Coach and
Defensive Coordinator



HUD's PLI Review



The HUD review consists of two things:

- Is the coverage HUD compliant per HUD Handbook 4231.1, Revision 1, Appendix 14.1?
- Does the loss history exceed the coverage or show a pattern of poor care?

HUD's expectation is that the lender will thoroughly analyze these aspects for us and provide a well thought out recommendation.



HUD's PLI Review



If the project has had a pattern of large claims:

- Get an assessment
 - Make needed changes
 - Improve the care and loss history
 - Then submit the application to HUD
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- Typically, lenders do not submit projects with a poor loss history. We have seen a few instances with large claims, but is not typical.

PLI Minimum Coverage Requirements



- \$1 million per occurrence
- An overall aggregate amount that is adequate to fund outstanding claims with a minimum of \$3 million.
- Per occurrence deductible shall not exceed \$25,000

Insurance Review - Professional Liability



- Professional Liability Insurance
- Minimum of \$1 million per occurrence / \$3 million aggregate. Determination of coverage must comply with Appendix 17.A
- Claims made or occurrence form
- If claims made note retro date
- Property address is on the Certificate of LI
- Borrower, Operator or Management Agent (Circle One) entity is Named Insured
- Confirm limits are not combined/shared with GL



Insurance Review - Professional Liability (cont)



- What is the AM Best Rating of the insurer?
- Lender and its Successors and Assigns as the Certificate Holder and Additional Insured
- Maximum Deductibles
- \$25,000 deductible/SIR (self-insured retention) for portfolio and/or single asset Mortgage Loans with Properties less than or equal to \$100 million in total replacement values, as listed in the Property policy
- \$100,000 deductible/SIR for portfolios and/or single asset Mortgage Loans with Properties greater than or equal to \$100 million in total replacement values, as listed in the Property policy



Waivers



- General Liability - Occurrence Form
- General Liability - per location limits - overall aggregate
- Professional Liability - limits reduction
 - KY, FL, IL, AR, TX, WV, LA, IN, PA
 - Deductibles/SIR



Waivers



- If the proposed financing is infeasible due to the cost or availability of PLI, applicants may request a waiver
- Lender must provide:
 - Evidence that claims history warrants proposed coverage
 - Cost of a compliant policy would create a financial burden to the project
- Texas and Florida have the most HUD waivers. TX has 2 year statute of limitations and limits damage to \$250k
- HUD used to require three insurance quotes for burdens; however, given the difficulty HUD often requires one

HUD's PLI Waivers-Submission



- Documentation is important on waivers
- HUD must document every file
- Anyone who reviews the waiver should be able to review the documentation and understand why the approval made sense.

Waivers that haven't been approved before can take a very long time to review and can be staff intensive to review. Allow plenty of time and help us by providing well thought out documentation.

HUD's PLI Waivers (cont)



- Correct handbook reference & Clear statement of what is requested
- Include specific support and analysis rather than general statements
 - Unacceptable: "They are strong financially, therefore this is acceptable."
 - Instead, the justification should be supported with a metric such as specific financial information.
- Summarize the claims history and explain why it supports the waiver request.
- Provide evidence (quotes for compliant coverage) that compliant coverage is a financial burden and lender's analysis of the burden

5: Browns - Covering all these Super Stars



- Five Star athletes on Green Bay, New England, etc.
- All I have are these one and two star athletes
- What makes them one stars. They don't follow the game plan, they don't follow the defensive techniques, hell I don't even know if the game plan I am sending them is the best out there - you know the game has changed and there is more plays out there
- I wish I could put these one star athletes on an improvement plan but I don't know what to put in there
- Not only that these one and two star athletes get all these G Flags G tags that cost us yardage, hell they get fined, and sometimes they get 3 or 4 game suspensions
- These one star athletes have motivation problems and the culture at these facilities should be improved
- Call Trissie
- Five Stars, tags and deficiencies, Five Star Improvement Plans; QAPI plans
Technology

HUD Cares About Quality of Care!



- HUD needs to assure that residents receive a high quality of care in our projects.
- Poor Operators = #1 reason for claims
- Documentation is important:
 - What has changed at the facility?
 - Why should we expect improved care in the future?
 - What is their improvement plan and how has it improved care at the project?
- HUD relies heavily on lenders to do this analysis and to document the file.

Special Conditions to get Lender / HUD Comfortable



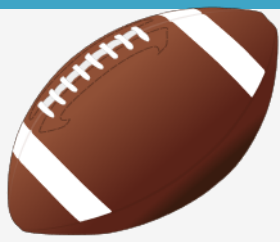
- A One Time Risk Assessment report prepared by a third party risk management consultant
- Ongoing Third Party Risk Management Program
- Implementation of Point Click Care
- PLI Insurance Review to analyze if PLI claims lessened to release PLI reserve
- Use Comparable staff expenses rather than T12 expenses

Five Star Improvement Plan / Forecast



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- Health Surveys
 - Staffing
 - Quality Measures

QAPI - Quality Assurance and Performance Improvement Program



- Program Design and Scope
 - All systems of care and management practices
 - Utilize the best available evidence to design and measure indicators of quality
 - Facility goals that reflect process of care and facility operation that are great predictors of desired outcomes
- Program Feedback and Monitoring
- Performance improvement on High-Risk, high-volume or problem prone areas
- Governance and Leadership



6: Browns Quarterback Coach to Baker Mayfield helping the Middle Linebacker



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- Professional Liability Insurance
 - Risk Management Plan

Staffing



- Understaffed / Overworked employees
- RN / LPN / Nursing aide mix for level of acuity
- Hiring process/Turnover / Retention issues
- Agency utilization
- Communication with staff on major issues
- Training Program
- Proper market compensation
- Nonprofit to profit turnaround
- New operator ownership

7: Bill Belichick spying using PARA-SCOPE® on NY Jets



- Technology
- Monitoring



Technology Assistance



- Electronic Medical Records
- Point Click Care
- Quality In-Cite®
- PARA-SCOPE®
- CarePrepare™
- PointRight
- Key Stats through Matrix



PARA-SCOPE®



- Post Acute risk evaluation tool developed in collaboration with industry leading organizations and large operators
- Analyze summary data and identify key risk areas; all in one dashboard
- Quick summary report analyzing
 - Regulatory survey outcomes and enforcements
 - Re-hospitalization rates
 - 5 star ratings quality measures
- Predicted Likelihood of adverse outcomes
- Assess Risk as Immediate/High, Average, Low

8: Results, Results, Results



- Professional Liability Insurance
- Risk Management Plan

Quality In-Cite

Recommendations to get Lender/HUD Comfortable



- Risk Rating trends
- Administrator / DON challenges
- Update P&P
- Implement Risk Management Tools
- Implement a 5 Star Improvement Plan
- QAPI
- Benchmarking

Keith Parnell / Hamilton Insurance to get Lender/HUD Comfortable



- On the phone with HUD
- Help with waivers
- Review the losses for the portfolio
- Help ascertain a bid for the cost
- Adequate Insurance program
- Explain the state litigation and tort environment and interpret the losses



Special Conditions to get Lender / HUD Comfortable



- A report prepared by a third party risk management consultant if Tier 2
- PLI Insurance Review to analyze if PLI claims lessened to release PLI reserve
- Star Rating Improvement Review 12 months later to analyze portfolio star rating to release DSCR reserve
- Implementation of Point Click Care
- Use Comparable staff expenses rather than T12 expenses

Case 1: NOI Increase at the expense of care:



Project has had an increasing NOI trend, but they have received some G or Higher tags on recent surveys in addition to a variety of other tags.

- i. While we love to see an increasing NOI trend, we do need to be careful that it isn't at the expense of the care. For example, I had one project where they had increased NOI, but they had some care issues on the State surveys.
- ii. When we dug into the state surveys, in addition to care issues, a lot of their survey tags were for things such as lack of supplies or having no clean linens. This indicates to us that the strong cash flow is at the expense of resident care
- iii. We want the lender to analyze this to assure that the NOI they are underwriting to is sustainable and allows them to provide excellent care.
 - Mitigation: More conservatively underwritten NOI, One Time Risk Assessment and/or Risk Management Program



Case 2: Poor Care at the Subject, but strong elsewhere:



- a. Project has a 1 Star CMS rating and a 1 Star rating for health
- b. 3 G tags in 2016, No G or Higher tags in recent surveys
- c. Project replaced the Administrator and the Director of Nursing
- d. Project conducted extensive staff retraining
- e. G tags were closed by CMS
 - i. Mitigation:
 1. Lender provided the following in the application:
 - a. Description of specific steps the operator has taken to improve the overall quality of care. This should address the specific survey tags, and also quality of care in general.
 - b. Evidence that these steps have led to improved care and survey results.
 - c. Facility names and addresses for their other facilities, Star Ratings, an explanation of survey history at those projects and information on any Denials of Payment or Civil Money Penalties at these facilities to provide evidence that the operator is capable of providing excellent care.
 - d. Evidence that they have a strong corporate risk management strategy
 2. One Time Risk Assessment and follow the recommendations.

Case 3: Poor care at Subject, poor care elsewhere:



- a. Project has a 1 Star CMS Rating
- b. 3 H tags in the last year
- c. H tags are closed
- d. Most of their other facilities have a 1 Star CMS rating, Civil Money Penalties and/or Denials of Payment in the past few years.
- e. No evidence is provided to show that this Operator is capable of excellent quality of care.
 - i. **Mitigation:**
 1. A risk management assessment/risk management program isn't a great mitigation here. We would like to see some improvement before an application is submitted. We are seeing some lenders submitting projects with a poor care history with only a recommendation for a one-time risk assessment or a third party risk management program. This isn't sufficient on its own to mitigate a pattern of poor care. If it can't be mitigated with a risk assessment or a third party risk management program, it probably isn't ready for HUD.

Case 4: Recent PLI Claims exceed PLI Coverage:



Recent PLI claims exceed PLI coverage (We don't see this often. Lenders seem to do a good job of not submitting projects with large PLI claims)

i. Mitigation:

1. Lender should thoroughly analyze the reasons for the PLI claims and the Operator's ability to prevent future large claims
2. Lender should consider increasing the PLI coverage and/or waiting until the Operator has demonstrated a period with fewer claims.

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