

# McKnight's

## LONG-TERM CARE NEWS



**Natural wonder**

The earthy ideals of Dr. Bill Thomas led to the Eden Alternative  
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### Risk management

# Overexposed?

Recent risk management developments have raised the ante for providers. Answers may lie in mastering basic practices

BY JAMES M. BERKLAN

When talk of risk management comes up among long-term care providers, you might as well be discussing juggling oily bowling balls.

The topics are heavy, very slippery and can cause severe damage if mishandled. A provider takes his or her eye off the ball, so to speak, only at his or her own peril.

"It's really a matter of staying on top of things," observes Freda Meyer, formerly the administrator of a 320-bed nursing home in the Atlanta area. "Unfortunately, now providers have got to concentrate on what attorneys are going to concentrate on."

That's because more lawsuits are being filed than in past years, and they're fetching larger awards. An industry-sponsored study last year found that nursing homes were hit with more than three-fourths of the senior care industry's lawsuits. The average total paid by nonprofit skilled nursing facilities was \$102,692 per complaint, while for-profits were nicked for an average \$143,871.

The highest average per-lawsuit totals were for assisted living facilities (\$134,800) on the non-profit side; continuing care retirement community (CCRC) cases (\$194,200) were tops on the for-profit side, according to the study.

Resident falls remained the No. 1 risk management concern by a wide margin over "other improper care" issues, according to data from the study cited above. "Visitor injury"

filled out the top 3 in terms of frequency of allegations, followed by abuse, failure to monitor, unsafe environment and medication error.

"We paid attention to falls, but it wasn't in the forefront like it is now, probably because it didn't hit you financially in the pocketbook as much," said Meyer, now the geriatric care coordinator for Atlanta-based Hurley Elder Care Law.

Prevention wasn't always such a high priority, Meyer added.

"In the past, it was, 'Let's treat the resident and move on,' not figuring out how they won't fall the next time," she observed.

#### Prevent defense

Risk management is a tough game. Broadly defined, it is a facility-wide program aimed at minimizing preventable injuries and accidents — and any claims that may result from them. A good risk management program should improve insurance costs, and vice versa.

"They're going to have to pay at some point, so from a risk management perspective, it makes the most sense to pay up front for prevention," says John Costa, a healthcare lawyer with Heidell, Pittoni, Murphy & Bach, about providers' budget priorities.

"Quantity and quality of staffing at all levels is one of the big-picture issues, especially for inactive patients predisposed to skin breakdown not being moved appropriately," Costa noted. Another concern: Are there enough therapists and wound-care specialists brought in to provide



Photo: Secure Care

### Frequency of injuries/damages

For nearly 3,500 open and closed professional and general liability claims involving nursing homes covered by CNA insurance policies.

Damage	Nonprofits %	For-profits %
Fractures	34	27
Death	22	32
Not otherwise classified	9	7
Bruise/swelling, etc.	4	4
Muscle/ligament injury	3	1
Pressure ulcer	3	6
Laceration	3	3
Pain and suffering	3	2
Loss of limb	2	2
Burn	2	1
Multiple injuries	2	1
Head injury	2	2
Sprain/strain	2	1

Source: CNA HealthPro, American Association of Homes & Services for the Aging, Aon Association Services.  
\*Comparison of claims data in long-term care: January 1996 through March 2005\*

appropriate care?

Costa believes falls, particularly those caused by poor nutrition, need more attention.

"Patients get dizzy and fall, which can result in fractures, which can render the patient bed-ridden, which can lead to pressure ulcers and pneumonia, and so on and so on. A more aggressive approach to nutrition and therapy is needed," he said.

Extra data reporting, which so many complain about, is actually a good thing, according to Kymberlee Keefe, national practice leader for insurer Aon's long-term care practice. It helps facilities benchmark and improve themselves, she said.

"Minimum expectations have risen."

Jason Stevens  
Stanley Senior Technologies

"For many years, the information available to the public was usually pretty dated," Keefe said. "Quality indicator and staffing information are just two pieces of the puzzle, and there are hundreds out there. The sore thumb for many of them is they have a lot of information but have not figured out how to put it all together and correlate the pieces to provide the best care."

"You can't give an administrator 15 different reports and ask them to figure it out all on their own," she added. The answer? Long-term care "has to get on that bandwagon of various e-records. The rest of the industry already has done that." Cost will be a major stumbling block, but conversion to e-records is going to happen, she asserted.

Along those lines, providers need to start automating as many processes as possible, says one 30-year industry veteran. A new, better e-mail system, for example, could be a start.

"Without basic technical investments, caregivers don't have information available to them to promote consistent, leading practices — whether it's therapy, wound care or medication management, which all create risk factors," said Dan Kinsella, vice president of the

National Healthcare Practice for the Revere Group, an IT and business management consulting group.

"The reality is the better approaches to risk management are consistent with larger, more sophisticated organizations. They're better at it just because they have the resources (for IT investment)."

#### Broader focus

Still, providers must not lose sight of

the big picture, stresses Earl Harcrow, a partner with Dallas-based law firm Haynes and Boone LLP.

"I see the myopic view of the folks in the trenches every day," said Harcrow, a regional counselor for Beverly Enterprises.

"They're thinking about, and have been told — and it's true — it's all about charting. (But) they get so technical they forget the bigger view.

They need to manage the expectations of the family and the consumer."

Nurse aides must educate family members about the routines and limits of the facility and caregivers "so they realize there aren't two caregivers for two residents every hour of every day — and there never will be," Harcrow said.

"People expect just as much or more from" a long-term care facility

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## Risk management

as an acute-care facility, and that just can't be done with the way the government looks at reimbursement. That's not being communicated."

Each facility should have a point person, as head of a team addressing risk management, says Jason Stevens, national accounts director for Stanley Senior Technologies.

"It used to be a surveyor would come in and say, 'Wow! They have a wandering system,' and not dive in

much after that," Stevens observed. "Now, they're probably going to dig a little deeper. Certainly minimum expectations have risen."

Stevens encourages full use of testing forms and training aides offered by companies such as his. More providers, perhaps weary of staff turnover rates, are signing up for ongoing maintenance or training contacts, he added.

Continuing vigilance is so vital,

security companies have stretched themselves to new levels. Secure Care Products Inc., for example, has added a "second line of defense" monitor, said Mike McKerley, the firm's national accounts manager.

With Secure Care's PATH system, the resident may go outside, but he or she will set off an alarm when traveling too far from the building.

The bottom line is to have a system in place "that can monitor

## Severity of injuries/damages

(For closed professional and general liability claims involving nursing homes covered by CNA insurance policies)

Nonprofits	
Damage	Ave. total paid
Multiple complications	\$376,903
Burn	\$315,350
Head injury	\$306,909
Stroke	\$275,386
Death	\$200,012
For-profits	
Damage	Ave. total paid
Loss of organ/organ function	\$257,387
Death	\$249,447
Sexual assault	\$240,692
Infection	\$218,141
Skin tear	\$209,646

Source: CNA HealthPro, American Association of Homes & Services for the Aging, Aon Association Services, "Comparison of claims data in long-term care: January 1996 through March 2005"

change or predict complications, which can eliminate risk due to change," said Doug Fullaway, president and COO of Vigilant, another wander monitor maker.

### Policy writers

Insurance price hikes of up to 400% over the last seven years have necessitated creative approaches toward dropping premiums, acknowledged Saye Gbalazeh, ElderCare program director at Lighthouse Underwriters, Annendale, VA.

But special care must be given when attempting to get an arbitration agreement signed because they can be controversial, he said. Some states don't allow them in resident services contracts.

He also emphasized that family members' expectations must be managed so that not too much is anticipated for a frail resident. That's where shared-risk agreements can come into play.

"It's saying to the responsible parties, that, hey, there are inherent risks in what we do," Gbalazeh said.

When you're juggling slippery bowling balls, you can use all the help you can get. ■

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