

# irwin siegel agency

INSURANCE PROGRAMS & RISK MANAGEMENT

Human & Social Services ■ Private Client Group ■ Active Assailant ■ Cyber and D&O

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# Introduction & Objectives

- Dawn Martin - VP of Underwriting
- Brad Storey, MSW – VP of Risk Management
- Objectives:
  - The evolution of sexual abuse liability coverage
  - Factors that are driving the market disruption
  - Developing stability in your insurance program
  - Understanding the core areas of mitigating incidents of sexual abuse

# History of Abuse Coverage

- Insurance policies were silent on abuse coverage
  - General Liability Insurance coverage
  - Policy exclusions
  - Definition of occurrence
- Advent of vicarious liability for entities
  - Criminal responsibility of perpetrators vs vicarious liability of employers
  - Negligent hiring, retention, supervision or investigation
  - Changes to coverage triggers on insurance policies

# Today's Coverage

- What should you look for in abuse coverage for your organization
  - Broad coverage for client to client, staff to client, 3<sup>rd</sup> party to client
  - Limit Structure
  - Look for carriers and specialized Program Administrators with expertise
- Current Market Conditions
  - Shrinking limits or elimination of coverage
  - Carriers exiting certain segments
  - Misunderstanding of changes in legislation

# Today's Issues

- Overall environment (Sandusky, Nassar, Religious Institutions, #MeToo)
- How it impacts your organization
  - Overall shift in view of sexual abuse
- Changing Legislation
  - Extension of Statute of Limitations (State)
  - Revival Windows (State)
  - Safe Sport Act (Federal)

# Moving Into the Future

## *What we are seeing...*

- Limits
  - Availability of excess limits
  - Alternative Program Structures
- Terms & Conditions
  - Retentions and Defense Provisions
- Pricing
  - Hardening of the market
  - Risk Tolerance
- Controlling the Exposure
  - Best way to control pricing is to control losses

# Mitigating Your Exposure

- Best way to manage premium is to manage your risk
- Think in terms of ACCESS, PRIVACY, & CONTROL
- Key elements to abuse mitigation:
  - Company Culture
  - Screening & Selection
  - Policies & Procedures
  - Training
  - Internal Feedback (including consumer participation)
  - Monitoring & Supervision
  - Responding

# Company Culture

- Board Involvement
- Executive Management views
  - Are they clearly communicated to the body of the organization?
- Set clear expectations
  - Through P&P and regular training
- Develop systems of accountability
  - Responding and investigation processes
  - Ongoing and effective supervision and monitoring
- Centralize procedures and standardize operations
  - Should be population and service delivery dependent



# Screening & Selection

- This is the 1<sup>st</sup> line of defense against potential offenders
  - Less than 5% of offenders have criminal records
  - Process presents a zero tolerance policy and identifies high-risk applicants
  - During the interview, ask behaviorally based questions
- A majority of criminal records originate at the county level- this is also where they are the most accurate
  - Best practices: multi-state criminal background checks, national sex offender registry, social security number trace, County criminal records search- this should include all counties the applicant has lived within the last 7-10 years

# Policies & Procedures

- Its important to set the standard
  - Zero tolerance for abuse- the organization must communicate that it takes consumer protection seriously
  - Organizational commitment
  - Provides a bandwidth of acceptable behavior, defining inappropriate and appropriate interactions
  - Exception monitoring

# Policies & Procedures (Cont'd)

- Policies help to reduce privacy with potential victims
- Policies limit the control a potential offender might seek to have
  - Social Media Interactions
  - Supervision Requirements
- Policies should clearly define boundaries
  - Allows for recognition of red flags and helps people feel more confident about reporting
  - Helps to stay within acceptable range to prevent false allegations - also helps to know when a behavior is outside of that range

# Training

- Training provides the following benefits:
  - Teaches staff how to perform their role in abuse risk management
  - Helps to convey the organization's commitment to abuse prevention and safety
  - Teaches the foundational knowledge of:
    - How offenders operate
    - How to recognize high-risk activities and areas
    - How to recognize signs of abuse in victims and how to report suspicious activity
    - How to prevent false allegations

# Training (Cont'd)

- Establish a organizational wide training delivery system
  - Learning Management Systems
  - Safety/QI committees
  - Staff Meetings
- Require specialized training based on different types of positions
  - Direct Care, Supervisory, Administrative
- Schedule routine training that is consistent
  - Ongoing discussion is critical in mitigating “creep”

# Consumer Participation

- Educate both the consumers and parents/guardians
  - Healthy vs. Unhealthy
- Education should be provided in age/developmentally appropriate fashion.
- Parents/guardians and consumers should have information on the organization's policies around abuse prevention
  - Frame satisfaction surveys in a way that solicits information
- Formal system should be in place for parents/guardians and consumers to report concerns

# Monitoring & Supervision

- Proper supervision and monitoring reduces the privacy offenders need
  - A clear structure of supervision for staff should be in place - there is equal risk for both staff and consumers
- A plan should be in place for monitoring of high-risk activities and areas
  - You can likely think of 3 activities and areas in your organization off the top of your head
- Know the difference between who is at risk to be abused and who is at risk to sexually act out
  - Some of those traits...

# Responding

- Responding results in immediate response to red-flag behavior and suspicions of abuse
  - Shows everyone that policy violations are taken seriously
- Develop written response procedures
- Initiate internal and external response communications when necessary
  - Crisis management and handling the media
- Take all reports seriously, respond immediately and appropriately



# Financial Impact

- Claims
  - Knowledge of the industry and population is critical in a properly managed abuse claim
- Average Cost
  - Will always be dependent on circumstances
  - Vulnerable adult 2010-2015 (\$205,000)
  - Vulnerable Adult 2016-Current (\$300,000)
- Reputational Risk
  - Loss of goodwill in the community
  - Can be extremely detrimental when in a competitive environment.

# Conclusion

- Overall market conditions are changing, but not all is lost!
- Risk Management and Claims expertise are important now, more than ever
- Know your insurance partners and what they know about your industry

# Questions



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