

DEVELOPING AN EFFECTIVE LOSS
CONTROL PROGRAM

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I. BASICS OF WORKERS COMPENSATION

A. EMPLOYER/EMPLOYEE RELATIONSHIP

The basis of workers compensation law is that the employee does not have to sue to receive benefits, thus a no fault system. Since state laws and statutes cover workers compensation, so it is imperative that companies develop proactive strategies when dealing with claims to reduce their frequency and severity.

Since benefits are provided regardless of contributory negligence, the employee's assumption of risk and even negligent acts from fellow employees, an effective loss control program is the best defense a company has in controlling these expenses.

There is a strong sense of entitlement in our society today and we frequently see workers with questionable injuries take an inordinate amount of time to recover and return to full duty. We will discuss controls and responses in this presentation to impact workers compensation claims.

B. CLAIMS MANAGEMENT AND COST CONTAINMENT

Even though the industry is enjoying record high occupancy and ADR, rising insurance costs – due to increased property premiums – and rising property taxes are constantly eroding these gains. As good managers, it is incumbent upon us to control expenses and labor costs are a main line item on any P&L.

The basic principles of proactive claims management include:

- Employee communication programs to ensure associates are aware of their rights and responsibilities.
- Management training to ensure all managers are aware of their responsibilities in providing a safe work environment and the resources available to them.
- The role of the insurance broker in achieving the property's loss control goals.
- Selecting vendors such as defense attorneys and primary care clinics to assist the hotel manage its claims management program.
- Develop safety programs and policies so they may be consistently administered throughout the organization.

Post-injury claims management requirements are:

- Thorough accident investigation to determine the root cause and develop effective mitigation.
- Prompt reporting to the insurance carrier to begin the claims management process.
- Effective communication among all affected parties to ensure the injured employee's prompt return to work.
- Development and use of transitional work for an injured employee to assist their return to full duty.
- Conduct frequent claims reviews to monitor open claims, identify accident trends, and develop loss control programs.

C. RESPONSIBILITIES OF INVOLVED PARTIES

Employer responsibilities consist of:

- Reporting claims in a timely manner (goal: 90%+ within 0-4 days)
- Investigate all accidents thoroughly and determine a root cause.
- Develop effective hazard controls at the properties.
- Hold employees accountable for their safety.
- Provide medical care to injured employees.
- Provide transitional or light duty to injured employees.
- Provide a safe working environment.
- Monitor workers compensation claims to control costs and ensure workers are treated properly.

The employee's responsibilities are:

- Perform all job functions safely.
- Report any unsafe acts or conditions promptly.
- Report injuries in a timely manner
- Understand transitional duty.
- Continue medical care after returning to work, if necessary.

D. OTHER KEY PLAYERS IN MANAGING COMP COSTS

Insurance Carrier Underwriter

- Responsible for evaluating business, assigning risk, determining premiums.
- Directs the activities of carrier loss prevention consultants.

Insurance Carrier Loss Prevention Consultants

- Perform site inspections, root cause analysis, and other tasks as requested by the Underwriter.
- Provides loss control support and training to customers.

Insurance Carrier Claims Managers

- Handles customer's claims processing.
- Assists with fraud investigations.
- Assists in return to work programs.
- Advises on complex workers compensation legal issues.

Insurance Broker

- Hired by client to market their insurance portfolio to various carriers.
- Provides loss control expertise to clients as requested.

E. FINANCIAL IMPACT OF A LOSS

Direct Costs

- Cost of insurance premiums
- Damage to hotel property, vehicles, etc.
- Medical Expenses

Indirect Costs

- Management time to investigate the accident, complete required reports, effect repairs, manage employee care, adjust workers' schedules, etc.
- The costs to recruit, hire, and train new employees.
- Loss of quality and quantity while new employees are being trained.
- Morale issues with a serious accident.
- Overtime expenses.
- May be 4-10 times direct costs.

II. SILVER BULLETS

There are certain key components of a loss control program that are very important to carriers as well as the success of the program.

A. RISK MANAGER

Carriers like to see a corporate representative who is responsible for the company's loss control program. This might be an additional responsibility for this manager but designating one "go to" person on staff reaffirms the company's commitment to loss control.

B. ACCOUNTABILITY

The effectiveness of a loss control program is gauged by the amount of accountability thrust upon employees at every level. Key questions to answer:

- Is part of the managers' bonus tied to loss control goals?
- Are workers written up for violating safety rules?

C. SAFETY CULTURE

Although this is somewhat an intangible concept, carriers are looking for a commitment to safety with a culture that permeates an organization. Carriers will look for:

- A written safety program.
- Evidence that employees are disciplined for violation of safety rules.
- Employees are adequately trained in their jobs.
- Employees are able and unafraid to report hazards.
- Safety is an integral part of all jobs.

D. SAFETY COMMITTEE

The safety committee can be a major resource to a property manager, providing extra eyes and ears. The committee's responsibilities are:

- Demonstrate management's care and concern for the employees.
- Promote a safe work environment.
- Reduce employee and guests accidents.
- Investigates accidents and near misses.
- Tour the property monthly and note hazards.

Membership consists of:

- Representatives from all departments and all levels of employees.

- A mix of managers and line employees.
- Members have back-ups and serve for one year in staggered terms.

E. RETURN TO WORK

The goals of this program are:

- Reduce recruiting, hiring, and training expenses.
- Reduce management workload.
- Increase quality, productivity.
- Reduce the cost of insurance.

F. OSHA COMPLIANCE TRAINING

Mandated OSHA training for all new employees consists of:

- Hazardous Materials handling
- Bloodborne Pathogens
- Electrical Safety
- Safe Lifting
- Emergency Procedures

Annual refresher training is required for:

- Bloodborne Pathogens
- Emergency Procedures

III. GUEST INJURIES

A. LOSS ANALYSIS

Slips and falls are the most frequent (38% of all accidents) and cause the most dollar losses (37% of total costs) at hotels. Struck by/against claims are responsible for 15% of all accidents and 11% of all costs. Assault/rape claims are 1% of all accidents, 11% of total costs, and 90%+ of all bad publicity. Pool area accidents are 1% and 4% of total costs.

B. CASE STUDIES

Two serious incidents will be discussed.

C. PROPERTY SELF PROTECTION

Protect yourself against guest claims by:

- Providing immediate assistance and medical aid
- Showing care and concern
- If appropriate, offering complimentary stays, meals, etc.
- Repairing the hazard immediately.
- Not admitting liability.
- Offer only facts, no opinions, speculation.

JIM STOVER

Jim Stover is the head of Loss Control for AJ Gallagher's hospitality portfolio. In this position, he is responsible for the safety and security services offered to hospitality companies throughout North America.

Prior to this, Stover was the Hospitality Service Director for Wausau Insurance Company's Hospitality Portfolio. In that role, he provided loss prevention services for Wausau's major hotel clients, conducted numerous training seminars, and edited the HOST quarterly hospitality newsletter.

Before joining Wausau, he was President of Hospitality Risk Services, a leading provider of safety and security services. Stover, a recognized safety and security expert, focused on small to moderate size companies in need of his expertise and assisted them in the development and administration of their risk management and loss prevention programs.

For ten years prior to operating his own company, Stover was the Corporate Director of Safety & Security for Bristol Hotels & Resorts, a publicly traded company that was one of the largest operators of hotels in North America. Stover was responsible for the safety and security support for 125 hotels in North America, which included such diverse tasks as risk management, litigation support, expert witness testimony, and conducting major investigations.

Stover's professional affiliations include:

Chairman and Current Member, Loss Prevention Committee, American Hotel & Lodging Association

Chairman, Lodging Committee, American Society for Industrial Security

Consultant, American Hotel & Lodging Association to NFPA 731 Technical Committee

Certified Lodging Security Director (Number 0016), The Educational Institute

Stover edits a hospitality newsletter for Gallagher's Hospitality niche and has authored numerous articles for such publications as:

Security Management Magazine

Loss Prevention Bulletin

Security Business Practices Reference, Volume III, American Society for Industrial Security

The Compass, Fall 2004; Vol. 4, No. 2; American Society of Safety Engineers

A well-respected lecturer, he has presented to such diverse groups as:

Tourism Safety and Security Conference, Las Vegas Metropolitan Police Department

Hospitality Loss Prevention Seminars sponsored by the American Hotel & Lodging Association's Loss Prevention Committee

New York State Hospitality & Tourism Association Annual Conference

University of Houston Hospitality Law Conference

Hotel Electronic Distribution Network Association

American Society for Industrial Security

International Hotel & Restaurant Association

5th Annual Hospitality Law Conference
Presents

Developing an Effective Loss Control Program

Presented by:
Jim Stover



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- Vice President of Hospitality Loss Control for Arthur J. Gallagher
- He is responsible for the safety and security services offered to hospitality companies throughout North America
- He has provided loss prevention services for major hotel clients, conducted numerous training seminars, and edited the HOST quarterly hospitality newsletter
- Jim has provided litigation support, expert witness testimony, and conducting major investigations regarding loss prevention and risk management

DEVELOPING AN EFFECTIVE LOSS CONTROL PROGRAM

Loss Control at the Hotel

- Basics of Workers' Compensation
- Current Industry Challenges/Trends
- Claims Management and Cost Containment Principles
- Responsibilities of Involved Parties
- Financial Impact of a Loss

Basic Workers' Compensation

- Employee/Employer Relationship
 - Employee does not have to sue to receive benefits/no fault system
 - Benefits are provided regardless of:
 - Employees' contributory negligence
 - Employees' assumption of risk
 - negligent acts from a fellow employee

Claims Management and Cost Containment

- Proactive Claims Management
 - Pre-Injury
 - Employee Communication
 - Management Training
 - Broker Utilization
 - Vendor Coordination Selection (Clinics, Attorneys)
 - Program, Policy and Best Practices Development

Note: Attorney Involvement Increases Claims 12-15%

Claims Management and Cost Containment

- Post-Injury
 - Prompt Reporting
 - Accident Investigation
 - Communication
 - Transitional Work
 - Claims Reviews

Responsibilities of Involved Parties



Employer Responsibilities

- Timely Reporting
- Investigate/Correct/Accountability
- Provide Medical Care
- Keeping in Touch with Employee, Transitional Work
- Provide a Safe Place to Work
- Monitor Claims

Employee Responsibilities

- Work Safely/Awareness
- Report Injuries on a Timely Basis
- Understand Transitional Duty Benefits
- Continue Medical Care After Returning to Work

FRAUDULENT CLAIMS

Anyone ever have one?

FRAUDULENT CLAIMS

- Red Flags
 - Was the accident observed?
 - When did it happen? Monday morning the most suspicious.
 - Is the employee enrolled in the company health insurance program?
 - Was the employee recently disciplined?
 - Were layoffs announced?
- What can I do?

Key Players

- Carrier Claims Managers
 - Assist in legitimate claims management
 - Report fraud suspicions to them, they can direct surveillance.

Other Key Players

- Underwriters
 - Evaluate risk
 - Assign rates
 - Direct activities of their loss control consultants
 - Responsible for writing new business, flushing out bad risks, reducing losses. Goal: Loss Ratios around 30% for “raw” losses

Still More Key Players

- Carrier Loss Control
 - Treat as honored guest
 - What are they looking for?
 - Physical Hazards
 - Program Weaknesses
 - How to hide the junk room
- Broker

Cost of Accidents



Financial Impact of a Loss

- Direct Costs
 - Insurance
 - Damage
 - Easy to measure
- Indirect Cost
 - Time to investigate, report, repair, etc.
 - Equipment Costs
 - Labor
 - Training
 - Difficult to measure properly
 - 4-10 times direct costs

SILVER BULLETS

- ❖ RISK MANAGER
- ❖ ACCOUNTABILITY
- ❖ SAFETY CULTURE
- ❖ EFFECTIVE SAFETY COMMITTEE
- ❖ RETURN TO WORK PROGRAM
- ❖ OSHA COMPLIANCE TRAINING

RISK MANAGER

- Who is it?
- What do they do?
- Why do we need one?

ACCOUNTABILITY

- Must be tied to finances
- Take to lowest level

SAFETY CULTURE

- Written program
- Disciplinary action

SAFETY COMMITTEE **Why Bother?**

- Extra Eyes and Ears for Management
- Demonstrate Care and Concern for Employees
- Promote Safe Work Environment
- Reduce Employee, Guest Accidents

MEMBERSHIP

- The Committee should be comprised of members representing all levels of employees and all major departments.
- Even mix of managers and line employees.
- Each member should have a back-up representative.
- Members should serve on the committee for one year.

Accident Investigation

- Near-misses and accidents are investigated to prevent them from reoccurring.
- The Committee gather information about existing and potential hazards and mitigate them.



SAFETY INSPECTIONS

- Members tour the property and note hazards.
- Areas requiring action should be noted and discussed at the meeting.
- The committee should also review the prior month's Safety Inspection results for any items needing follow-up.
- A plan should be identified to address and correct problem areas.
- Items needing further work should be assigned a deadline, addressed by the appropriate manager, and reviewed during the next month's tour.

MINUTES

- One member designated record keeper with the following responsibilities:

*Post the minutes and safety inspection results on employee bulletin board.

*Develop agenda for upcoming meetings.

SAFETY COMMITTEE SUMMARY

- **MUST HAVE TOP-DOWN INTEREST AND SUPPORT**
- **EMPOWERED**
- **INDEPENDENT**
- **PRESTIGIOUS**

RETURN TO WORK GOALS

- Reduce recruiting, hiring, training expenses
- Retain experienced workers
- Maintain quality standards
- Reduce cost of insurance

COMMON EXCUSES

- We don't have any light duty
- Favoritism
- What if their condition worsens?
- Union issues.
- Costs.

OSHA COMPLIANCE TRAINING

- Bloodborne Pathogen
- Hazardous Materials
- Electrical Safety
- Safe Lifting
- Emergency Procedures

PERILS AT THE PROPERTY

OR, HOW WE MAIM, INJURE, AND KILL OUR GUESTS AND HOW TO PREVENT IT.

LOSS SOURCE ANALYSIS (You Gotta Love Those Insurance Companies)

- Slips and Falls
 - 38% of all accidents
 - 37% of total costs
- Struck By/Against
 - 15% of all accidents
 - 11% of total costs

MORE LOSS ANALYSIS

- Assault/Rape
 - 1% of all accidents
 - 11% of total costs
- Swimming Pool Area
 - 1% of all accidents
 - 4% of total costs

RAPE

A female guest of a large downtown hotel opened the door of her hotel room to discover a man standing there who forced his way into the room. The noise is reported by other guests to the operator. Two security officers respond, one of them is an unarmed auxiliary police officer from another jurisdiction.

Following SOP, they try to determine which room the noise is coming from when they hear a voice from within one of the guestrooms say "please don't kill me". Again, following SOP, they move down the hallway to radio for the police to respond, then take up positions to watch the room.

RAPE - CONTINUED

- The assailant bolts from the room and runs down the stairwell. He is chased by security and then captured by police officers at the street level.
- The victim alleges that the assault could have been lessened if the security officers had intervened, but common police/security tactics are not to intervene when a hostage-like scenario exists.
- The victim was pregnant, the assailant HIV positive.
- How do you feel this incident was handled?

DEAD DRUNKEN GUEST

- 5 star property, long-term guest.
- Female guest drinking in hotel bar, strikes up conversation with another patron. They close down the bar, the lady cannot find her key nor can she walk. The man volunteers his room.
- Security wheels her to the man's room in a wheelchair.

DEAD DRUNK

- 3 AM, the man places a call to PBX, states the lady is not breathing.
- Security rushes to her aid, performs CPR, uses AED.
- Too late, the lady has done a Jimmi Hendrix.
- Comments? Liability? Concerns?

NEGLIGENCE

- ON NOTICE
- FORSEEABLE
- NEGLIGENT

PROPERTY SELF PROTECTION

- DO Provide immediate assistance, medical aid
- DO Show care and concern
- DO, If appropriate, consider comps
- DO Effect immediate repairs
- DO NOT Admit liability
- DO NOT Speculate

NOW WE'VE PROTECTED
THE GUESTS, HOW ABOUT
US?

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