



Healthcare | Aging Services

CNA: A Trusted Partner in a Changing Insurance Marketplace



Blaine Thomas is the Vice President, Industry Leader for the Aging Services sub-segment of CNA Healthcare, the largest provider of insurance products and services to the aging services industry. CNA Healthcare has over 50 years of experience and maintains a commitment to the aging services industry.

No area of the country is impervious to the increased frequency and severity of professional liability claims asserted against aging services facilities, or the rising costs associated with resolution. A look at CNA claims experience over a six year period underscores the significance of these alarming trends:

- Claims in some sectors of the aging services industry have doubled.
- The average indemnity payment has increased by 60 percent.
- Claim outcomes are similar across the country and at all levels of aging services, resulting in minimal differentiation between not-for-profit and for-profit facilities, as well as among setting types, i.e., skilled nursing care, assisted living and independent living.

Double digit increases in claim costs have compounded over multiple years, leaving previously “conservative” venues vulnerable to the negative effects of the upward trajectory. With no relief in sight, aging services providers must ready themselves for the financial realities of a new marketplace.

A changing market calls for action

Some insurance companies have consolidated in response to the current climate, while others have exited the marketplace. These changes have led to a market shift, characterized by a high demand for coverage, a reduced product supply and the imposition of stricter underwriting standards.

By way of analogy, the marketplace is now in a “winter” season, a time when resources and partnerships are tested. Only the most resilient and responsible of insurance companies will endure until the “spring” to confront an evolving landscape. For those companies that do persevere, a pricing action is imperative in order to remain in the market in the face of unprecedented loss-cost inflation.

CNA remains a committed partner

I am Blaine Thomas, Industry Leader of the CNA Healthcare Aging Services sub-segment, and I’m proud to say that CNA is one of a limited number of insurance companies working diligently and purposefully to withstand the current winter market. The CNA team – comprising claim, risk control, actuarial and underwriting professionals – focuses exclusively on the aging services market. With an extraordinary depth of knowledge and niche expertise, we maintain our commitment to this unique industry, offering a portfolio of insurance coverages, including:

- professional and general liability
- property
- automobile
- excess and umbrella products

At a time of market uncertainty, aligning with an insurance partner that has demonstrated stability under challenging market conditions is critical. CNA is that partner. Although lower-cost insurance companies or risk retention group models may be tempting, weak or substandard coverage terms come at a risk. Some organizations have learned the difficult lesson after receiving a non-renewal notice or moving coverage, only to encounter double or triple the costs to secure an extended reporting period. An even riskier decision in this market is to forego insurance coverage, as plaintiff attorneys can and will seek to collect adverse judgments from any available assets.

An industry under scrutiny

The increase in claim frequency and severity is due, in part, to societal misconceptions that aging services providers do not adhere to the standard of care consumers expect. At CNA, we recognize that this belief has adversely affected professional liability claim adjudication, changing how some juries seek to reimburse those they view as harmed by substandard care.

A number of factors have converged in the aging services industry to create an adverse litigation climate and persistent negative image, including, but not limited to, the following:

- **Plaintiff attorney specialization.** Nationwide educational seminars that capitalize on a growing distrust of aging services providers are designed for legal practitioners to share information and strategies, while honing successful litigation tactics. As a result, attorneys are bringing a high level of expertise to claim prosecution and negotiations.
- **A perception that profits matter more than residents.** By highlighting an organization's profit motivation, staffing deficiencies and/or quality challenges in litigation, plaintiff attorneys seek to influence jurors by focusing on the conduct of the organization, rather than the circumstances surrounding the resident's injury. In some cases, the strategy results in excessive damage awards.
- **Aggressive litigation tactics.** Using the "Reptile Theory" in litigation, plaintiff attorneys appeal to jurors' basic survival instinct, persuading them to make decisions based upon fear, rather than logic and reason. When employed effectively, the strategy motivates jurors to protect individuals from harm, often leading to high damage awards against organizations perceived to be a danger to residents and the greater community.
- **Negative media coverage.** Aging services organizations are often in the headlines for lawsuits and negative events. In the absence of an effective crisis management strategy, facilities lose the ability to control public perception, further eroding their credibility and reputation.

The ongoing importance of risk mitigation

CNA has remained focused on delivering risk control services to minimize primary loss drivers. The following principles of risk management can help aging services providers mitigate potential risk exposures:

- **Delineate expectations.** Failure to understand and manage resident/family expectations is a common source of conflict and potential litigation. To help ensure resident placements are

suitable and care expectations are mutually agreed upon, thoroughly delineate service capabilities and limitations for prospective residents and families.

- **Prioritize fall-related risks.** Approximately 45 percent of CNA's aging services claim dollars are the result of fall-related litigation. Elimination of falls is impractical, but exposures can be mitigated through candid discussions with high risk residents and families about safety initiatives provided by staff, as well as fall-reduction measures expected of residents and families.
- **Foster resident and family trust.** A trusting relationship requires ongoing communication and a commitment to transparency in every interaction – not solely following untoward events. At the outset of care, delineate facility capabilities and realistic service goals for residents and families, and reinforce progress and expectations through ongoing discussions. In addition, offer a forum for families and residents to ask questions and discuss their concerns, thereby helping to resolve minor annoyances and minimize potential sources of dissatisfaction.
- **Address staff turnover.** An unstable workforce often results in recurrent staff turnover and can undermine resident/family trust. Organizations should focus on hiring the appropriate mix of staff members and provide them with ample orientation and training, in order to avoid a chronic cycle of relationship building and the resulting dissatisfaction.
- **Train leaders.** Creative and engaged leaders are transforming the institutional facilities of yesteryear into progressive organizations of choice. Training and development opportunities should focus on quality improvement, resident satisfaction management, relationship-building skills, systems thinking and fiscal and human resources management.
- **Empower staff.** The provision of safe, high quality resident care requires a knowledgeable, empowered and well-integrated staff. Proper onboarding and orientation that emphasizes interactive, long-term learning can create a solid foundation for employee relations and help ensure a more loyal, dedicated and stable workforce.

At a time of significant market turmoil and change, CNA Healthcare remains committed to the aging services industry. We proudly partner with our customers to address coverage needs, mitigate risk exposures and strengthen their defense posture in the event of litigation.

For more information, please call us at 866-262-0540 or visit www.cna.com/healthcare