



MMMJUA Newsletter

Volume 2, Issue 1

October 2006

www.mmmjua.com

News and Updates

With the second anniversary of operation of the MMMJUA now past, we thought it prudent to provide our policy holders and agents with an update. The JUA updated its "Underwriting and Operations" manual with form, rule, and rate changes that were filed and approved by the Missouri Department of Insurance effective July 1, 2006. Physician and allied health rates increased 15 percent on average, long-term care facility rate increases averaged 25 percent, and hospital and outpatient facility rates increased approximately 5 percent.

Along with the base rate changes, several changes and updates were made to the schedule rating schedules and to the general liability rating for facilities. Many of the schedule rating changes specifically relate to controls that we believe should be present in long-term care facilities, and also are directly tied to deficiencies as identified by the state of Missouri in its inspection reports. As part of this update, several of the application forms were updated. All of the current applications and the updated version of the "Operations and Rating" manual are available on the Web site at www.MMMJUA.com.

The JUA has also expanded its efforts toward providing risk management assistance to facilities through on-site inspections and follow-on reports and recommendations. We will shortly be launching a self-assessment form that will initially be distributed to selected facilities for completion and comment. It is our goal to identify areas where the JUA may be able to assist its insureds with development of risk management policies, procedures, and tools for proper file documentation. We appreciate the cooperation of our clients and agents in scheduling onsite visits, completing and returning self-assessment forms, and responding to resultant recommendations. Remember, we want to help you reduce your exposure to loss, which can in turn result in more favorable state inspections and more affordable premiums.

If at any time you have questions or comments with respect to the MMMJUA program, please feel free to call, fax, or e-mail us. Our contact information can be found on the last page of this newsletter, and is also available to you on the Web site.

Reporting an Incident, Claim or Lawsuit

This article is intended to serve as a reminder of the process to report an incident, claim, or lawsuit to your insurer, the Missouri Medical Malpractice Joint Underwriting Association (MMMJUA). Should you become aware of any medical incident with the potential to lead to a claim, we ask that a claims report form be completed immediately and forwarded to the MMMJUA office at:

Missouri Medical Malpractice Joint Underwriting Association

P.O. Box 410212
Kansas City, MO 64121-0212
Telephone: 1-866-586-1693
FAX: 1-866-258-4892

Claims report forms may be found on the MMMJUA's Web site at <http://www.mmmjua.com> or by calling the MMMJUA at 1-800-806-7015. Copies of all suit papers, demand letters, requests for records, or other related claims information should immediately be forwarded to the MMMJUA. A complete copy of the medical record, as well as any incident report generated in connection with the case, are also required.

Please remember that timely reporting of an incident, claim, or lawsuit is extremely important for a number of reasons. First, prompt reporting enables our claims representatives to quickly become engaged in the situation, provide you with valuable direction, and gather details through an investigation. This process is most beneficial to insureds if conducted while the facts are still fresh so that details helpful to your case can be brought to light quickly. Second, timely reporting allows you, the insured, to fulfill your reporting responsibility as stipulated in your insurance policy, thus triggering your coverage.

Whereas claims and lawsuits are generally straightforward, we are often asked for clarification of circumstances that constitute a "reportable incident." An incident is an event or series of events that are unintended and unanticipated. The list below incorporates examples of incident outcomes and/or events reportable to the MMMJUA.



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Please note that this list includes incidents applicable to insureds in acute, ambulatory, or long-term care settings:

1. Brain damage or significant neurological injury, i.e., paralysis, paraplegia, quadriplegia, other spinal cord injury, or serious nerve injury.
2. Birth-related injury to baby, including brain damage, neurological deficits, APGAR score of 3 or below at 5 minutes, Erb's palsy, shoulder dystocia, or cord pH of less than 7.0.
3. Unexpected death, including suicide.
4. Limitation to sensory organ (total or partial loss of sight or hearing).
5. Serious injury to reproductive organ, including loss of fertility.
6. Amputation, or total or partial loss of limb or use of limb.
7. Severe burns i.e., radiation, chemical, electric, or thermal.
8. Procedure performed on wrong patient or on wrong body part.
9. Significant medication errors leading to permanent injury.
10. Anesthesia related events resulting in permanent injury.
11. Any other serious injury not listed above, such as substantial disability, significant limitation on activities of daily living, or significant disfigurement.
12. Elopement from long-term care facility.
13. Abuse, neglect, or harm to a resident.
14. Decubitus ulcers not controlled and/or leading to complications.
15. Any condition that required the transfer of a resident to a unit providing a more intensive level of care (within or outside the facility) due to the adverse event, but NOT due to the resident's condition prior to the adverse incident.
16. Event reported to law enforcement agency.
17. Event leading to news media involvement.

Please call us should you have any questions about the reporting process or reportable incidents.

Crisis Management—Is Your Facility Prepared for the Worst?

The following scenario has become all too familiar in today's health care environment:

*Something has gone terribly wrong in your facility!
The press is pounding at your door!
The community is demanding answers!
Your staff is stressed to the "max"!
Plaintiff counsel is hovering!
Your organization's reputation and its very existence are in peril!*

With little warning, you have been thrust into the spotlight. You have to act fast, and you sense that your actions will have major ramifications. What will you do? How will you respond?

The ability to deal effectively with a crisis is essential for all acute- and long-term care facility leaders. It is not unusual for a facility to fail to recognize the "red flags" that emerge when a crisis is imminent. The absence of policies and procedures to effectively mitigate the crisis and minimize its effects may result in the worsening of an already bad situation.

There are numerous causation factors which can thrust health care organizations into the throes of a crisis. Some of the more common ones are:

- serious revenue reduction/financial disarray;
- accreditation problems;
- staff morale issues;
- clinician diversion to other facilities;
- medical malpractice liability/claims increases;
- difficulty in obtaining the appropriate medical malpractice insurance;
- licensure issues, investigation, and/or revocation;
- suspicious deaths;
- criminal investigations; and
- closure of clinical services.

Any of these factors may result in the media knocking at your door and damage to your reputation and brand.



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Proactive Planning Can Help

A crisis can seriously affect your facility, largely because of its unpredictability. The prudent proactive organization will create a comprehensive crisis management plan—a consistent template for directing the organization during such times. The plan should facilitate rapid, directed, and effective response to sensitive situations and unwanted media attention.

When a crisis strikes, a number of difficult questions must be addressed by senior executives, such as:

- How is the incident affecting my acute- or long-term care organization?
- Is this incident a serious threat to the survival of my facility?
- What short-term and long-term steps need to be taken to mitigate the crisis and lessen its effects?

As with virtually every other aspect of health care risk management, the answers to these questions essentially depend on how comprehensive the preparation for a crisis has been. An organization with a well-developed and thoroughly tested crisis readiness program can effectively mitigate the crisis and lessen the damage to its organization's reputation and brand. For organizations that are not fully prepared, the impact could be devastating.

The manner in which your facility reacts to and addresses a crisis has the potential to influence public perception for years. A strong reputation is essential for an organization to not only survive, but to prosper. If deemed undesirable by patients and/or medical professionals, it is only a matter of time before a facility closes its doors entirely or discontinues certain clinical services. This is particularly true in today's competitive environment. People choose their health care providers on the basis of trust. If this trust is diminished, organizational viability may be jeopardized.

While virtually all organizations have emergency response plans or risk management plans to help manage critical events, the best prepared organizations have two additional components to their crisis management programs: a strategic communications plan and an early-warning system(s). Both are critical

for health care providers with high visibility and a heavy reliance on public perception.

Strategic communications is the ongoing dialogue an organization has with its stakeholders before, during, and after a crisis. In the course developing a strategic communications plan an organization identifies its stakeholders—such as patients, families, community entities, board of directors, government officials, shareholders, and the media—and outlines the steps to take and messages to be delivered. For health care facilities, effective interaction with stakeholders—especially the media—is crucial, but can be intimidating. Thus, it is vital to develop an integrated and effective plan for communicating quickly and accurately with the media and other internal and external stakeholders in a manner viewed as transparent, honest, and open. See the *Ten Commandments of Working With the Media* in Table A.

An early-warning system establishes a formalized structure of checks and balances for rapid recognition of a crisis, identifying issues before they become problems, and taking action before events escalate further and panic ensues.

Including these two components in your crisis management plan—along with periodic testing—can increase your ability to respond to a crisis and minimize damage.

Conclusion

A comprehensive crisis readiness program needs to go far beyond preparing to put out fires, recover from floods, or surviving a power outage. Knowing how to protect your brand and reputation and how to maintain the commitment and confidence of staff, patients, and other stakeholders is now considered essential for organizations seeking to prevent and survive crises.

It is vital to recognize that when it comes to crisis, it is not a matter of “if”, it is a matter of “when”. Organizational “best practice” is the establishment of a crisis management plan to effectively guide you.

In short, it pays to have a plan!



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TABLE A

Ten Commandments of Working With the Media

1. Be open and cooperative with the media.
2. Personalize the issue; personalize the [spell term out] (HCO).
3. Develop media contacts before a crisis; know their style.
4. Take “good” stories to the media before a “bad” one erupts.
5. Respond quickly, recognizing confidentiality and other requirements such as HIPAA.
6. “No comment” is never an acceptable response.
7. It is OK to say “I don’t know, but we are reviewing that information and will get back to you shortly.”
8. Use a public relations officer for all media contact.
9. Keep all responses simple; avoid medical jargon.
10. Prepare and prepare again; it is best not to practice in front of a real camera.

The information contained in this publication is based on sources we believe reliable, but we do not guarantee its accuracy. This information provides only a general overview of subjects covered; is not intended to be taken as advice regarding any individual situation or as legal, tax, or accounting advice; and should not be relied upon as such. Recipients of this publication should consult their own insurance, legal, and other advisors regarding specific coverage and other issues.

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Question? Comments? Concerns?

The Missouri Medical Malpractice Joint Underwriting Association (MMMJUA) welcomes your comments, feedback, and thoughts. Please contact us with requests for future article topics or general information about the MMMJUA program. Or please visit our web page at mmmjua.com for additional information.

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