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The State of the Senior Care Insurance Market: A Conversation with AmWINS Healthcare's Mike Walton

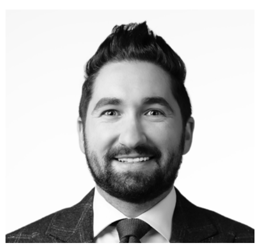
By Jason Zuccari, Vice President of Business Development, Hamilton Insurance Agency

Mike Walton

It should come as no surprise that 2020 was hard on the senior care insurance market. But before COVID-19 hit, the General and Professional Liability (GL/PL) sector was already facing a gradually hardening market after soft cycling over the last decade. Declining markets and an inability of carriers to maintain profitability spurred the downward trend, fueled by increased litigation. Additionally, adverse claim development has sent rates and deductibles through the roof.

Add the coronavirus to the mix, and you have a recipe for grim uncertainty. Despite knowing that GL/PL carriers have COVID-related claims in hand, their true liability is yet to be determined. As a member of NIC Future Leaders Council and Vice President of Hamilton Insurance Agency, one of the nation's largest independent brokerage firms specializing in senior housing and long-term care facilities, I have had a front row seat to the changing tide. To discuss the forces driving these trends upward, I sat down with Mike Walton, President of AmWINS Healthcare. AmWINS Group is the largest specialty insurance wholesale insurance brokerage firm in the U.S.

Zuccari: To what do you attribute rising rates in the long-term care insurance market?



Jason Zuccari

Walton: Litigation against nursing properties continues to increase year after year. Over the past 10 years, the frequency of claims has increased nationally by approximately 40 percent per 100 occupied skilled nursing beds. Recent studies projected a 0.4 percent increase in frequency on an annual basis. However, these projections were based on data that does not consider the effect of the COVID-19 pandemic. As such, actual claims experience in 2020 and 2021 may be much greater. In addition to frequency of claims, increased severity is also a significant concern. The average professional liability claim nationally is just under $228,000 and trending at an increase of approximately 2.7 percent per year. In many venues, the frequency and severity of claims are much greater than the national averages. In addition to adverse litigation trends, another contributing factor to the hardening market is that there are far fewer commercial insurance markets underwriting long term care liability risk than we had several years ago. In just the past few years, we have seen at least 15 insurance companies exit the senior care liability marketplace. The remaining markets are far more selective as to which facilities they are willing to insure and require higher premiums and/or deductibles to meet their obligations to pay claims and meet financial objectives. Depending on the litigation trends in certain regions of the country, the number of markets willing to underwrite senior care properties may drop by more than two-thirds.

Zuccari: In this new climate, how much scrutiny on facilities can operators expect from underwriters?

Walton: With a wave of acquisitions in the senior care industry, underwriters are scrutinizing buyers with great care. They are also looking at the buildings and operations being purchased as new buyers can't make quality and risk improvements overnight.

Litigation trends of the venue, claims associated with the building, existing quality and clinical issues, staffing considerations, and other existing risk factors are significant considerations during the underwriting process. Buyers should be proactive with their due diligence in understanding the liability risk associated with the seller's operations and how it may impact their cost of funding liability risk. Often, distressed operations are the most attractive for acquisition. While the location of a building and past ownership are not modifiable, buyers should identify operational concerns with respect to liability exposures and develop business plans with quality and risk management objectives that will be initiated immediately to improve liability risk and avoid claims. These objectives and plans should be presented to prospective insurance providers in a fashion that will impact the underwriting process to the advantage of the buyer. It is especially beneficial for buyers to work with insurance representatives that can help evaluate the risk pre acquisition, provide the tools and services needed to improve risk post acquisition, and effectively advocate and influence insurance providers in the underwriting process.

Zuccari: What are other benefits of enlisting an experienced broker, to be a middle-man between operators and underwriters?

Walton: The role of a broker, beyond placing business, includes claims advocacy and claims management. It comes down to understanding and communication. We often receive loss runs that provide no detail as to the cause and circumstances of the claim. For example, a claim description often states something as simple as "medical incident" or "negligent care"–one reserve for the same description may be for $3,000, and then another $100,000. Why the disparity? What does the claims adjuster know that is not on the loss run? A broker should be on top of that, corresponding directly with a claims adjuster to determine the difference between the two disparate reserves. It is critical that the client knows what is happening with each claim and be given the opportunity to participate in providing information that may be critical in mitigating the outcome of defending or settling a claim. Risk assessment, risk management, and claims advocacy are among the services a valued insurance representative/broker should bring to their client.

Zuccari: What can existing operators do to stay ahead of the curve?

Walton: If they're able to understand the details of what goes into a star ratings and what information provided to CMS affects those ratings, they can anticipate and proactively address any concerns underwriters may have regarding such ratings. We, along with some of the better underwriters in the industry, do not rely on the CMS star system to evaluate a facility. It is, in the opinion of many, a very flawed assessment tool. There are analytic tools that can accurately assess a facility's quality and associated liability risk. We can provide our retail partners with these analytic tools, and provide operators with the information they must have to understand how underwriters view their facility and enable them to address any negative views. Further, these same tools can be used to improve quality and risk, avoid fines and penalties, and maximize reimbursement.

Zuccari: How can operators structure insurance arrangements to optimize coverage while keeping costs low?

Walton: If an operator's claims are predictable from year to year, then they should consider self-insuring the predictable losses via a deductible or self-insured retention. Otherwise, they will just be trading dollars with the insurance company. This is particularly relevant for larger facilities where operators have a pretty good expectation of what their claims are going to be every year. In one recent example, we just worked on an account in New York with 260 beds, and historically they average almost seven or eight claims a year averaging $100,000 to $150,000 per claim and $600 - $700K total incurred losses per year. In this case, it makes sense for that facility to self-insure the first $100,000 to

$200,000 per claim. To fund $700,000 in claims with an insurance company, it would cost the account over $900,000. For every dollar paid in claims by an insurance company, they must collect an additional 30 to 40 cents to cover overhead. There are many creative structures that can be provided to properties with predictable claims, as well as those that have an occasional claim. A good insurance representative/broker should explore such structures on behalf of their client.

Seniors Housing & Care Industry Calendar

4/8........................NIC Community Connector™ Meetups: Will the Post-Pandemic Investment Thesis for Seniors Housing Change?

4/14......................NIC Leadership Huddles: Skilled Nursing Integration: Will COVID be the Catalyst for Tighter Hospital Partnerships?

4/20......................NIC Chats Podcast: Beth Mace interviews Bob Kramer, Co-founder and Strategic Advisor, National Investment Center for Seniors Housing & Care and Founder, Nexus Insights

4/28......................NIC Leadership Huddles: Telehealth's Tipping Point: The New Norm in Care and How to Build for Success

4/30......................2021 Alzheimer's Association 7th Annual Brain Ball – Virtual Gala

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