



texasprima.org
Texas Chapter Public Risk Management Association



Godfathers of Risk Management

President's Message:

All too quickly does the year begin, end, and begin again. As we embark upon the Texas PRIMA 2015 year, I anticipate it will be filled with challenges, set-backs and successes similar to the ones we experience daily in our professional risk management careers.



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As I reflect upon my journey of how I came to this point in my career, I deeply feel my career chose me instead of me choosing it. Memories often fade but some are forever etched in our mind. In the late '80s and early '90s and fresh out of graduate school full of optimism with an eager mind willing to learn. I went to work for the City of Dallas as an Executive Assistant aspiring one day to be a City Manager. All that changed one morning when I received a phone call. "Sanchez" said "Big" John Ware, retired Marine Drill instructor and City Manager of Dallas at the time, "you are to report to the Risk Manager first thing tomorrow" he said, "that is your reward for serving the Office of the City Manager for 3 years." I said to myself, "Reward? Really? What is a Risk Manager?"

That is a true story and I venture to guess, a similar one for a lot of us who made our way into public risk management arena. I soon progressed to Claims Analyst to Claims Supervisor to Claims Manager, more so through attrition than by merit. There were many times early along this journey that I was thrust into situations where my skill set were no match for my responsibilities. Acronyms, terms and phrases such as motor driven equipment, IBNR, TIVs modifiers, impairment rating, blood borne pathogens, retroactive rating, loss ratios, maximum medical improvement, gross premium, earned premium overwhelmed me and made my head spin. I needed a lifeline.

Texas PRIMA was that lifeline, but most importantly, the people who made up Texas PRIMA allowed me to survive. Risk Management professionals, who were generous enough to make time and share their experience and allowed me to tap into their reservoir of information and human resources which bought me time and allowed my skill set to catch up with my responsibilities.

Along the way I have had the great honor to meet and work with a lot of bright and talented minds that have mentored me along my journey, I will forever consider them the Godfathers (and mothers) of Risk Management who brought me to this point today. The "family" of Texas PRIMA members who always had my back, that I always felt protected and that I could survive the "risk management wars" we all fight on a daily basis.

(cont. next page)

Exciting times we are in as we start off the year with a whole slate of educational regional seminars as well as our state conference in Galveston scheduled. We are also the host chapter for the National PRIMA conference in Houston, whose current president, Reagan Rychetsky is a former Texas PRIMA president and who, by the way, also brought me to the Texas PRIMA "Family". Each year we strive to set the bar higher for our membership and this year is no different.

With that, I am deeply humbled and honored to serve as your 2015 Texas PRIMA Chapter President.

Respectfully,
Gilbert M. Sanchez
2015 President

Welcome New Members

Elizabeth Cooper, ARM, Enterprise Risk Manager-Texas Department of Insurance
Ronnie O'Neal, Risk and Benefits Manager-Bryan ISD
Michael Rich, Director Risk Management-ISS Facility Services, Inc
Suzanne Robinson, Risk and Insurance Manager-Tarrant County College District

Members on the Move



The Board of Directors of the Surplus Lines Stamping Office of Texas (SLSOT) is pleased to announce the appointment of Norma Carabajal Essary as Executive Director effective March 1, 2015. She succeeds Philip R. Ballinger, who retired January 2, 2015 after 22 years of distinguished service.



Jeanine McNulty, HR Director, Betty Hardwick Center passed the PHR and SHRM-CP Certifications.



Benny VandenAvond, ARM, accepted a Risk Analyst position with the City of Austin in the Fall of 2014. Benny worked in The University of Texas System's Office of Risk Management since 2007. On January 1, 2015 Benny was also named Chair of the Young Risk Professionals of Texas (YRP) Austin Chapter. Previously he served as the organization's Vice Chair since its formation in May 2014.



Robert Warren moved from Texas Department of Criminal Justice, Risk Manager to City of Arlington, Risk Manager in November 2014.



▶ **PRIMA'S 2015 ANNUAL CONFERENCE**
JUNE 7-10, 2015 // HOUSTON, TX

Texas PRIMA Members will receive the PRIMA member rate for the National Conference regardless of your National PRIMA membership status. More information coming soon.

Texas PRIMA hosts 2015 PRIMA National Conference Golf Tournament

June 7, 2015

Wildcat Golf Club, 12000 Almeda Rd, Houston, TX 77045

8:00 AM Shotgun Start

\$85 per golfer or \$300 foursome

[Click here](#) to register or visit texasprima.org

(Many foursomes are sponsored...get your name in)

Golfers will receive:

Golf Cart | Driving Range | Awards Reception | Gift Bag | Longest Drive & Closest to Pin Prizes



Regional Risk Management Seminars

Texas PRIMA is off to another great year and is looking forward to offering more high quality and relevant educational sessions for the benefit of our members. We have another great year planned, with regional seminars scheduled in Irving, Austin and Corpus Christi. This is in addition to the invaluable educational sessions that will be included in the 2015 annual conference to be held in Galveston. Make plans to attend the regional conference nearest to you, or attend them all! Our first regional seminar is just around the corner on April 10th and is scheduled to be held at Northlake College in Irving. Be on the lookout for session details and registration information, which will be sent out soon. We hope to see you there!

John Palm

2015 Education Committee Chair

Regional Seminar Annual Schedule

Irving – April 10th

Austin – June 25th

Corpus Christi – September 17th



Texas PRIMA Awards Program

The Awards committee is looking for candidates for Risk Professional of the Year, Risk Professional Associate of the Year as well as Outstanding Risk Management Programs. There are exemplary individuals and programs within your organizations - send us nominations we can't refuse! Are you or your program a cut above the rest? Texas PRIMA wants to know what you have under your fingernails...

The nomination process is very simple so nominate yourself, your colleagues and your program(s). The nomination form will be posted on our website and emailed to you soon! View our past award recipients and their programs on our website. <http://texasprima.org/awards/index.html>

Award recipients will be recognized at the Annual Conference Awards luncheon; receive a beautiful plaque; be recognized in the Texas PRIMA newsletter and website; their supervisor will be notified; and they will be reimbursed for the conference registration and one night hotel accommodation.

Loss Control

2015 Top 5 Workers' Comp Injury Types

Data recently collected from the Bureau of Labor Statistics and the National Academy of Social Insurance shows that 65 percent of workers' compensation costs can be traced to five common workplace injuries. By knowing the top five injury types, employers can target those injuries and take action to prevent them. According to the data, the following are the top five injury types:

1. Overexertion injuries that are caused by pushing, pulling, carrying, holding or throwing.
2. Falls on the same level that may happen for a variety of reasons, such as a wet floor or a tripping hazard.
3. Being struck by equipment or an object, or even a vehicle. These injuries are common in the construction industry.
4. Falls to a lower level, which can be prevented by using proper fall protection, ladder safety or scaffolding.
5. Other exertions or bodily reactions, which can cause strains and sprains.

A safe workplace and injury prevention are vital to keeping your workers' compensation costs down. If your company has an increased number of claims compared to previous years, this can directly affect your experience modification factor (also known as your mod factor) and increase your workers' compensation premium. On the other hand, decreasing your number of claims can lower your MOD factor and by lowering your MOD factor you can save premium dollars.

*Source: Frost Risk Services Safety Newsletter February 2015
Leon White, CSMP*

Evaluating a Third Party Liability Claim

Evaluation of a liability claim begins with receipt and review of the initial notice of loss. Assuming the notice of loss has met the Public Entity legal claim reporting requirements, the file handler completes their initial investigation and forms a first impression of the liability aspects of the claim and the probable outcome (deny or settle?) and value of the case. At this time, the file handler should also develop a disposition plan which clearly outlines the information necessary to evaluate the claim and begin to initially steer the claim toward a resolution path (the only good claim file, is a closed claim file!).

Investigation should be aimed at determining liability and confirming damage amounts, regardless of whether the claim is in suit, and the file handler should complete as much investigation (who/what/when/where/how?) at the early stages of the claim, whenever possible. Additional investigation may be needed as the file matures and additional information is received. Investigation is the development of facts, which continues throughout the life of a claim. Every liability claim file should also be documented and contain all related investigation material (internal department reports, witness statements, photos, police reports, repair estimates, medical reports, diagrams, etc.). It's really about documenting the direction of each claim and providing a roadmap towards a successful financial resolution. The analytical basis for the file handler's decision should also be documented in the claim file. The claim handler documents each claim file to allow it to "speak for itself". Investigations and evaluations are obtained and completed as early as possible. Some claims that were originally thought to have little or no liability and minimal settlement value, can eventually turn adverse, after a "scorched earth" discovery process (which may uncover items which were not discovered and/or obtained in a delayed and/or inadequate initial investigation). Every attempt should be made at the outset to promptly conduct a proactive and thorough investigation (leave no stone unturned!). And never wait for a claim to be made, if it is clear a claim or suit will eventually be submitted and/or the damages are severe and catastrophic.

Evaluation is an ongoing process in that the file handler's appraisal of the value of the claim is directly affected by the results of the investigation and any subsequently developed information. Whenever new information develops, the evaluation process begins again, and the claims handler should continually re-consider the adequacy of the loss and expense reserves as well as the advisability of settlement or denial of liability. The earlier a claim can be evaluated, the quicker an appropriate financial resolution can be sought. Claimants and/or their attorney generally are more amenable to reason negotiations when they have less invested in the case and the position has not polarized. If possible try to settle prior to suit.

Investigations, evaluations and claim adjudications should be conducted without prejudice and with an open mind so as to treat each claim on its individual merits. All claims that are not in dispute should be paid promptly. Non-meritorious claims should be vigorously resisted. And, accurate and timely reserves should be posted on claims based on the facts of each individual claim, with specific commentary (rationale) on why the reserve amount was posted.

The claim handler is responsible for evaluating settlement decisions within their authority. All factors must be assessed when evaluating a claim. The following considerations are suggested as a starting point:

1. Liability - Determination

- a) Did the Public Entity owe the claimant a duty and was it breached?
- b) Are damages proximately caused by the Public Entity's breach of duty?
- c) What percentage of liability can be assessed against the Public Entity versus the claimant?
- d) Are third parties responsible? If so, how does their liability figure into the equation?
- e) If joint and several liability is a factor, do co-defendants or potential third parties possess applicable insurance or other collectible assets?
- f) In cases involving multiple defendants, is the claimant's negligence measure against each defendant individually or combined? Does the stated venue adhere to strict or modified comparative negligence doctrines? (Is the claimant recovery merely reduced by the percentage of their own negligence or is the claimant barred from recovery of more than 50% at fault?). In a few states, recovery may be totally barred if the claimant can be considered totally negligent.
- g) What specific defenses are available to the Public Entity? Can the Public Entity simply deny the claimant's theories or does the Public Entity have affirmative defenses?
- h) Has tort reformed liability theories and/or limited potential recovery?

2. Damages - Confirmation

- a) What are the claimant's actual out-of-pocket damages? Are the amount claimed verifiable? Are they related to the accident or are they pre-existing? Are the damages inflated and/or inaccurate (suspicious or fraudulent)? Is the amount claimed for medical treatment and wage loss verifiable?
- b) What damages is a claimant entitled to by law in the jurisdiction in question? Attorney fees (1983 Civil Rights cases) or prejudgment interest?
- c) Are damages barred by statute or legal precedent?
- d) Are damages proximately caused by the Public Entity's breach of duty?
- e) Are any damages the result of the claimant's failure to mitigate them?
- f) Are damages offset by any benefits received?
- g) Are there any other timing factors to take into consideration?
- h) If joint and several liability is a factor, do co-defendants or potential third parties possess applicable insurance or other collectible assets?

i) What specific defenses are available to the Public Entity? Can the Public Entity simply deny plaintiff's theories or does the Public Entity have affirmative defenses?

Sound claim decisions are based on informed factual investigation, proper reporting and documentation, along with fair and rationale evaluation. These elements, combined with assertive case management and economical consideration, can result in fair and equitable liability claim dispositions for both the Public Entity and the claimant. Accurate and timely loss and expense reserving practices are also crucial for both financial and settlement consideration. When necessary, consider promptly resolving claims with clear liability and verifiable damages as quickly and economically as possible and advise the claimant what you can or cannot do on a claim based on the circumstances. Lastly, strive to apply your own internal claim handling best practices on a day to day basis, recognizing that each claim is different and that no set of best practice guidelines can anticipate all circumstances that you may confront in handling claims.

(This document only provides opinions as to risk management and is not intended to address specific claims as each claim is unique and must be addressed individually.)

Mark Anderson, SCLA, AIC

For Your Health

Be Active 20 Minutes A Day

Exercising daily may seem inconvenient, inconsequential or even impossible, but as little as 20 minutes of easy exercise every day can increase your chances of living a longer life. New research conducted by the Medical Research Council (MRC), which studied over 334,000 European men and women, found that individuals who took a brisk, 20-minute walk every day were more likely to live longer than individuals who were inactive. Subsequently, the study found that a lack of physical activity attributed to twice as many deaths than the number attributable to obesity. Use the following examples as easy exercise ideas to ensure you are staying active every day:

- Take the stairs instead of the elevator or escalator.
- Walk to a co-worker's desk to ask a question instead of communicating via phone or email.
- Get up and walk around the house during commercial breaks while watching TV.

*Source: Frost Risk Services Safety Newsletter, February 2015
Leon White, CSMP*

IT Security

4 Steps to Safeguard Information

In the wake of the Sony hacking incident, how can companies reduce the chance of their electronic and hard copy records being compromised? Hackers can infiltrate your organization within the office or across the globe. Help your organization reduce the likelihood of an attack and its debilitating effects by taking both proven and emerging security steps.

Because computers have become more integral to the way we do business, hackers and malicious employees are familiar with most organizations' IT security. Newer developments such as public and private cloud-based storage and security systems offer options to help organizations secure their data.

Security Is More Automated

Through the use of Software-Defined Security, more and more organizations rely on security approaches that require little to no hardware. This type of security uses software as one line of defense to check

for correct permission usage and monitor network segmentation to detect unauthorized users hacking a system's network. In light of the recent suspected cloud-based hacks, this type of security has obvious advantages.

Separate Application Spheres

With so called “application isolation,” organizations can reduce the chance of multiple applications or user logins on a server being compromised, especially for web-based applications. If two or more applications share a common resource, such as RAM or a hard drive, the common resource could be used maliciously by a hacker, reducing the efficiency of all affected applications.

If one application offers greater security, it might house sensitive client information such as Social Security numbers, banking information, etc. Another application with less protection may store email information for new users who sign up for email marketing campaigns, for example. While web servers are particularly vulnerable due to their inherent exposure, non-Internet sources also can be impacted.

Cloud-based Security Moves Beyond Installed Anti-virus Programs

Security is moving beyond traditionally installed forms of antivirus software toward a full suite of cloud-based systems. By transferring antivirus duties to the cloud, more types of security can be added such as monitoring and isolating suspicious visitors, especially those from locations known for individuals or governments that back hackers. Some services even have the potential to determine an attackers' origin and provide protection from that location moving forward.

Reduce Internal Theft/Hacking Before and During Employment.

Along with external hacking and data theft, many times an attack can come from an employee or even an unscrupulous contractor working on- or off-site. Conducting applicant background checks before the interview and having them agree to an Acceptable Use Policy upon hire are highly recommended precautions, as those with questionable IT backgrounds probably won't volunteer that information.

Keep in mind that organizations sometimes neglect to use basic safety measures such as using secure forms of communication when discussing passwords and usernames. Other tips include changing login information after employees leave the organization, and not giving vendors access keys to sensitive areas.

While there's no bulletproof system, security will continue to evolve and attempt to stay one step ahead of both internal and external hackers.

Source: Whitley Penn Newsletter, February 2015

Safety

FDA alters review process for AEDs

The Food and Drug Administration has updated its review process for automated external defibrillators in an attempt to make the products more reliable. FDA published a final rule Jan. 29 in the Federal Register requiring manufacturers to submit pre-market approval applications for AEDs. By requiring pre-market approval, FDA said, the agency can learn more about manufacturers' Quality System information. The agency also will inspect manufacturers' facilities before granting approvals. FDA plans to enforce the rule beginning July 29, 2016. That is contingent upon manufacturers notifying FDA of their

plan to file a pre-market approval application by April 29, 2015. Although AEDs offer great benefits, malfunctions have been reported. From January 2005 to September 2014, FDA said it received about 72,000 reports that involved AED failures. Meanwhile, AED manufacturers have issued 111 recalls since 2005. “These changes to the way [AEDs] are reviewed will allow us to more closely monitor how they are designed and manufactured,” William Maisel, acting director of the Office of Device Evaluation in FDA’s Center for Devices and Radiological Health, said in a press release. “This will go a long way toward correcting long-standing problems and ultimately improving the reliability of these devices.”

Source: Safety and Health, March 2015

Off – the – job injuries cost the nation at least \$282.3 billion in 2012.

Source: National Safety Council, “Injury Facts” 2014 ed.

Sponsor Highlight



McGriff, Seibels & Williams of Texas, Inc. (MSW) is proud to be a Platinum sponsor of Texas PRIMA. MSW is a division of BB&T Insurance Services Inc., the 6th largest insurance brokerage firm in the world. The MSW/BB&T family has over 37,000 employees and over \$188 billion in assets. The MSW Texas operation is the largest provider of insurance and risk management services to Public Entities in Texas.

With offices in Houston, Dallas, and San Antonio, MSW specializes in providing Commercial Property & Casualty, Employee Benefits, and Risk Management consulting services for Texas Public Entities. The staff dedicated to Public Entity accounts has a broad range of experience including former Public Entity risk managers and Texas PRIMA board members who have “walked in the shoes” of Texas public entity risk professionals.

The experienced professionals at MSW work in the global insurance marketplace to obtain the best coverage available at the best price for our Public Entity clients. MSW utilizes in-depth knowledge, experience, and resources to help our clients find solutions for a full range of risk management and benefits needs. The goal of McGriff, Seibels & Williams is to establish long-term partnerships with their clients by providing top-notch service, inspiring customer confidence and trust.

McGriff, Seibels & Williams congratulates the success of Texas Chapter PRIMA as the premier organization providing education, training, and resources for Public Entity risk professionals and we appreciate the opportunity to be a long time partner of this organization.



York Risk Services Group is proud to be a Platinum sponsor of Texas PRIMA. As you know, JI joined the York Risk Services Group family of companies in 2011. And while we officially presented ourselves as “York” to colleagues and customers at last November’s Annual Conference, we would like everyone to know that the final rebranding efforts will be completed by the end of March, finally retiring the JI name. So now, the expertise and great service you’ve always known will carry the name of York Risk Services Group on all communication and branding.

And speaking of the 2014 Annual Conference, it was great to meet so many of you in San Antonio! We hope that you had the chance to connect with us personally at either York's Chocolate Martini and Desert Reception or one of our well-attended presentations. York was pleased to present Public Entity Division President Jody Gray, speaking on ways to navigate the complexities of the Americans with Disabilities Act (ADA) as well as York Regional President – Texas Francis Fey, who spoke on Managing your Pharmacy Program.

In case you didn't know, York has offices in Austin, Dallas, Houston, San Antonio, Fort Worth and Corpus Christi. Those offices are locally staffed and ready to serve the Cities, Counties, School Districts, Water Districts/Authorities and Special Districts of the State of Texas.

York Risk Services Company began using the newly enhanced York Claims Expert system, which brings a whole new level of flow and efficiency to claims handling. All existing clients still using the JI legacy system will be converted during 2015. York Claims Expert (YCE) is coupled with an enhanced, intuitive, and user-friendly RMIS system, York FOCUS™. FOCUS™ was designed by risk managers for risk managers and gives clients a custom view of their claims data, from high-level summaries that track trends to a wide variety of reports. Clients can also drill down to the specifics of any claim and look at that claim in the context of similar claims to identify and understand "outliers."

As a Platinum Sponsor, York continues the commitment to TX PRIMA and its mission. We believe in the importance of education and support TX PRIMA's efforts to encourage industry learning. York will continue to not only help by providing conference planning and logistics, but will provide key expertise for the annual conference and regional seminars. We wholeheartedly support the initiatives of the TX PRIMA board.

If you would like any additional information related to the topics above or information how York can assist your entity with our Workers' Compensation, Property, or Liability services, please give Patrick O'Toole, Sales Vice President-Public Entity a call at (512) 427-2429 or visit us at www.jicompanies.com



Letter from the Editor



As Risk Managers, each day we face situations that are both challenging and have the ability to seriously impact our organization. I have found that having resources that I can turn to for information and support makes each challenge easier. Texas PRIMA is a wonderful resource to find both. It is my plan to provide information that is relevant, interesting and on the horizon for every Risk Manager. Communication is the key to success! Please feel free to contact me with suggestions and/or information to include in our quarterly publication. This is my first time out of the gate as the editor of the PRIMA PRESS, I am excited for us to grow together.

Christina Ford, CSRM, CTSBO

Editor

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Correspondence

The Texas PRIMA Press is the official newsletter of Texas PRIMA.

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www.texasprima.org

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About This Newsletter

This newsletter is published quarterly for the benefit of Texas PRIMA members. However, the opinions expressed in the newsletter are those of the writers and do not necessarily represent the views of Texas PRIMA. The aim of this newsletter is to provide information to our members about Chapter events and risk management issues. Please send news, information, comments, etc. to the editor via email, info@texasprima.org.

MEMBERS: VISIT THE
MEMBER'S ONLY WEBSITE TO
POST IN THE COMMUNITY
FORUM!

SAVE THE DATE

Let's Begin the Next 25 Years in Galveston, Texas

Join us in Galveston, Texas at the beautiful Moody Gardens Hotel and Convention Center November 8-11 for the 2015 annual Texas PRIMA conference where we will be celebrating the beginning of the next 25 years of annual conferences! So mark your calendar today to make sure you do not miss out on this wonderful educational and networking opportunity.

