

The Hylant logo is positioned in the top right corner of the slide. It features the word "HYLANT" in a white, serif, all-caps font. The background behind the text is a dark teal color with a pattern of white dots and a white circular arc.A small Hylant logo icon is located in the top left corner, consisting of a black square with three white diagonal lines.

HYLANT PRESENTS |

Healthcare Provider Insurance Claims “For Real”

ISHRM Seminar

FRIDAY, OCTOBER 7, 2022



Presenter

Steve Bogart
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27 years in healthcare with Hylant

Education

Steve received his bachelor's degree in business administration and marketing from Michigan State University. He holds the designations of Certified Insurance Counselor (CIC) and Certified Risk Manager (CRM).

Industry

Steve is a member of the American Society for Healthcare Risk Management (ASHRM) and the Professional Liability Underwriting Society (PLUS). He participates in healthcare panel discussions and has presented on the topics of healthcare risk and insurance issues at industry conferences. Steve is also a contributing author to the ASHRM Risk Financing Playbook.





Presenter



Laura Fisher
Vice President
Hylant Healthcare Industry Practice

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17 years in healthcare with Hylant

Education

Laura holds a bachelor's degree in business administration from Siena Heights University, where she graduated Magna Cum Laude. She earned the Registered Professional Liability Underwriter (RPLU) designation and holds a Certified Professional in Healthcare Risk Management (CPHRM) designation from the American Hospital Association.

Industry

Laura is a member of the Professional Liability Underwriting Society (PLUS), and the American Society for Healthcare Risk Management (ASHRM). Laura is also a contributing author to the ASHRM Risk Financing Playbook.



Agenda

- Real Life Claim Examples
- Things to be Aware Of
- Things to Report
- Things to Avoid
- Claims Analysis





Claims: Property

Property – Co-Insurance, Blankets and Agreed Value

Co-insurance: $\frac{\text{Did}}{\text{Should}} \times \text{Loss}$

Example: \$5M Business Interruption Loss

$$\frac{6,000,000}{24,000,000} \times \$5M = \$1.25M \text{ Payment}$$

Blanket – Limits are for all locations combined, not restricted to a certain location at the time of loss

Agreed Value – Co-Insurance does not apply





Claims: Property

Damage to Equipment

- A large orthopedic practice has an x-ray machine with removable plates that are sometimes held by patients during x-ray
- Patient drops the plate and replacement cost is \$30k
- Policy had a specific exclusion for diagnostic equipment

Things to Avoid:

- Avoid exclusions for specific equipment or sublimits on types of equipment
- Make sure you are aware of exclusions added to the property policy
- Be sure your insurance advisor is aware of the types of equipment and value of the equipment you own



Claims: Property

Mold/Rust Resulting from Water Claim

- A pipe burst during a construction project on an upper floor of the medical office complex.
- The pediatric pulmonary physician practice resumed operations on a lower floor a couple of weeks after the initial loss
- When the HVAC system was turned on in the office suite, particles of rust and mold were propelled out of the air ducts
- Due to the nature of the patients seen in this practice, extra precautions were taken to thoroughly clean the whole system

Things to Be Aware Of:

- Property claims may appear to be remediated well within the deductible amount, but later become a larger claim from unknown damage

Things to Report:

- Report small claims as incident only to preserve your rights if the claim has hidden damage that is discovered later.



Claims: Executive Liability

Employment Practices

- HR department receives EEOC complaint – 10/1/20
- These are common and many are resolved without further incident
- HR or Risk Management does not report incident to EPLI Insurer
- EEOC hearing scheduled for 6 months out on 3/1/21
- EPLI policy renews on 1/1/21 with incumbent insurer
- Hospital gets a favorable decision at the EEOC hearing, but the employee has the right to sue
- Suit filed on 4/1/21 and claim is reported to insurer
- Insurer denies claim due to late reporting – Why??





Claims: Executive Liability

Executive Liability Reporting Timeline

Executive liability policies contain strict reporting provision

During Policy

knowledge of a claim or potential claim must be reported during the policy period, OR

After Expiration

No later than 30 to 90 days after the renewal, even if renewing with the incumbent insurer

Claim Denial

Claim gets reported after the 30 to 90 day period and insurer denies it for late reporting

Things to Report:

- Report potential claims as soon as possible, but no later than the time period allowed in the policy
- Preserves your rights under the policy and avoids late reporting issues

Things to Be Aware Of:

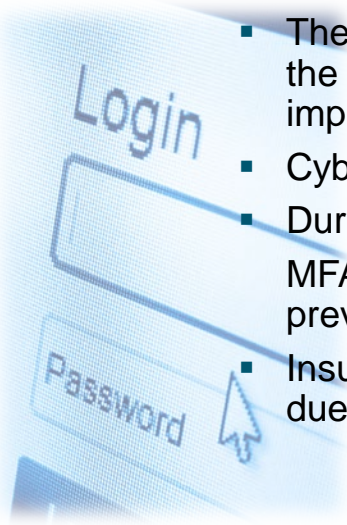
- Educate the HR department about the importance of reporting complaints



Claims: Cyber

Cyber Liability – Application Warranties

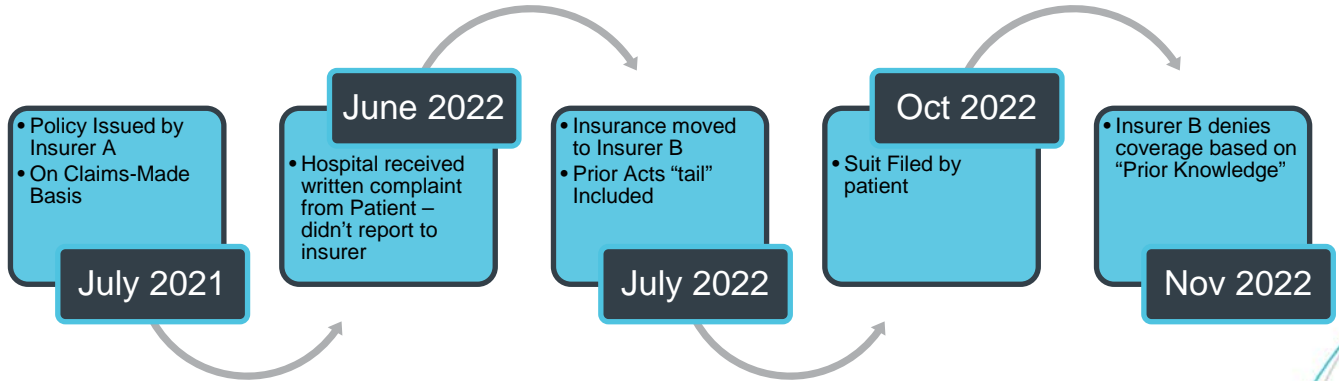
- Cyber security controls (MFA and others) have become mandatory pre-requisites for obtaining insurance coverage
- The cyber application includes a warranty statement that the signor is validating all controls are “fully” implemented
- Cyber breach claim occurs and reported to insurer
- During the forensic investigation it becomes evident that MFA was not fully implemented and would have prevented the breach from happening
- Insurer denies claim and voids the policy of all coverage due to a material misrepresentation on the application





Claims: Medical Professional Liability

Sunset Clause



Things to Avoid:

- A policy with a "written demand" claim trigger. Under this type of form, a reported potential claim incident is not recognized until it becomes a formal claim.
- Because there was knowledge prior to moving carriers, the new carrier will not accept it, nor will the former carrier because the policy is no longer in force



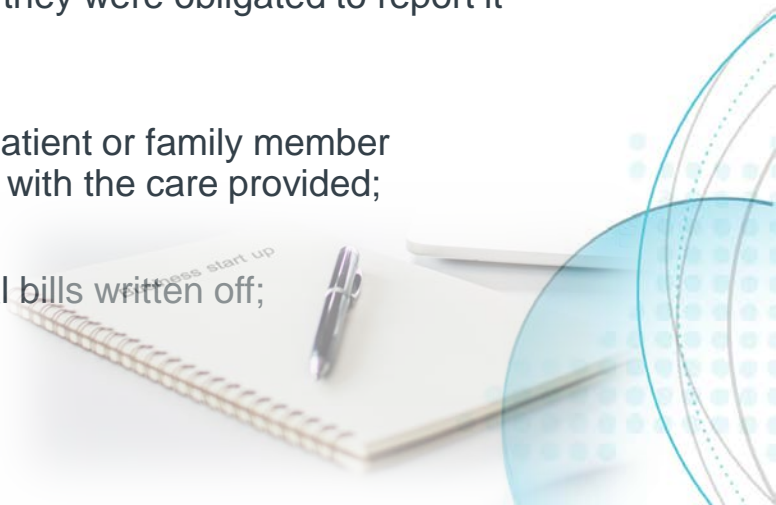
Claims: Medical Professional Liability

Medical Professional Liability – Sunset Clause

- It's vitally important to report any knowledge of circumstances that could reasonably be construed to be the subject of a future claim
- Because the insured had prior knowledge of a claim or potential claim “incident”, they were obligated to report it to Insurer A

What to Report:

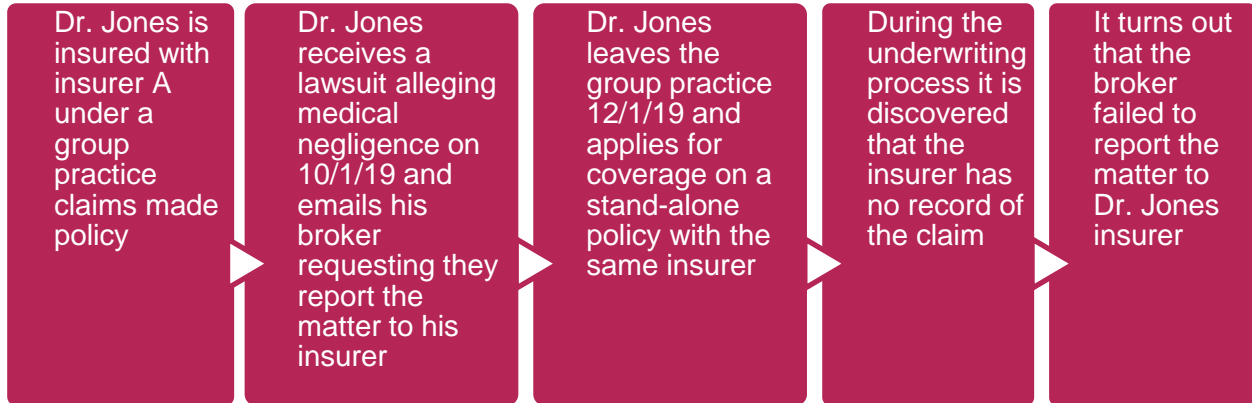
- Circumstances where a patient or family member expressed dissatisfaction with the care provided;
- An unexpected outcome;
- A request to have medical bills written off;
- Any of the 7 deadly sins





Things to Avoid

Medical Professional Liability – Claim Acknowledgements



Things to be Aware of:

- Always get a written acknowledgment of claim receipt from the insurer



Claims: Crime

Crime – Loss Discovered vs Loss Sustained

- Most crime claims result from trusted employees and transpire over an extended time period
- Insured was covered by Insurer A on a Loss Discovered form for 3 years and moved coverage to Insurer B on a Loss Sustained form
- Employee embezzlement is discovered, and the fraudulent activity began during the prior insurer A policy period
- Insurer B partially denies claim as it wasn't "sustained" during their policy period, but rather during the prior insurers policy
- Insurer B will only pay for the portion of loss sustained while their policy was in force, but not during the prior policy period



Claims: Crime

Crime – Loss Discovered vs Loss Sustained

What to Avoid:

- Moving coverage from a loss discovered to a loss sustained form
- Important to maintain a loss discovered policy, which acts similarly to a claims made policy that provides prior acts retroactive coverage

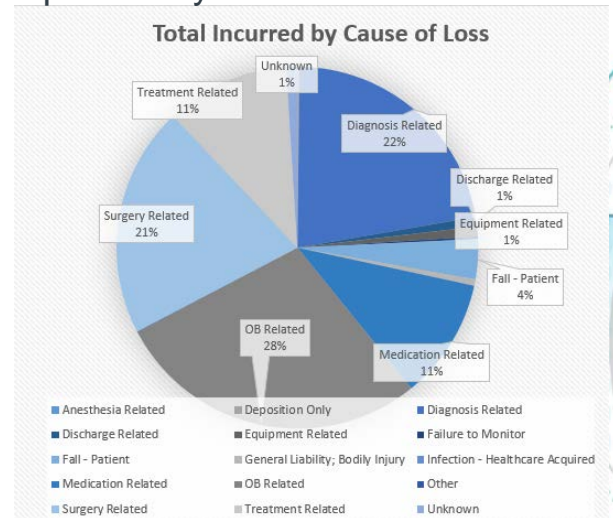
Actual Case Example:

- Insurer denied a crime claim for the reasons stated
- A further review of the policy form uncovered inconsistencies in the coverage language, which created ambiguity of how the policy would respond
- We were able to overturn the denial and obtain full coverage for the insured, but this is not a strategy.



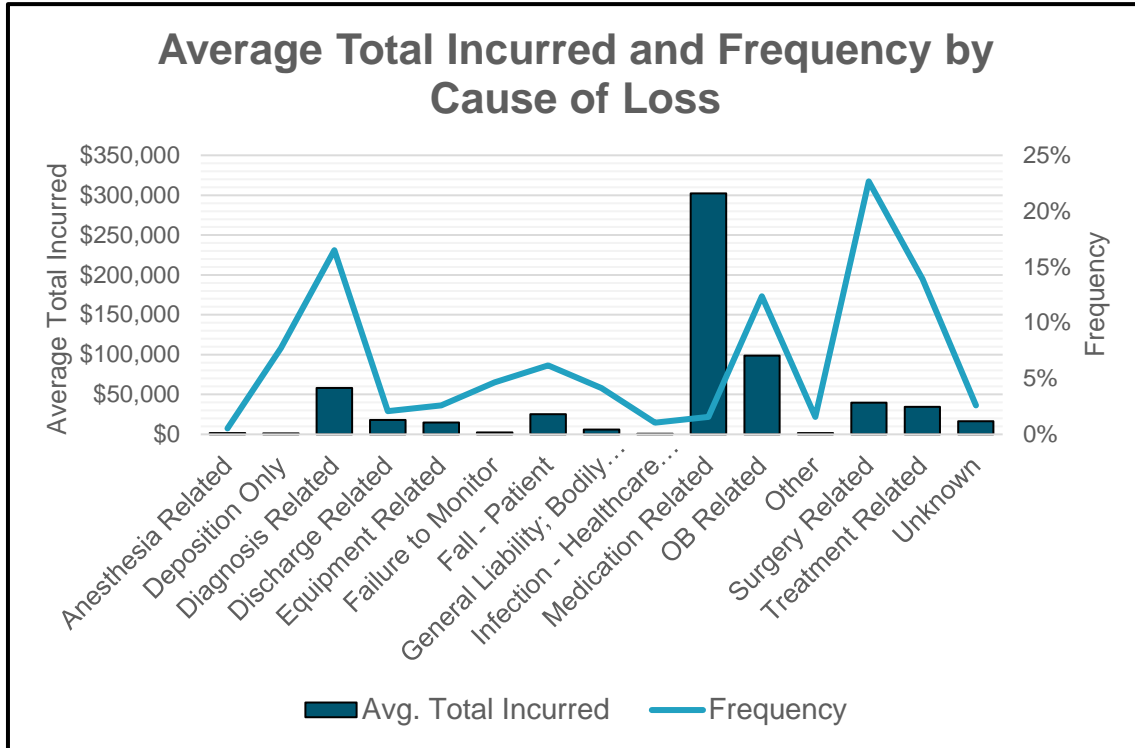
Claims Analysis – Med Mal

- Claim frequency, severity & cause of loss analysis provides valuable insight into trends or issues that warrant further attention
- Understanding the specifics of the location or department, provider specialty, type of allegation, cause of loss, resulting injury, and economic cost helps identify areas for risk mitigation or educational needs
- Capturing claim information in a consistent format allows for meaningful analytics



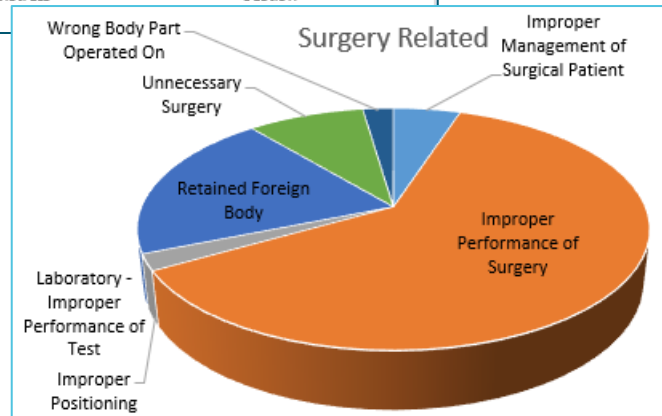
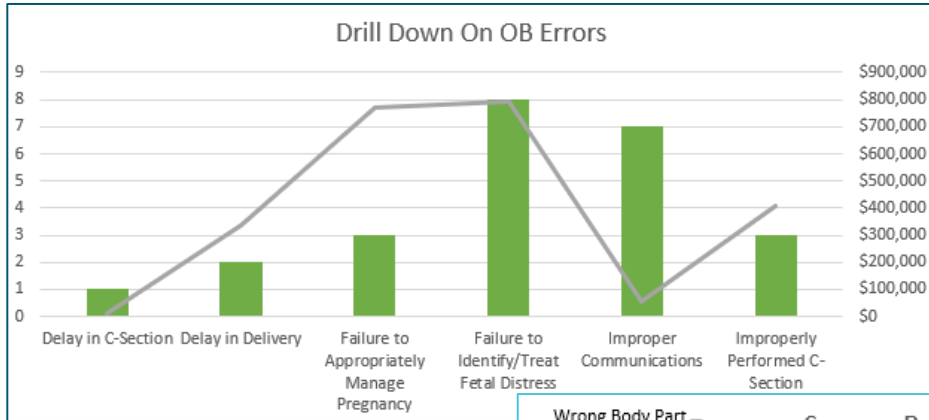


Claims Analysis – Med Mal





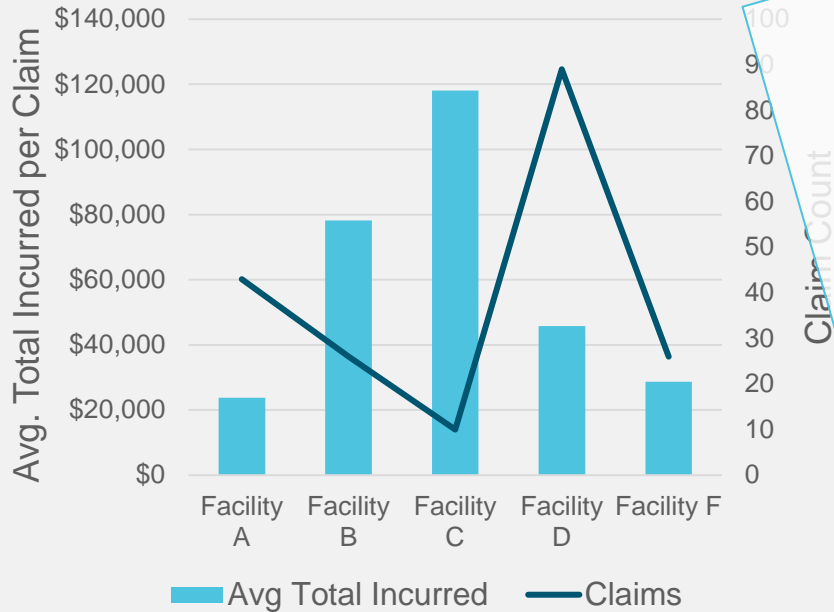
Claims Analysis – Med Mal



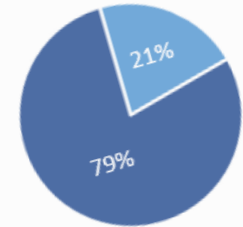


Claims Analysis – Med Mal

Avg. Total Incurred Per Claim & Total Claim Count: 2010-2020



Total Incurred: Physician & Hospital Claims



Physician Claims Hospital Claims



Thank You

Any questions?

