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Risk Insights: Senior Living & LTC

Episode 24: Beyond the incident: Using CRPs to build trust and reduce risk in senior living part 2

Welcome to the Risk Insights: Senior Living & LTC podcast, hosted by Tara Clayton with Marsh's Senior Living & Long-term Care Industry Practice. Tara, a former litigator and in-house attorney, speaks with industry experts about a variety of challenges and emerging risks facing the industry.

Tara Clayton

Welcome back to Risk Insights: Senior Living and Long-Term Care. I'm Tara Clayton, and this is Part 2 of my conversation with Dr. Tom Gallagher—Executive Director with the Collaborative for Accountability and Improvement—and Austin Elkin, Senior Care Practice Leader with Berkshire Hathaway Specialty Insurance.

In Part 1, we introduced Communication and Resolution Programs, or CRPs, and why they matter in senior living. Using our fall scenario, we talked about how miscommunication—especially defensive comments, hallway conversations, or poorly handled family meetings—can snowball quickly and damage trust. Dr. Gallagher also walked us through the core elements of a CRP: early event identification, thoughtful and ongoing communication, strong event analysis, care for associate, and—when appropriate—financial or non-financial resolution.

In this second half, we're going to get practical. We'll talk about what effective CRP communication could look like in that same earlier scenario, why timeliness matters so much, and what organizations should do first so they're not trying to figure it out in the middle of a crisis. Let's jump back in.

Yeah. With that, Tom, I want to pitch over to you a question. So kind of hearing what Austin just said about, you know, how the executive director's behavior likely impacted how that daughter felt, leaving understanding, kind of the CRP methodology that you talked about earlier, what would effective communication with the CRP process look like in the scenario that we talked about earlier?

Dr. Tom Gallagher

I think it's really important, Tara, to call out, you know, some of the big themes that we're hearing. Communication and resolution programs are proactive. They're transparent. We've talked about how disciplined they are. And when I hear concerns that, you know, what if what we share with the resident or family comes back to bite us in litigation? What I try to remind people is the disciplined nature of that process means what we're sharing with the resident and family up front. We've thought through carefully enough that we would be willing to share that in whatever form it needs to be shared in, whether that's in a deposition in the courtroom. So that discipline is really critical in sort of recognizing how are we going to communicate.

But Austin hinted at one of the other pieces that we haven't talked about yet much, which is it needs to be timely. Now, that doesn't mean that there's a rush to judgment, but every day that elapses. While we're doing our analysis and thinking carefully and being disciplined every day, that elapses. As Austin said, the resident or family, they're creating their own narrative about what happened. It's not like they're sitting in a hermetically sealed box waiting for us to come back to talk with them, right? They're talking with friends and family. They're on the Internet. And the

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more time that elapses, the more that their own narrative about what happened becomes calcified and really difficult to change.

On the acute care side, one of the big urban multi-hospital health system that we've worked with went all in on CRP implementation with an emphasis on not just open communication, but early event reporting. And they committed to doing their event analysis for serious safety events within 30 days, which is fast. They, over five years have saved \$2 or \$300 million against their actuarial projections. So that's in the acute and ambulatory care space, the type of financial return on investment that you can see with a program like this. But getting back to the scenario, you know, as we've talked about, I think the executive director, there were a number of missed opportunities. It depends a little bit on how much time has elapsed since the event occurred and this conversation between the executive director and the daughter is happening.

We think about these conversations as occurring over a timeline, right when the event has happened, when you don't know a lot, the event review is not yet done. That conversation is pretty different than the conversation that happens after the event review is completed where we're sharing some of the findings. But throughout, when we talk about effective communication, we have a tip sheet. Up at the top of the tip sheet, it says, demonstrate caring, build trust. And there are lots of details underneath that. But that's really the essence of what we're trying to do here, especially early on when we don't know a lot about what happened. The emphasis in the communication is on relationship building, demonstrating caring, talking with the daughter about what are the facts that we know. Apologizing, not that we did something wrong, not a fault.

Admitting apology because we don't know that yet, but offering an expression of regret. I'm really sorry about what happened. I'm sorry for what you and your dad are going through. But I think we make a mistake when we focus too much on the information that we share and don't think enough about how we support the daughter and the resident's emotions. Because without good emotional support, the resident or the daughter may come away sort of feeling like, well, I kind of understand what happened here, but. But it doesn't seem like they really care about what happened. This doesn't really seem like that was that big a deal at all. And so using good empathic communication skills, where we're acknowledging the daughter's upset, we're validating it as reasonable as understandable, trying to understand exactly where is that upset coming from.

Oftentimes in senior care settings, there's a lot of family guilt. The daughter may worry, I should have been at the facility more. If I had gotten there 10 minutes earlier, maybe I could have prevented this fall. And that guilt really plays in on how this event is interpreted, but also on how the communication unfolds so early on, in addition to being on time, using really good empathic communication skills to try to rebuild the relationship with the daughter, convey that we care about what happened, we have a process for responding. Here's what we're doing in the short run to try to help your dad be safe. And, as Austin said, this is really tricky because residents are going to fall.

And we don't want to necessarily just blame the resident, but there may be some things that can be done, you know, and behaviors that the resident can undertake that would decrease the chances of a repeat fall. But that early conversation is really about trust building, demonstrating caring, sharing the facts that we know. And then in a follow up conversation, when an event review has been completed and being able to share, what did we learn from the event review, what is known about what happened? What do we think were the underlying root causes? What are we doing to try to prevent recurrences? With one big caveat, and Austin's completely right, that when we look at CRPs and acute and ambulatory care, probably, you know, 8 to 10% of the harm events are preventable.

The vast majority of the time, what the conversation ends up being about is we've looked carefully and the care was appropriate. And those are hard, in some respects, harder conversations to have with a resident and a family who are thinking to themselves, you've got to be kidding me, right? My dad just fell. How can you stand there and kind of claim that, you know, there wasn't anything that could be done that could have prevented that. But this is

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where the skilled communication and trust building really comes in, because it's much more likely the resident or family will accept that explanation. When they feel like this is an organization and an executive director I can trust they'll look carefully at this, they'll give me an honest appraisal of what happened and they'll develop plans for preventing recurrences.

So I think there were all sorts of lost opportunities in this particular interaction.

Tara Clayton

Thanks, Tom. So I think you kind of hit the nail on something that I've been thinking about, listening to you talk about these conversations, and that is these can be incredibly difficult conversations. I know, Tom, you flagged several times now how, you know, CRPs are a very disciplined process of when we're providing the transparent information and just thinking about how, you know, we're getting into senior living, we're taking the tools and lessons that we've learned from the utilization of CRPs and the acute care space....

What's some advice that you would give to an organization that's, you know, hearing the podcast today saying, hey, this is something we really want to be doing, or we think we're doing it to some extent, we'd like to really, truly do a CRP process. What do they need to be thinking about first before they kind of dive headfirst in?

Dr. Tom Gallagher

I do think it's important to know that the field has come a long ways in terms of developing tools and resources. And there are a whole host of organizations out there that are successfully implementing these programs that can serve as role models. So I think point No. 1 is there are tools and resources to help. You don't have to figure this out and invent the wheel on your own. Secondly, doing a gap analysis is really critical because so many organizations, I would say the most common thing we hear from organizations when we start talking with them about CRP is, oh, we already do that. And what that means is that there were two instances in the last year where they were proactive and, you know, maybe in one of them they made an offer of financial resolution. Right. Far from a systematic process.

So the gap analysis is really an important tool to understand where are our strengths that we can build on, where are the opportunities for improvement where we can start using the tools and resources to fill in those gaps. And then it does involve some degree of training. Although I would say the vast majority of the training is developed, is directed at organizational leaders. What the staff need to know really is the organization's commitment to this philosophy, why it matters, and what they should do when something goes wrong, which is basically to communicate initially in ways that don't make things worse, that try to start rebuilding trust and then getting some help from the organization to really look at what happened and then pick up the communication from there.

So there are all sorts of tools and resources that are out there. Start with a gap analysis and then invest in some of the sort of tools and training to help get your program started.

Tara Clayton

Are there any other kind of common communication mistakes that you've seen on the acute care side that would be helpful for senior living providers to kind of know, hey, when we're doing training, these are some things to look out for or think about.

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Dr. Tom Gallagher

We spend a lot of time with organizations helping them understand what are the common sort of missteps in communication and how do you avoid them. Speculation is just so tempting. And as you said early on, you've got an upset resident and family, they're desperate to understand what happened, and all of a sudden we start filling in the gap. So helping people understand how why speculation Austin mentioned we're wired to blame others, where that instinct comes from and how we avoid it. I mention these natural human reflexes at the outset because that's what this disciplined process helps you counteract. By building in a highly reliable process that's based at the organization, you're much less likely to get derailed by some of these individual sort of reflexes and impulses that individual providers have.

When I ask physicians who I often am working with, how do you know what a fact is? They look at me with sort of a confused expression on their face. They've never really thought of how do you distinguish a fact from opinion? And that is really a helpful part of the communication training that they need to understand. But the only other thing that I would flag, you know, is it's communication at a higher level. The programs that have been most successful are ones with outstanding leadership engagement, which is a lot about communication, but also outstanding engagement with the liability insurance, the liability insurer, the broker, any attorneys. This is a process.

One of the reasons why working with Berkshire Hathaway has been sort of meaningful is that the insurer can play such an important role in helping develop these programs and helping to explain what are they? What are they not? How do they work? Why do we support them? And getting all of those stakeholders aligned around a common process before an event happens turns out to really be critical rather than situations where something has gone wrong. The organization thought they were going to respond to it using a CRP. The insurer was not really quite so sure. And then all of a sudden there's kind of chaos and miscommunication that happens in the response. So getting leaders engaged and really deep involvement of the insurers and the brokers in the setup of the programs on the acute and ambulatory care side, we've seen pay huge dividends.

Tara Clayton

We've got one final question for you guys. And I know this is not the main focus of CRPs as we've talked about. It really is the trust in relationships that we're building with families and residents as well as, you know, kind of that lessons learned, proactive measures that we put in place post incidents as well. But we've talked a little bit. There's this corollary benefit. It's not the word I want to see, but there's another impact as it applies to claims and kind of gets me to what are some measurable outcomes? Right. If we're going to, you know, put a lot of time into training how to change our culture and have this CRP program and maybe measurable outcomes, not the right thing.

But I'm curious, either, Austin, from the groups that you guys have worked with on your side, or Tom, your side, what are some of those either measurable improvements or outcomes that you've seen that I think it's helpful for organizations to think about kind of during that gap analysis process, Tom. But think about what are the things we want to be looking for to check in to make sure we're doing this right...

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Austin Elkin

Sure. So, you know, I think it's important to anytime you implement a new process, a new way to intervene, a new way to detect, you know, whether that be technology, whether that be, you know, medication related or whether that be something like CRP, I think it's important that first, in general, you have to understand how you're performing on certain key measures. Right. And that you've been tracking those things over time, it's extremely difficult for you to understand what the impact of something is if you don't have sort of the pre- and the post-. Right. You can't really conduct the science experiment at that point to see what the, you know, what the intervention did, if it did anything. Obviously you've got, you know, your history from a claims perspective which will exist.

But you know, for a lot of organizations, they are of, you know, such a size and maybe in a jurisdiction or maybe went through a period of time where, you know, it could just happen to be that they've had really good luck or they've had really bad luck. And you know, that fluctuates and changes and it's, you know, difficult for us as carriers to sort of understand that as well. So I think there's a lot of underlying data points that you can look at to make sure this is having an impact, you know, before we get to that later stage stuff. Right. A claim is a pretty lagging indicator, I'd say. And you know, things like checking on, you know, maybe family complaints or, you know, depending on what the intervention is, I think for CRP, that might be a good one.

You know, what are those sort of early indicators that we can track and see, you know, how is this changing? Right. It could be that, you know, you've had, you know, to Tom's point, some people go, hey, well, we have a CRP program. Maybe you don't have a CRP program, but you just happen to have had a really empathetic, you know, ED who communicates with families very well and has a great relationship with families. You know, maybe that changes and you still have a, a great ED, but maybe they just aren't as good or strong on the interpersonal side, don't have those connections with the families yet. You know, without this disciplined approach, maybe you'd see those sort of things occur.

So there's a lot of variables, I think, to try to measure, but I think that's the first place is you got to make sure you're tracking the data pre- and post- and seeing where all these things change. I think from a carrier perspective, you know, what we can certainly see is instances where you just have less claims. And again, depending on the size of an organization, statistically you might not really expect there to be that many. So it's like, is something like this having an impact? But we can also see sort of this is, you know, definitely more difficult to put your finger on. But you know, what the value of those claims are based on, like sort of the, you know, the relationship with family aspect or the post-loss aspect, the post-loss handling of it. Right.

If, if something, you know, really bad occurs within your facility, that's probably going to be a, you know, a tough claim. It's going to have some severity to it and there's just no getting around that, regardless of how you communicate. Right. But in those instances where there's a little more nuance to it, you know, is the way that we're interacting with the family, able to interact and negotiate and communicate with the family during litigation, does that show us the signs that, you know, there was a better relationship here? Sometimes families, they just want to be heard. And really we've heard, we've seen it on many claims where, you know, they're pursuing a claim because they don't get the response from the organization that they hope to have. And a lot of times they'd say we just want to see a change occur.

You know, they're not necessarily all the time looking for money. Certainly some are. But that says to me that you haven't communicated well or handled that post-loss aspect of it very well.

Because you've had an opportunity to communicate those things and you seemingly haven't done it. Right. And we've been in mediation with families who have said we just wanted to talk to the executive director or the general counsel and we couldn't get them to return our phone calls. Right. Obviously to us that signals that there's an issue there. And in those instances, those families are upset and we do have to pay more. And we have had to pay more

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in those instances. You know, I can't sit here and say we have enough data point to let our actuary say it's a credible, like here's how that would look. But I think there is definitely a measurable impact of this and there's, you know, various ways to measure it, but you've got to start with knowing sort of your own underlying data first.

Tara Clayton

Thanks, Austin. Tom, I'm going to give you the last word.

Dr. Tom Gallagher

Well, I'm just thrilled to be here today. And it's so exciting. You know, we talk about how communication and resolution programs are really spreading like wildfire through acute and ambulatory care. In part because CMS now has a patient safety structural measure that requires organizations attest, hospitals attest, whether they have an evidence-based CRP and whether they use metrics to track its effectiveness. That I think should be a sign for senior living that there's just going to be more and more impetus to implement a communication and resolution program. The benefits are clear of these programs and we've seen that they can work really in any environment with the right structure and process and relationships and training. Both of my parents who are 90, almost 91. They live in a CCRC in New Hampshire.

And so I've spent a lot of time there and think about how much benefit the widespread implementation of communication and resolution programs in the senior living space could have. And I'm just so excited to be partnering with Marsh and Berkshire Hathaway and others to try to turn that vision into reality.

Tara Clayton

Awesome. Well, Tom, thank you so much for joining us today.

Dr. Tom Gallagher

Of course.

Tara Clayton

And Austin, thank you as well.

Austin Elkin

Thank you for the opportunity.

Tara Clayton

Well, this was incredibly educational for me. So again, I appreciate both of you giving up your time to talk to us about what you're seeing more broadly with CRP, but then the huge benefits that I think are out there for senior living providers and the areas of opportunity. You know, moments of challenge are inevitable in any care setting, but how we respond to them defines them. Experience for everyone involved. As we wrap up today's conversation,

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one thing is clear to me. When a communication resolution program is done well, it can build trust, strengthen relationships, and ultimately create safer, more compassionate communities for residents, families, and staff. By leaning into transparency, empathy, and accountability, CRPs offer a path forward that prioritizes understanding over blame and resolution over silence. Thank you to my listeners for joining us for this important discussion.

If today's episode resonated with you, Marsh has been working closely with Tom and others to develop tools for senior living providers. If you would like to learn more about CRP in the senior living space, ideas around how to look at implementing, you can reach us at the email address in the show notes. Lastly, be sure to subscribe so you don't miss any future episodes. You can find us on your favorite podcast platforms, including Apple and Spotify. Thank you all again for tuning in and be sure to join us for our next Risk Insight.

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