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## Risk Management

### Introduction

Respite programs are built on a trust relationship between the agencies and the families they serve. To maintain a high level of trust, and to protect the people touched by the delivery of service, it is important to have a plan for any difficulties which might be encountered.

To understand risk management and put it in its proper context, one first needs to understand the concept of liability. Liability in a specific situation depends upon whether an individual behaved inappropriately towards another, and, as a result, that person was injured. The inappropriate behavior may be through one's negligence, i.e., failure to behave according to a recognized standard of conduct, or through one's intentional actions, as in the case of assault or breach of confidentiality. If you fail to meet these standards, and your failure causes harm, you become liable for the harm.

In crisis and planned respite care programs, harm could be caused by a variety of actions done by a volunteer and/or paid staff. Providing direct care services to loved ones with special care needs, or those who are experiencing crises in their lives, and to their families, can be risky. To ensure proper risk management, programs need to develop and implement a risk management program.

Risk management is a structured process for

- minimizing potential liability
- avoiding harm to your clients
- stabilizing your insurance costs
- protecting your agency from ruinous financial losses.

### Risk Management Policy Statement

Prior to developing a risk management program, develop a policy statement on risk management. This sends a message to staff about the importance of a risk management program. Obtain assistance from your insurance agent or an experienced risk manager. (Check your local United Way, Community Hospital, or your insurance agent; all of them can provide technical assistance in risk management.) The policy statement should include the following:

- The mission of the risk management program (i.e.,

to reduce risks for the care recipient, family members, and the agency)

- The linkage between the risk management mission and the overall agency mission
- The actions staff and volunteers can/should take to manage risks
- The identification of the person in the agency responsible for ongoing risk management efforts (usually the director)

### Steps of Risk Management

The steps of risk management are simple and straightforward:

- identify the risk
- analyze and evaluate the risk
- control or eliminate the risk
- protect the agency and the consumers of its services
- manage any failures

The first step is to identify the risk. Take inventory of all the tasks agency staff perform. Identify those tasks which have the potential to cause harm to your clients. Some examples include—

- A care recipient involved in a car accident while being transported by a volunteer
- An elderly care recipient tripping over a loose rug and breaking a bone
- Failure to recognize the development of a life-threatening illness
- Failure to seek medical care in a timely manner
- An individual being treated roughly or abused by a care provider
- A child being released to a parent or guardian who appears to be incapacitated by drugs or alcohol

The everyday, mundane kinds of activities may be where programs are the most liable. Remember, legally, volunteers are defined as "gratuitous employees," and should be included in the staff inventory. Programs are liable for the activities volunteers perform while volunteering.

Assess the safety of the program and the facility. Review the agency's program structure and services, and identify factors which could prevent you from perform-

ing these functions in a less risky manner. Some areas to examine include—

- physical plant soundness
- staffing patterns
- supervisor to staff ratios
- education and competence level of staff
- job assignments
- level of training provided

Utilize both internal staff and external consultants to assist in identifying both the areas of risk and the causes of the risk.

The second step of risk management is to analyze and evaluate the risk. There are two questions to ask:

*Is the potential injury significant?*

- If the risk is significant, i.e., if it has the potential of causing severe harm to even a few individuals, then actions must be taken to eliminate or reduce the risk.

*How frequent is the risk?*

- Consider how frequently the risk taking activity occurs. The more often an activity occurs, the greater the chance of an injury resulting.

Once you have evaluated the risks, you must prioritize them. Not all risks are equal. For example, an activity may take place frequently, but when mistakes occur they produce insignificant harm. Such activities may require less attention than those which, though they seldom occur, can lead to substantial harm.

The third step of risk management is to control or eliminate the risk.

- Educate agency staff about the problems potential liability risks.
- Develop policies and procedures which will reduce the risk. For example, to reduce the risk of releasing a child with special care needs to a family member who appears to be incapacitated by drugs or alcohol, develop a discharge policy which is explained to parents when they enter their child in the program.
- Develop an attitude of accountability. All staff has a role to play in keeping client's safe and reducing the liability of the agency.
- Utilize staff and caregivers to develop the agency structure (policies and procedures) designed to reduce or control the risks.

The fourth step of risk management is to protect the agency. Most agencies do this through liability insurance. The purpose of liability insurance is twofold: (1) to protect the agency and staff from financial loss, and (2) to provide injured parties with funds to cover losses the agency caused. In choosing insurance and obtaining adequate coverage, use the assistance of an insur-

ance consultant or experienced risk manager. There are several publications (listed at the end of this factsheet) that are available to help respite and crisis care agencies identify insurance needs. Know what reasonable coverage for your agency is, and shop accordingly. The United Way or similar human service agencies may be able to provide assistance in determining what reasonable coverage is.

Some items to explore regarding insurance coverage for an agency are—

- Whether volunteers and members of the board of directors are included in the policy
- Whether certain events, such as sexual molestation, are excluded from the policy
- Whether professional staff are covered by malpractice insurance
- Whether financial limits on coverage adequately safeguard the agency
- Whether the policy will protect the agency twenty years from now, when an infant client is an adult and brings a law suit
- Whether an employee's or volunteer's vehicle is covered in the policy

The fifth, and last, step of risk management is to manage any failures. Be realistic about the fact that mistakes happen. A staff member may give an individual a food item to which he or she is allergic and they may suffer a reaction. A child or adult being cared for may fall down and split his/her lip open and need stitches. Whatever the incident, be honest and open about it. Do not try to hide it. Acknowledge the agency's role. By dealing with the situation honestly, the agency will earn respect rather than anger. The way such situations are handled initially may determine the family's and community's reaction to the agency.

### **Agency Structure as a Risk Management Tool**

How an agency is structured and staffed can increase or decrease its overall risk. Agency policies and procedures were previously mentioned as a means of controlling or eliminating risk. Agency policies and procedures should exist before providing services, and should reflect the standard of care for the services provided. In addition, the policies and procedures should include the parameters of activities and behaviors for all staff, including volunteers. Examples of such parameters are policies against abuse and sexual harassment, and procedures for reporting such incidents. Because these standards of care and parameters of activities and behavior can change, the person designated as the agency's risk manager should continually review and revise the policies and procedures.

Another aspect of the agency structure is the staffing pattern. If the program is licensed by a State agency, staffing ratios will be identified. However, the standard of practice may be to staff above the ratios identified by licensing regulations simply because of the needs of the individuals served by the program (e.g., children who are medically fragile, or adults with high medical needs, require a higher care ratio). Licensing regulations may not include supervisor to staff ratios. The type of supervision provided can increase or decrease the agency's risk.

In addition, the job responsibilities of staff can increase or decrease the risk. For example, if a staff person is responsible for monitoring 50 homes, but can only adequately monitor and ensure quality care in 40, the agency lends itself to a higher level of risk.

Agencies that provide in-home services may have special liability concerns. Staff and volunteers are not working in the more controlled and supervised facility-based setting and family members may assume an added role in overseeing and shaping the service. Nonetheless, through appropriate policies, procedures, and staff/volunteer training, these circumstances may be accounted for by instituting meaningful risk management practices.

An overlooked strategy for increasing the agency's competence in managing risk is the training of staff and volunteers. As part of the initial risk identification process, identify knowledge and skills staff members require to do their jobs. Are training opportunities provided to ensure that staff have the knowledge and skills they need to do their jobs? Do staff have access to ongoing training opportunities to increase their skills? Are they aware of the current best practices?

### **Addressing Family Concerns & Confidentiality**

Another important area of risk management is the development of policies and procedures to address family concerns, especially concerns over the care of their loved one with special care needs. Good practice dictates involving family members in the decisions concerning their loved one's care. Family members should always be apprised of exactly what services the agency does provide. Agencies need to be responsive to the concerns and issues raised by families. Agencies should have a grievance policy which is explained to families when they apply for services. In addition, family members should be informed of any appeal processes, especially if they are denied services by a public agency.

Agencies should pay special attention to privacy concerns of families. For the most part, confidentiality

requirements differ by state. Because many different state and even federal laws control confidentiality, agencies should review their policies with counsel. Family members should be informed of these policies, including the obligation to report suspected abuse or neglect.

### **Summary**

Crisis and planned respite agencies need to develop and implement a risk management plan before providing crisis or respite care services, and revise it on a regular basis. Identify the potential areas of risk, analyze and evaluate the risk, control or eliminate the potential risk, protect the agency with insurance, and, if an incident occurs, manage it. The development of thoughtful policies and procedures now will help to prevent serious difficulties in the future.

### **Resources**

*Planning It Safe: How to Control Liability and Risk in Volunteer Programs*, 1992. Available from: Minnesota Office on Volunteer Services, MN Department of Administration, 500 Rice Street, St. Paul, MN 55155.

*Liability in Child Welfare and Protection Work: Risk Management Strategies*, 1991. Available from: ABA Center on Children and the Law, 1800 M Street N.W., Washington, DC 20036.

*Managing Risks While Protecting Children*, 1986. Available from: National Association of Counsel for Children, 1205 Oneida Street, Denver, Colorado 80220, or, American Association for Protecting Children, 9725 East Hampden Ave., Denver, Colorado 80231.

*"Nonprofits' Risk Management and Insurance Sampler"* and *"Reconsidering Legal Liability and Insurance for Nonprofit Organizations"* by C. Tremper. Available from: Nonprofits' Risk Management and Insurance Institute, 1731 Connecticut Ave. N.W., Suite 300, Washington, DC 20009.

*Risk Management Guide for Nonprofits*, 1987. Available from: United Way of America, Alexandria, VA.

*"Am I Covered For..?" A Comprehensive Guide to Insuring Your Non-Profit Organization*, 2nd. ed., 1992. Available from: Consortium for Human Services, Inc., P.O. Box 1183, San Jose, CA 95108.

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