PRIMA'S 2016 RISK MANAGEMENT
WEBINAR SERIES

HR, Risk and Legal Interactions

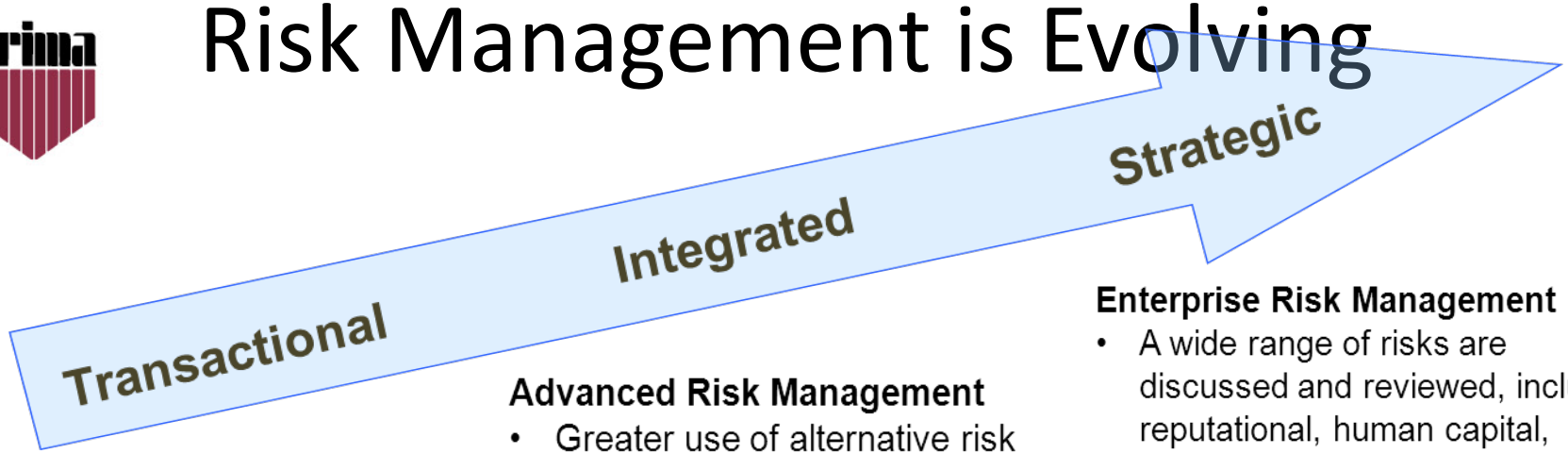
For the New Risk Professional

Risk Functions – Where are they now?

Depending on where the Risk Management function is housed, there will be a different management focus to the work. Common locations:

- Human Resources
- Finance
- Legal
- Administration
- Separate Risk Division – Incorporates all aspects

Risk Management is Evolving



Traditional Risk Management

- Purchase insurance to cover risks
- Hazard-based risk identification and controls
- Compliance issues addressed separately
- Safety & emergency mgmt handled separately
- "Silo" approach – risk mgmt is not integrated across the organization
- Risk Manager is the insurance buyer

Advanced Risk Management

- Greater use of alternative risk financing techniques
- More proactive about preventing and reducing risks
- Integrates claims mgmt, contracts review, special event RM, insurance and risk transfer techniques
- Cost allocation used for education and accountability
- More collaboration – as depts are willing
- Risk Manager may be the risk owner

Enterprise Risk Management

- A wide range of risks are discussed and reviewed, including reputational, human capital, strategic and operational
- Aligns RM process with strategy and mission
- May include "upside risks" (opportunities)
- Helps manage growth, allocate capital & resources
- Risks are owned by all & mitigated at the department level
- Many risk mitigation & analytical tools available
- Risk Manager is the risk facilitator and leader

Risk is bad – focus is on transferring risk

Risk is an expense – focus is on reducing cost-of-risk

Risk is uncertainty – focus is on optimizing risk to achieve goals

Matt Hansen, Director of Risk Management, City and County of San Francisco

What is YOUR Role?

- Scope of Risk Management in the organization
  - What do you handle?
  - What has been done?
  - What HAS to be done right now?
  - What NEEDS to be done?
  - Narrow from there and Prioritize
- See Where you are
  - Written Programs?
  - Insurance Programs?
  - Carriers/TPAs/Brokers?
  - Data Evaluations/Loss Runs?
  - Management Team?
  - Top Leadership Team?

Know Your Organization

- Visit Departments – know and understand your operations
- Territorial Issues– communicate your commitment to be a resource, not a hindrance – build relationships
- If you are new, prepare for excuses or arguments
- Make sure you have Leadership support

Know Your Organization (cont.)

- Find your “straight shooters” - They will provide accurate information and feedback
- Complainers – Don’t discount the value of the employee with the negative view
- “Spoons” – stirring the pot
- Renewal Applications can give you an avenue for interaction with departments on a non-confrontational basis

Delve Deeper

- Meet with External Resources to develop relationships and receive feedback
  - State/Regional PRIMA Chapter, National PRIMA – Best practices, emerging issues
  - Insurance Company/TPAs/Brokers
  - Local OSHA Office

Why Does This Matter?

- If your claims frequency/severity/history are high, look for common denominators
- Where are the potential problem areas?
    - Employee Dissatisfaction
    - Leadership Miscommunication
    - Change in Management/Supervisors
    - Change in Operations
    - New technology added (fear of job loss)

Risk Management

- Balancing Needs of Others
  - Employees
  - Employer
  - Community/Constituents
  - Laws/Rules/Requirements

Human Resources

Potential Issues

- Right Hire
- Drug testing
- Personnel Policies
- Training
- Family Medical Leave/Workers' Comp/ADA
- Benefits Coordination – disability, health insurance, retirement, paid leave
- Unpopular Changes or Management Issues
- Management Actions
- Collective Bargaining Agreements

Legal

- Adherence to Laws
- Interpretive Cases or Letters of Intent
- Terminology Differentiation
- Fight or Settle Determinations
- Defense Valuations
- Investigative and Evidence Needs for Defense
- Evaluation of legality of policies/procedures
- Collective Bargaining Issues/Legalities

Risk Management Role in the Triad of HR, Legal and RM

- Often dependent on responsibilities, but ….
  - RM generally responds to complaints/claims
  - RM has researched the laws/regulations
  - RM has the investigative information
  - RM has evaluated contracts
  - RM has knowledge about internal policies
  - RM has internal contacts to gather more data
  - RM may be in charge of health insurance, FML and ADA compliance

FML/ADA/WC

- Which Apply?
- Know Requirements
- Check for Broader State Laws
- Do Benefits Continue?
- Evaluate Each Situation Independently

WC/ADA/FML

- An employee has an on the job injury resulting time away from work. Does Family Medical Leave run concurrently with the Workers' Comp or OJI leave?
- What if the attending physician returns them to work with physical restrictions? What if they cannot perform the essential functions of their job for a time? What if a condition of return to work is limited daily hours?
- What if the employee receives permanent restrictions that render it impossible for the employee to return to their original job? Can they take Family Medical Leave for their own serious health condition? Are you required to give them a different job?

Open Records/FOIA/Nightmare on Anytown's Busy Street

- A citizen has a vehicular crash with a police cruiser at a very busy intersection. This event is witnessed by a water maintenance crew, who call it in to dispatch.
- When you arrive on scene, all members of the WM crew have their personal cell phones out, possibly taking photographs. EMS has extricated the citizen from her vehicle. The citizen's clothing is torn where the AED was placed. State Troopers are talking to the police officer, who has a large gash on his head and looks very pale.
- A large number of citizens mill throughout the area, taking photos, talking on cell phones, and apparently texting. Vehicles are passing the scene at a slow rate of speed – gawking and taking pictures.
- One citizen is speaking animatedly to a television crew, advising he saw the whole thing and the police officer intentionally rammed the woman in the vehicle, because, you know, they used to have a "thing." The animated talker then states he was fired from the City unjustly but they let scum like that police officer remain employed.
- What do you do first? What can you do? What issues do you have? What all do you need to look into?