

CAYMAN ISLANDS.
CLEARLY BETTER BUSINESS.

EMPLOYEES GONE WILD!

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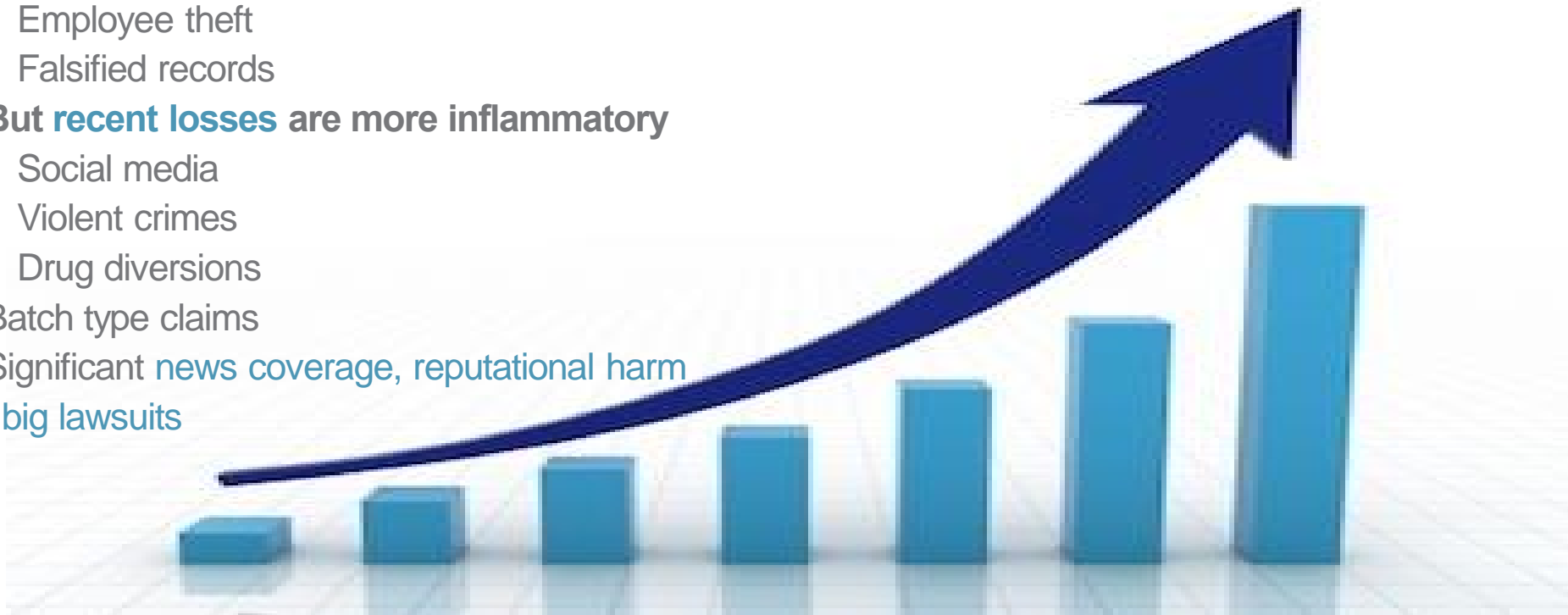


OVERVIEW

Introduction – What we’re seeing
In the News – They did what???
Why is this happening?
Employee Related Incidents
" Social Media
" Violent Crimes
" Drug Diversions
Consequences
" Public Relations
" Lawsuits
" Coverage Issues
How to risk manage against the unknown?
What’s on the horizon?

INTRODUCTION

- Employee driven claims are **nothing new**:
 - “ Employee theft
 - “ Falsified records
- **But recent losses** are more inflammatory
 - “ Social media
 - “ Violent crimes
 - “ Drug diversions
- Batch type claims
- Significant news coverage, reputational harm and big lawsuits



IN THE NEWS. THEY DID WHAT???



USC received more than a year of questions about former medical ...
 Los Angeles Times - Jul 23, 2017
 ... about former medical school dean's conduct before scandal broke ... By Friday, officials deplored Puliafito's conduct and said they had ... Do you have information about USC's former med school dean? ... His statement did not say whether the university had known about the details before the article was ...
 On the heels of USC's med school dean resignation, will the ...
 89.3 KPCC - Jul 24, 2017
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Jackson Memorial therapist tried to view child porn at hospital, cops ...
 Miami Herald - Aug 16, 2017
 In a statement, Jackson Health Systems said its "robust IT security system" helped discover the "rogue employee" in January. "As a result, in ...



Hospital boss who failed to stop rogue breast surgeon butchering ...
 Daily Mail - Apr 30, 2017
 The boss of a private hospital firm where rogue breast surgeon Ian ... Not one NHS employee or former employee has been disciplined over the ...
 Call for public inquiry after evil breast surgeon's boss gets £10m ...
 Daily Star - May 1, 2017
[View all](#)



Killer nurse may be in jail, but nursing home residents not safer ...
 Woodstock Sentinel Review - Oct 19, 2017
 WOODSTOCK - In the town where registered nurse Elizabeth Wettlaufer murdered seven residents under her care at a long-term care home, ...
 Wettlaufer inquiry commission comes to London today
 CBC.ca - Oct 19, 2017
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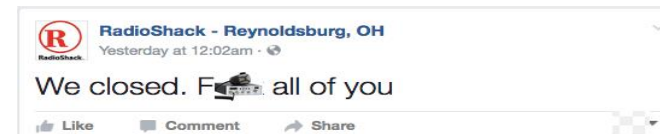
Naval staffers booted over disturbing pics, posts of 'mini Satan ...
 New York Post - Sep 20, 2017
 Workers at a naval hospital in Florida have been booted from their posts after ... The pic was shared by a woman who identified the employee as a ... The rogue staffers have been "removed from patient care," the hospital said ...
 Cruel nurses suspended for taking sick selfies swearing at newborn ...
 The Sun - Sep 19, 2017
[View all](#)



Exclusive: DHS Says Georgia Hack May Have Been Rogue Employee
 LifeZette - Dec 12, 2016
 The Department of Homeland Security told members of congress Friday that a rogue federal employee may have been responsible for a ...

EMPLOYEE RELATED INCIDENTS - SOCIAL MEDIA

- **Multiple components**
 - “ Used as part of the **misconduct**
 - “ Used when employee **should have been working**
 - “ Used to **disseminate** misconduct
- **Public or Private Sites / Apps are used**
 - “ Twitter
 - “ Facebook
 - “ Snapchat
 - “ Instagram
- **Conduct Varies**
 - “ Platform to **air grievances**
 - “ **Negative comments** about employer
 - “ **Sharing images** of patients and/or **confidential** chart information



EMPLOYEE RELATED INCIDENTS - SOCIAL MEDIA

Case Example – In April, 2017, an employee at the facility allegedly photographed a patient's naked body and posted video on Snapchat. The patient has advanced Alzheimer's disease and can barely move or comprehend what's going on, per family member. Employee accused of abuse has convictions for marijuana possession, fraud, criminal mischief.

- The aide was suspended and terminated.
- The aide was charged with assault.
- The Austin nursing home is being sued by an elderly resident who says an employee at the facility posted videos on the internet that show someone smearing feces on her body and face. Allegations include:
 - “ Employee accused of abuse has convictions for marijuana possession, fraud, criminal mischief. Negligent hiring?
 - “ The suit also accuses Windsor of not notifying authorities of the incident, saying officials lied, denied and covered up the abuse,+according to The Austin American-Statesman.
- State and CMS investigation.

EMPLOYEE RELATED INCIDENTS . CRIMINAL ACTIVITY

- **Crimes can arise from any department**
 - “ Physicians
 - “ Nurses
 - “ Techs
 - “ Admins
- **Some Examples:**
 - “ Armed Robbery
 - “ Fraud
 - “ Sexual and physical assaults
 - “ Murder
 - “ Theft

EMPLOYEE RELATED INCIDENTS . CRIMINAL ACTIVITY

Case Example: A very well-liked and experienced employed Ob-Gyn secretly videotaped and photographed female patients, many of which were minors, over the course of several years. The physician committed suicide once his illegal activities came to light and only *after a report was filed by a suspicious co-worker.*

- Class Action filed
- 8,000+ patients involved
- Criminal investigation
- Significant media attention
- \$190m settlement

Is this a PL, GL, Cyber or D&O claim?



EMPLOYEE RELATED INCIDENTS - DRUG DIVERSIONS

Transfer of any legally prescribed controlled substance from the individual for whom it was prescribed to another person for illicit use

- Lack of data showing how widespread the issue is
- Not limited to the Pharmacy
- Types of Diverted Drugs*
 - “ Opioids
 - “ Antiretroviral
 - “ Athletic performance-enhancing
 - “ Nonopioid psychotropic
- Risk Factors
 - “ Individuals suffering from addiction
 - “ Lack of oversight / monitoring tools
 - “ Unsophisticated supply chains
- Spread of disease from providers to patients



9 *Information sourced from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3538481/>

EMPLOYEE RELATED INCIDENTS - DRUG DIVERSIONS

Case Example: An agency Radiology Technician **diverted fentanyl syringes** from nineteen (19) hospitals in eight (8) different states **over the course of nine (9) years**. Multiple terminations for drug use. The **tech was Hep C positive**, and approximately 45 patients were found to be infected. **Several thousand** additional patients were notified of possible exposure.

- Multiple lawsuits in several states
- Criminal investigations
- Negative press for all providers involved
- Adequacy of pre-employment screening questioned
- Multi-million Dollar settlements

COVERAGE WRINKLES

- **Mixed Claims:** covered vs. uncovered allegations
- **Policy Exclusions:**
 - “ Intentional/Criminal misconduct
 - “ Outside the scope of employment
 - “ Sexual/physical assault exclusion and/or sub-limit
 - “ Punitive damages
 - Batch Coverage
 - “ Common Cause
 - Illegal conduct as common causal nexus?
 - Negligent hiring, training, supervision and credentialing?
 - “ Relatedness
 - Multiple events
 - Multiple locations

RISK MANAGEMENT SOLUTIONS

**Identify Your
Areas of Risk**

**Active
Shooter
Training**

**Policy and
Procedures**

- " Social Media
- " Criminal Background checks for new hires
- " Drug Tests

**See Something,
Say Something**

- " Other employees are your first line of defense

HOW TO RISK MANAGE AGAINST THE UNKNOWN? SOCIAL MEDIA

Background checks pre-hire . social media

Comprehensive Social Media policy

" Connection with other policies: patient confidentiality, photo/video/audio, HIPAA.

Staff training (employees, medical staff, etc.)

Monitoring

HOW TO RISK MANAGE AGAINST THE UNKNOWN? CRIMINAL ACTIVITY

- **Identify risks**

- “ Background checks pre-hire . criminal

- **Prevention programs**

- “ Zero tolerance culture

- **Patient injury**

- “ Chaperone policies

- **Employee injury**

- “ Environmental designs . including emergency signals, alarms, metal detectors, cameras

- “ Administrative controls . restrict movement (card controlled access)

- “ Behavior modification . identifying behaviors and risk factors, hazard awareness, de-escalation

- **Training**

- **Enforcement**

- **Consider continuous, post-hire monitoring – may become the standard**

- **Resources**

- “ https://www.jointcommission.org/standards_information/jcfaqdetails.aspx?StandardsFAQId=1321&StandardsFAQChapterId=66&ProgramId=0&ChapterId=0&IsFeatured=False&IsNew=False&Keyword=&print=y

- “ <https://www.osha.gov/SLTC/workplaceviolence/recognition.html>

- “ <https://www.cdc.gov/niosh/docs/2002-101/>

HOW TO RISK MANAGE AGAINST THE UNKNOWN? DRUG DIVERSIONS



" Comprehensive policy



" 24 hour hotline



" Waste retrieval system



" Reporting process



" Pre-employment drug screening

" Random drug screening?

HOW TO RISK MANAGE AGAINST THE UNKNOWN? BACKGROUND SCREENING

Criminal

Social media

Continuous screening

**Screening of contingent workers
(in addition to contract agencies)**

Resources –

<https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/2017-employment-screening-trends.aspx>

WHAT IS ON THE HORIZON?

Drug shortages

Technology – IoT

Employees filing antitrust claims against employers

<https://www.beckershospitalreview.com/legal-regulatory-issues/anesthesiologist-files-4-antitrust-complaints-against-mayo-clinic.html>

Drones

Use of midlevel providers – role clarification

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