The HHS Insurance Crisis:
What You Need to Know and What You Can Do

November 18, 2020

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A head for insurance. A heart for nonprofits.

Brown & Brown INSURANCE

benchmarks
An Alliance of Agencies Helping Children, Adults & Families

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Agenda

- **Market Conditions**
- **Factors Driving Market Conditions**
- **Navigating Your Renewal: Positioning Your Agency for the Best Possible Renewal Outcome**
- **Risk Management Best Practices**
- **Alternative Options – What YOU Can Do**

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Market Conditions

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Market Conditions

Hard Market vs. Soft Market

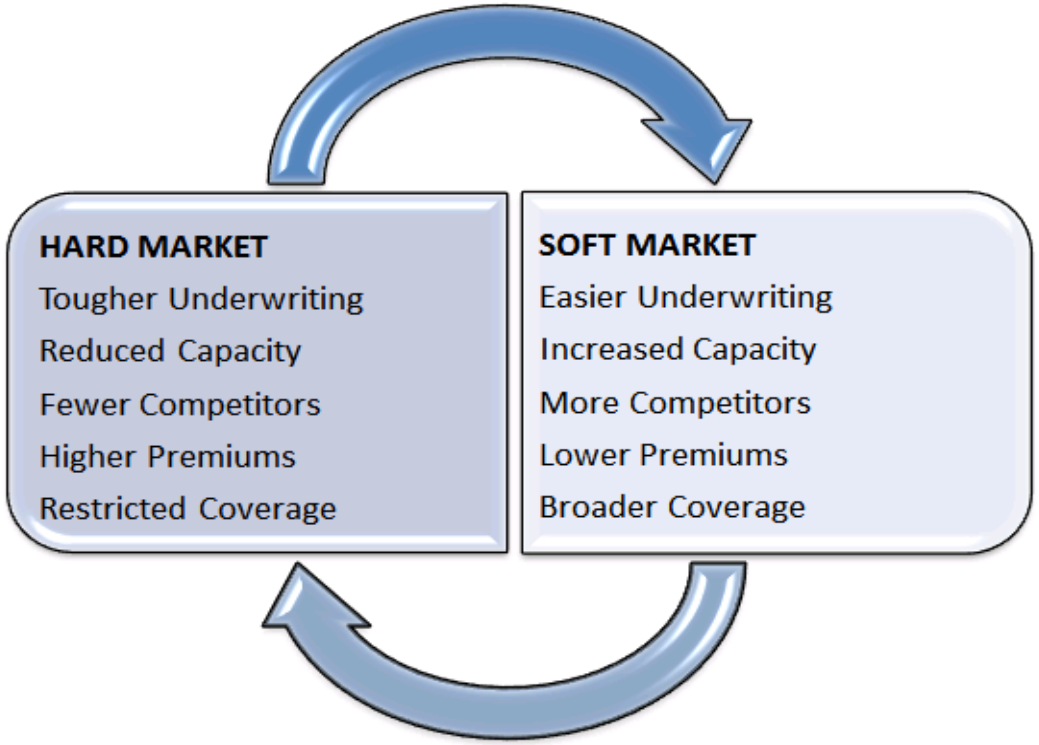
The property/casualty insurance market is cyclical.

A period of rising premiums and reduced capacity –

known as a **hard market**, is followed by a typically

longer period of falling rates and expanding capacity –

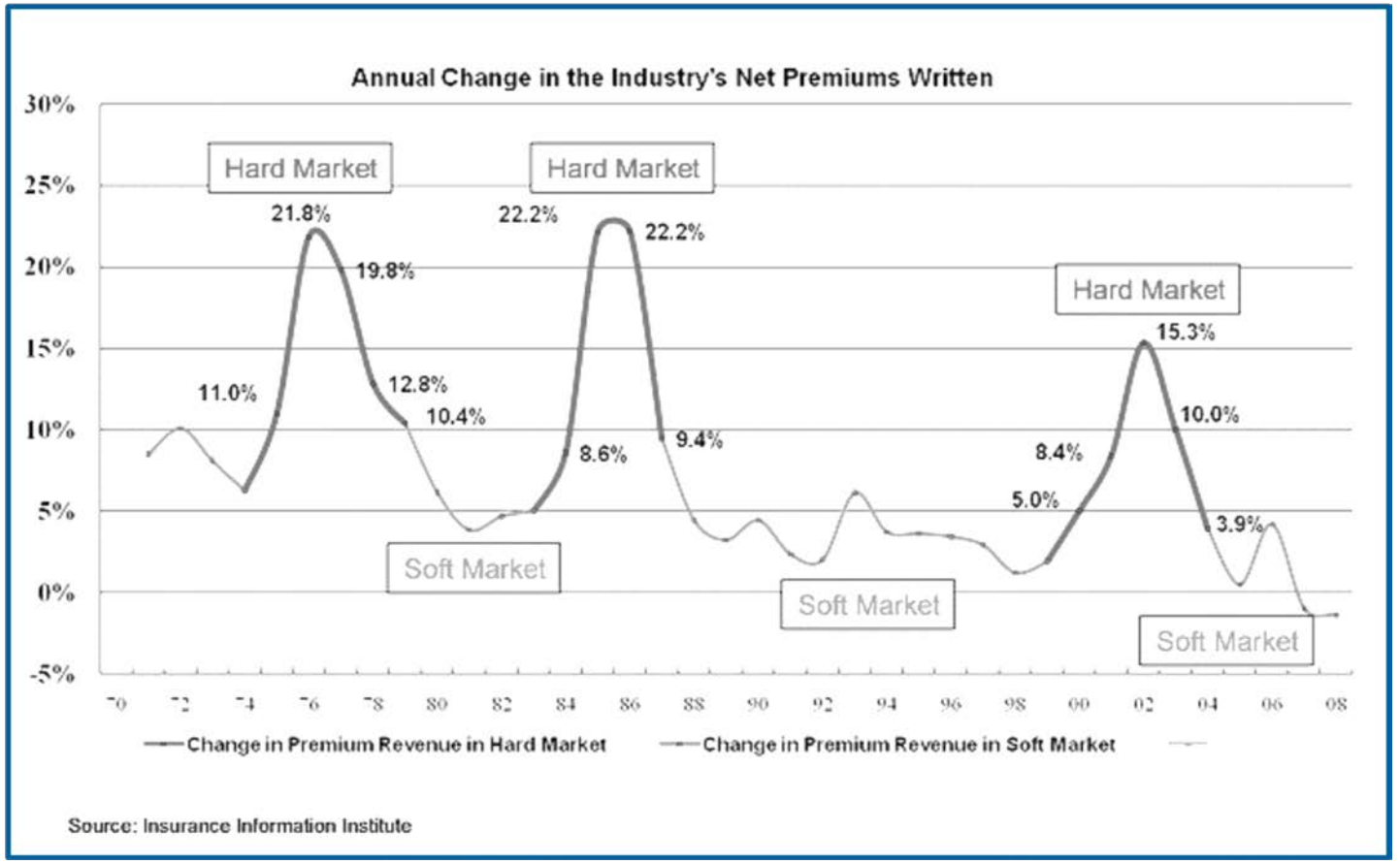
which is known as a soft market.



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Market Conditions

Market Cycles



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Market Conditions

Commercial Property/Casualty Market Index: Q2 2020

AVERAGE COMMERCIAL PRICING INCREASES

	By Account Size SMALL	MEDIUM	LARGE	AVERAGE
Second Quarter 2020	7.3%	11.0%	14.2%	10.8%
First Quarter 2020	5.5%	9.8%	12.6%	9.3%
Fourth Quarter 2019	5.2%	8.0%	9.4%	7.5%
Third Quarter 2019	4.4%	6.8%	7.6%	6.2%
Second Quarter 2019	3.9%	6.2%	5.6%	5.2%
High	20.8%	31.7%	33.0%	28.5%
High Date	*4Q01*	*4Q01*	*4Q01*	
Low	-10.0%	-15.0%	-15.9%	-13.6%
Low Date	*1Q08*	*3Q07*	*3Q07*	

Source:
The Council of Insurance Agents & Brokers.

THE COUNCIL

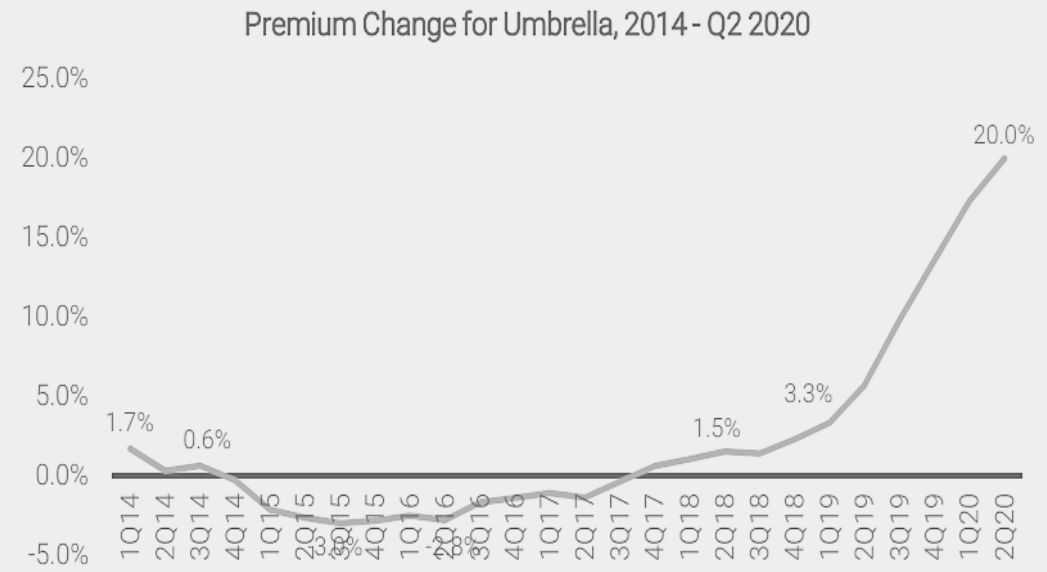
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Market Conditions

Commercial Property/Casualty Market Index: Q2 2020

UMBRELLA

In terms of premium pricing, Umbrella was the most troubled line of business in Q2 2020, with an average premium increase of **20.0%**, the first time an increase of 20% or higher has been recorded for any of the commercial lines since 9/11.



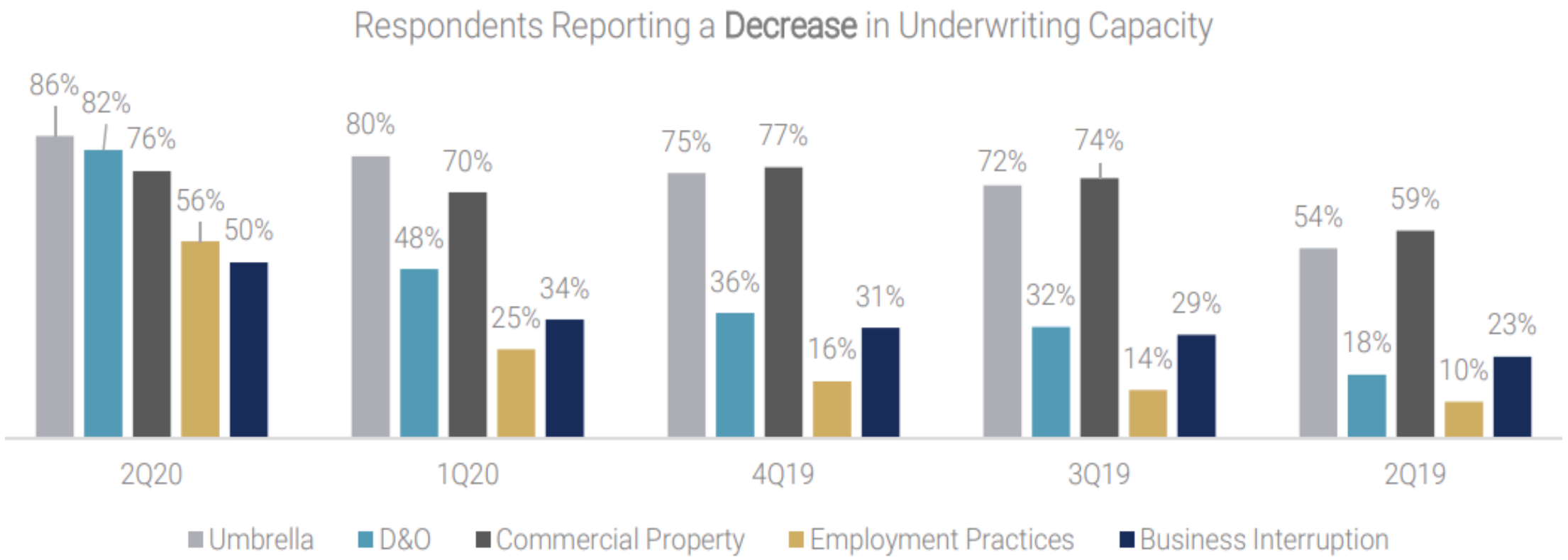
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Market Conditions

Commercial Property/Casualty Market Index: Q2 2020

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Market Conditions

Commercial Property/Casualty Market Index: Q2 2020

Market Continues to Harden

- Increased premiums
- Capacity reduction
- Strict underwriting

Rate Increases Across All Lines

- 11th consecutive quarter of increased premiums
- End of 21 quarters of decreasing WC premiums
- Umbrella and D&O premiums increased the most

Reduction in Capacity

- Nuclear verdicts
- Increased litigation
- Claims piercing the umbrella layer

HHS

- HHS insurance marketplace showing signs of distress for years
- Now colliding with an industry wide hardening

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Factors Driving Market Conditions

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Driving Factors

Increased Public Awareness


The New York Times

U.S.A. Gymnastics Offers $215 Million to Larry Nassar Victims

A lawyer for more than 200 women and girls who accused Mr. Nassar of abuse called the offer "unconscionable."


abc NEWS

Penn State Settles 25 Suits in Jerry Sandusky Case

The university settled with 25 men who said they were abused by Sandusky.


The New York Times

Nearly 8,000 Boy Scout Leaders Have Been Accused of Sexual Abuse Since 1944, Researcher Found

The issue of sexual abuse in the Boy Scouts received widespread attention

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Driving Factors

Statute Reform





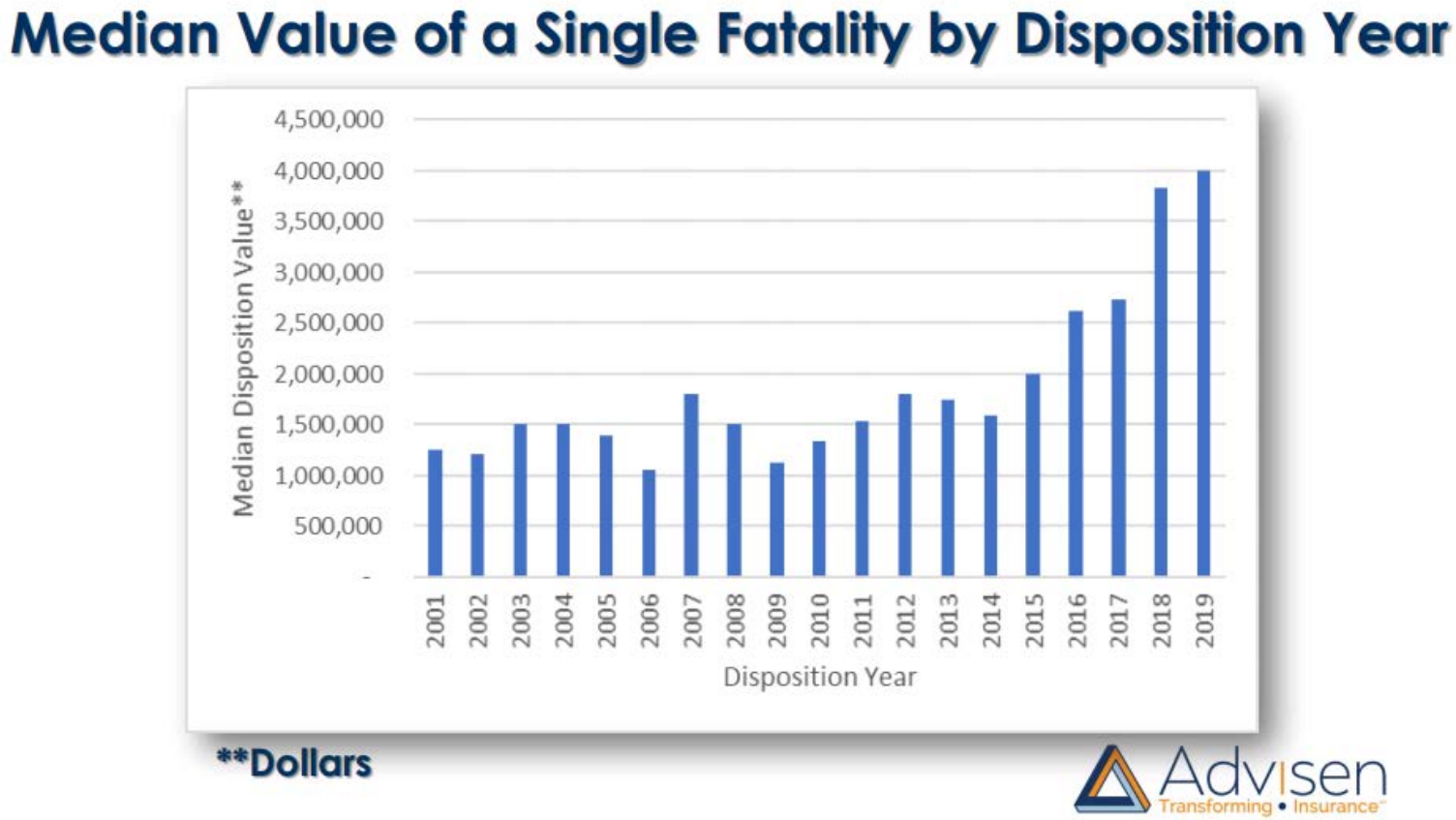
www.childusa.org *as of 4/8/2020

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Driving Factors

Social Inflation

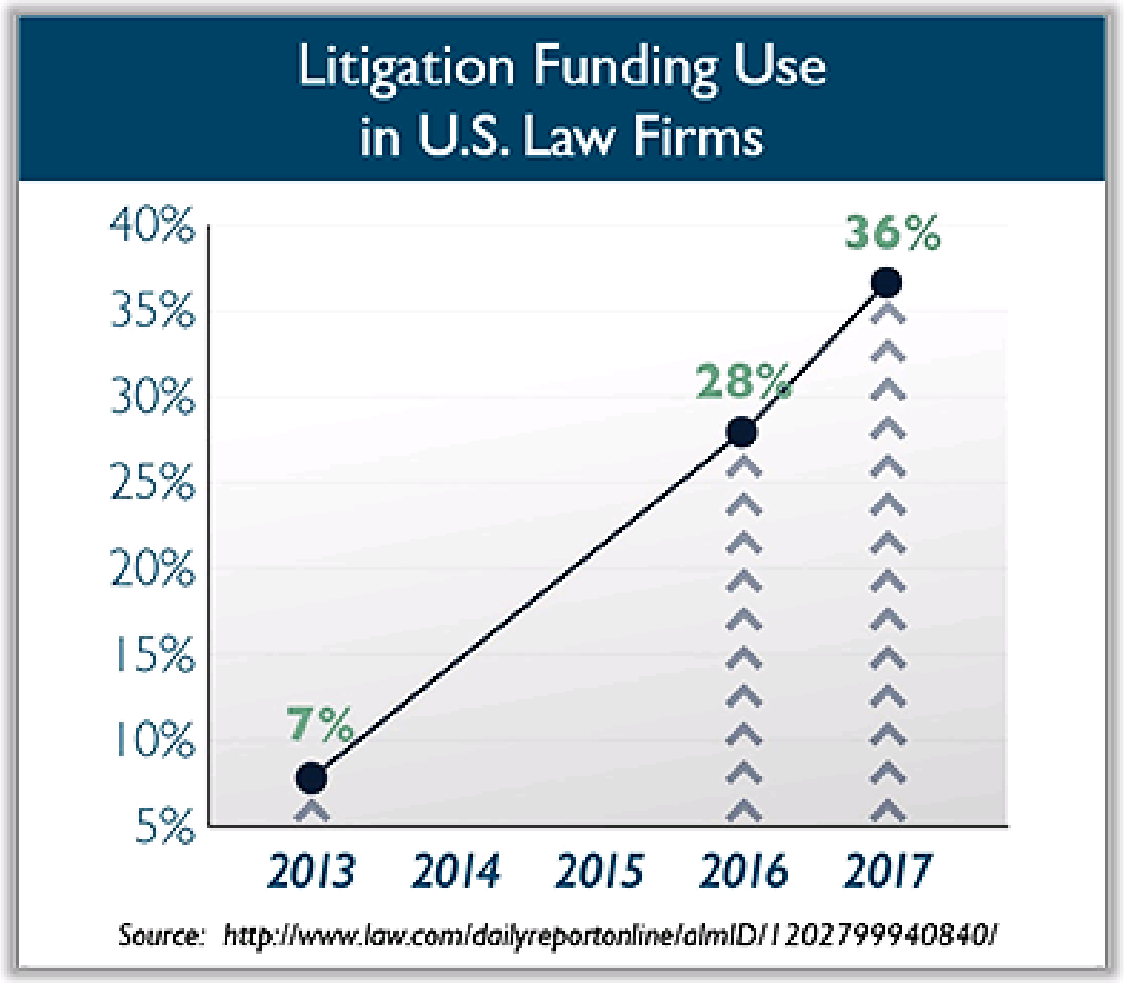
- Media Influence
- Diminished Value of Money
- Erosion of the Middle Class
- Juror Distrust
- Anti-corporate sentiment (non-profits
  no longer immune)
- Remedy culture – someone has to pay



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Driving Factors

Litigation Financing



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Driving Factors

Nuclear Verdicts

Nuclear Verdicts:

Judgments in excess of $10 million (or is considerably high as compared to the injuries and/or damages)

- Number and size of large verdicts against carriers has skyrocketed last 5 years
- These verdicts force insurance companies to increase rates
- Unable to absorb rate hikes – many carriers go out of business

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Driving Factors

Distracted Driving

Distracted Driving

2,841

Number of People Killed by Distracted Driving in 2018*

- Texting
- Using a Cell Phone
- Talking to Passengers
- Grooming
- Using a Navigation System
- Adjusting the Radio or CD Player
- Drowsy Driving

* National Highway Traffic Safety Administration

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Driving Factors

Catastrophic Weather Events



Insurance is a Cyclical Industry

- Prices are lowered during periods with no catastrophic claims
- After large natural disasters, prices are typically increased or expose to certain risks is reduced
- Current price increases due to hurricanes, wildfires & other catastrophes in 2017 and 2018
- Carriers are paying more for non-catastrophe claims

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Driving Factors

Summary

The Issues

- Prolonged Soft Market Conditions (lower rates / more expansive coverage)
- Higher losses / legal climate
- Lower interest rate environment

Corrective Action

- Rate increases
- Reduction in capacity
- Changing carrier/underwriting appetite

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Insuring Physical & Sexual Abuse

1980's

- Insuring an illegal act against public policy
- No affirmative coverage, most policies silent. If not specifically excluded then it's included
- Concept of vicarious liability

1990's

- Abuse gets affirmative coverage/its own stand-alone liability tower of coverage
- A competitive soft market develops for the next 30 years
- HHS organizations become accustomed to having higher and higher limits

2020

- Corrective action needed and insurance market rapidly contracts for sexual abuse coverage (and in some instances Professional Liability)

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Navigating Your Renewal: Positioning Your Agency for the Best Possible Renewal Outcome

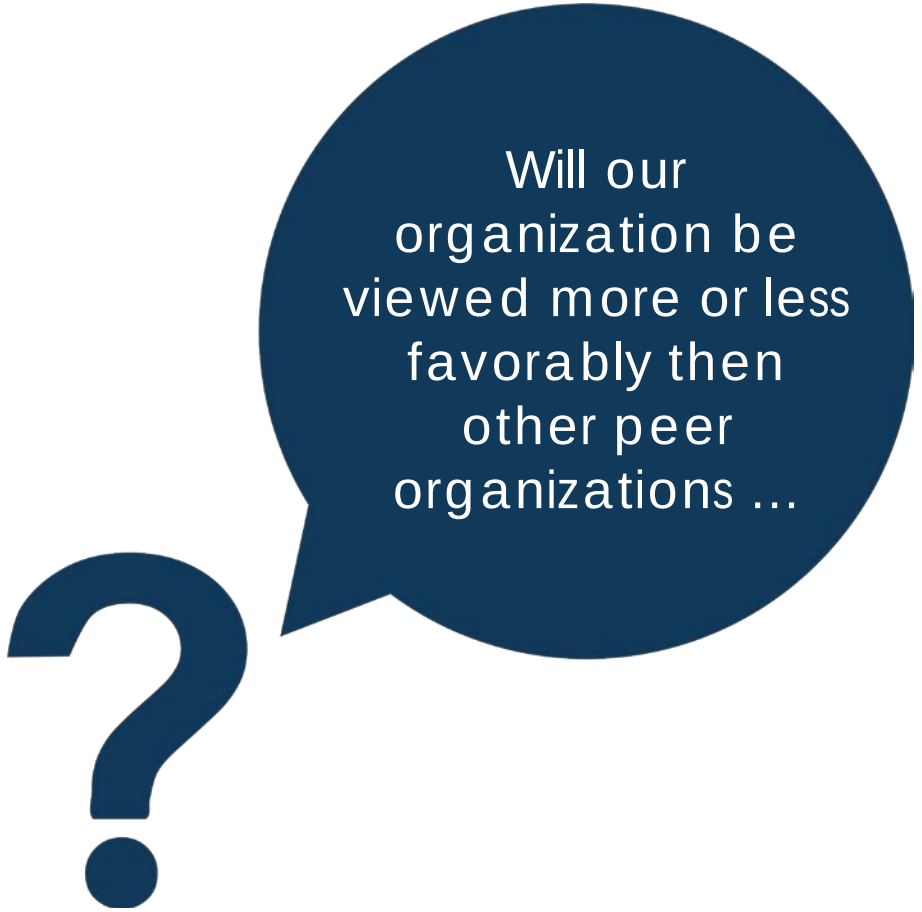
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Navigating Your Renewal

Positioning Your Agency for the Best Possible Renewal Outcome

Reduced Capacity = Supply/Demand Concerns

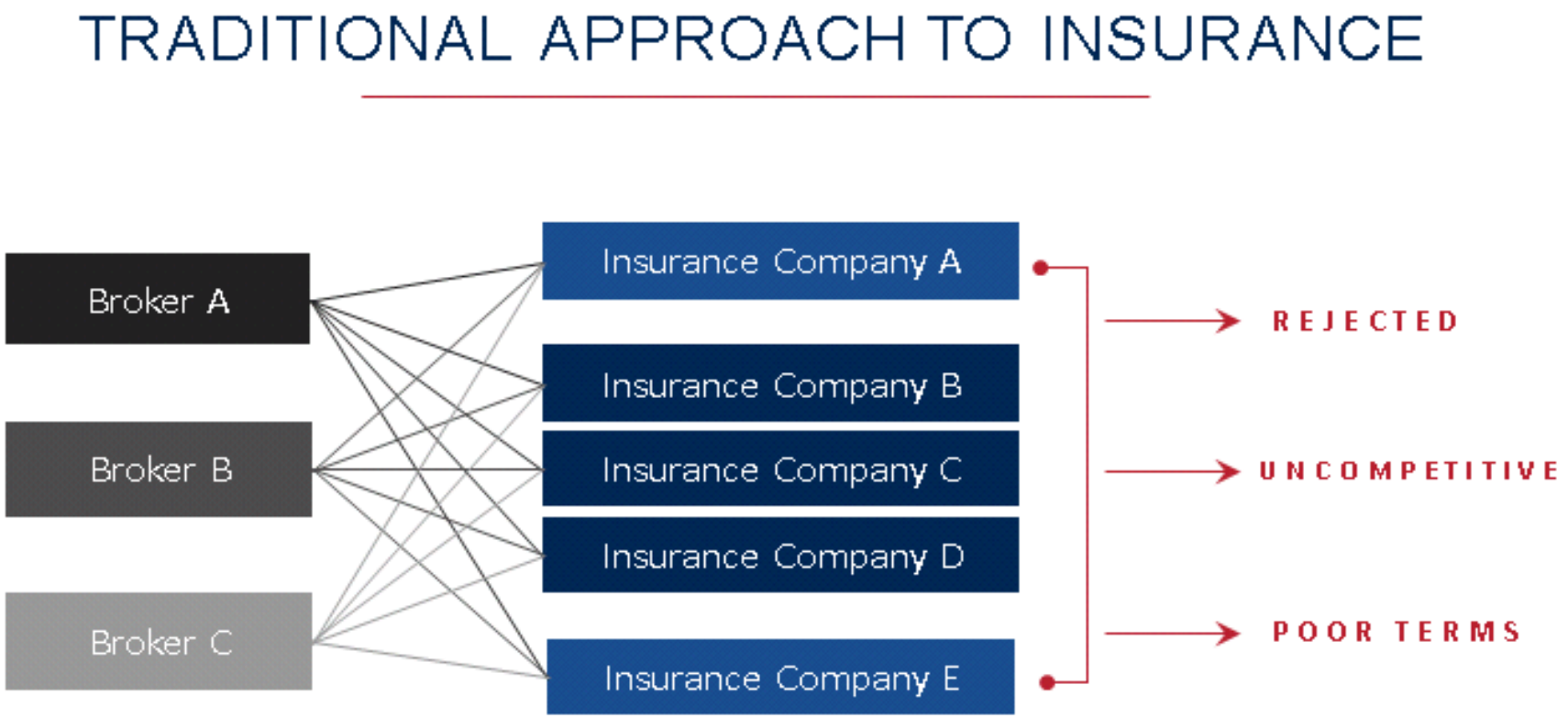
- Start early
- Be prepared to provide more information than what has ever been requested before
- Endeavor to respond to inquiries and requests for information in a timely manner
- Unbundle the Decision: Select your broker first
- Adopt a culture of risk management



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Navigating Your Renewal

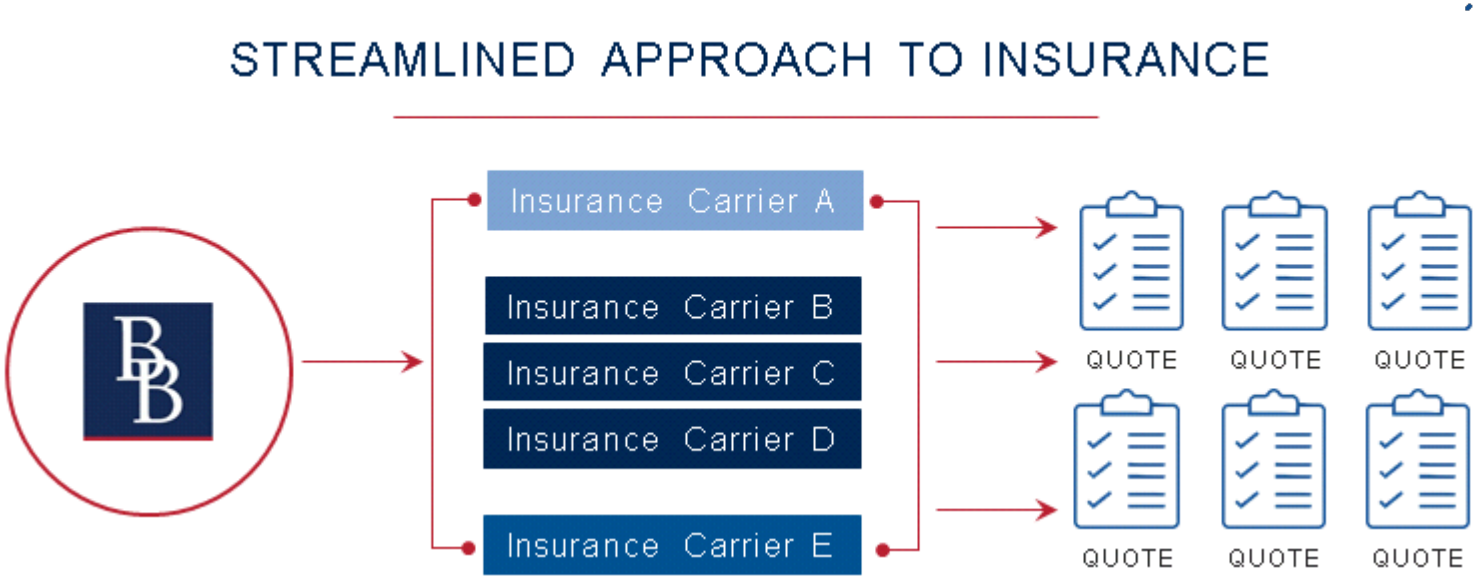
Unbundle the Decision: Broker Selection



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Navigating Your Renewal

Unbundle the Decision: Broker Selection



Benefits of Selecting Your Broker First

- **Streamlines the process for you**
- **Ensures consistency**
- **Drives competition**

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Navigating Your Renewal

Unbundle the Decision: Broker Selection



Your broker is one of the most highly compensated members of your team, tasked with ensuring the financial future of your organization post-catastrophic loss.

Considerations When Selecting a Broker Partner

- Full Market Access
- Strong Underwriting Relationships
- Premium volume
- Profitability
- Industry Expertise/Specialization
- Risk Management/Loss Control Offerings

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5th

Fifth largest insurance brokerage firm in the US as ranked by *Business Insurance*

1.9B

Revenues are greater than $1.9B and premiums placed exceed $19B

240

Employs more than 8,500 teammates with 240 locations across the globe

75+

Providing superior service to our customers for more than 75 years

Local presence. Global resources.

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Navigating Your Renewal

Unbundle the Decision: Broker Selection

Example of Agency RFP Letter

{Agency} is requesting proposals for its property, casualty, cyber, and executive risk broker services. The main purpose of this RFP is to gather information from qualified vendors to determine the candidate that will best accommodate the current and future needs of {Agency}.

Nothing said or implied during the RFP process shall be construed to commit {Agency} to any further action or particular course of action on this initiative. Furthermore, nothing said or implied during this process shall in any way obligate {Agency} to contract with or otherwise enter into any agreement with any particular vendor.

Response Submission Instructions and Deadline:

- Vendors are required to submit the proposal electronically via email to: {Insert}
- The deadline for responding to this RFP is: {Insert}

Requested Information:

1. Please provide a brief description of the agency, its services, and qualifications. Information provided in this section should include but is not limited to:
   a. The number of years providing insurance brokerage services
   b. Number of employees
   c. Approximate number of clients
2. Briefly describe the agency's qualifications and relevant experience in providing insurance programs and services for Non-profit and/or Health & Human Service organizations similar in budget, size and risk exposure to {Agency}.
3. Please provide 5 relevant client references.
4. Please list and describe the background and experience of the primary account executive and other support personnel who would be assigned to work with {Agency}.
5. Please provide a list of carriers for each given type of coverage as outlined in the introduction which you would use to provide insurance price quotes.
6. List the agency's top five (5) insurance markets as measured by premium volume. List total premium for each.
7. Describe the steps you would take in reviewing our current program.
8. Outline your renewal process.
9. Describe your agency's safety, risk management and loss prevention services.
10. Describe your agency's process for claims administration.
11. Describe how you support your Non-profit clients outside the scope of the broker relationship.

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Navigating Your Renewal

Adopt a Culture of Risk Management

Definition of *culture*

1a: the customary beliefs, social forms, and material traits of a racial, religious, or social group *also* **:** the characteristic features of everyday existence (such as diversions or a way of life) **shared** by people in a place or time

b: the set of shared attitudes, values, goals, and practices that characterizes an institution or organization; a corporate *culture* focused on [safety and risk management]

c: the integrated pattern of human knowledge, belief, and behavior that depends upon the capacity for **learning and transmitting knowledge** to succeeding generations

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Risk Management Best Practices

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Risk Management Best Practices



- Written Policies & Procedures
- Screening/Selection
- Training
- Monitoring/Supervision
- Participation
- Reporting/Responding
- Accountability
- Buy-In

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Risk Management Best Practices

Written Policies & Procedures



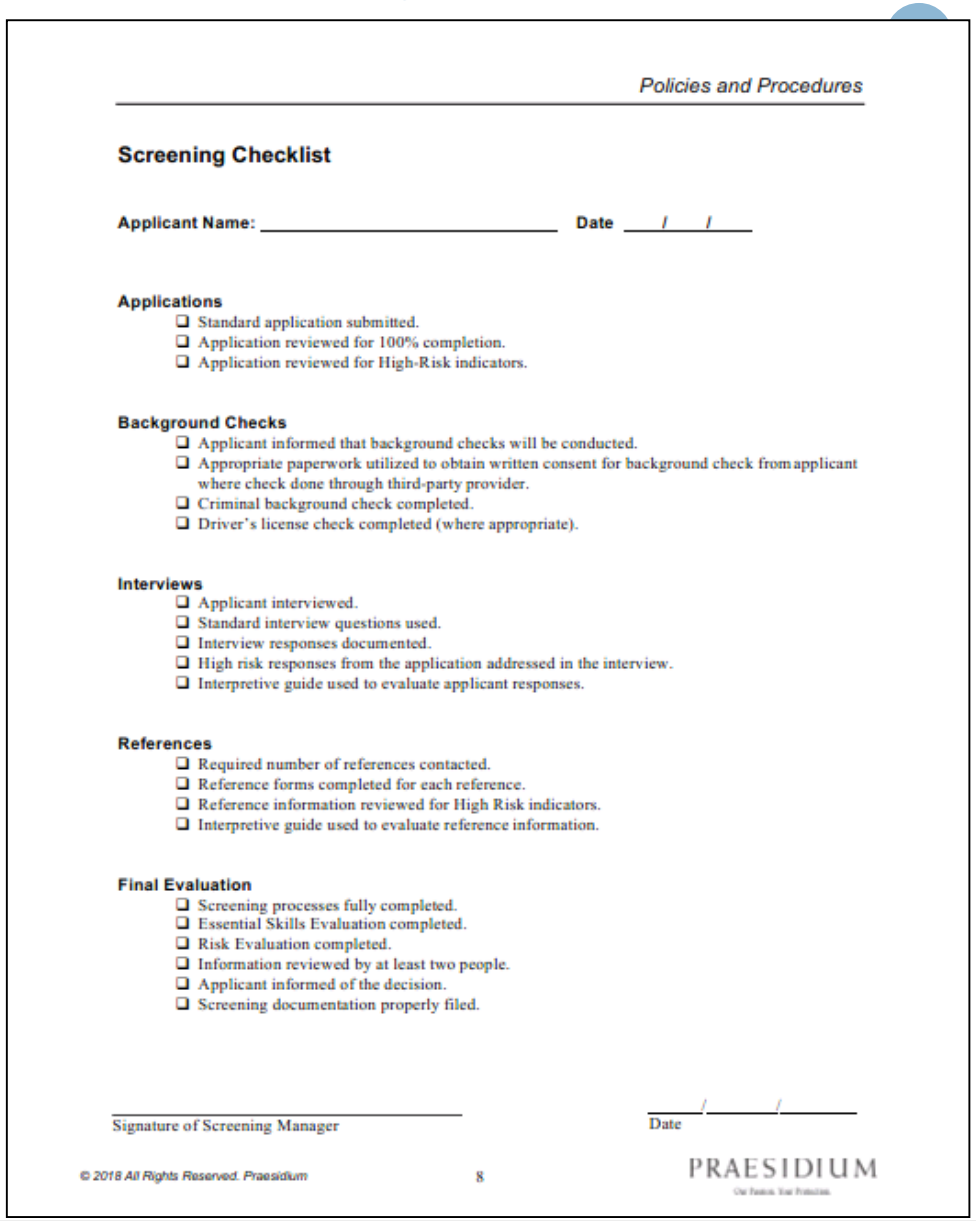
- Physical Contact
- Verbal Interaction
- One-on-One Interaction & Off-site Contact
- Electronic Communication
- Gift Giving

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Risk Management Best Practices

Screening/Selection

- Standard application including signed Code of Conduct
- Fact-to-face behavioral based interview
- Background checks
- Reference checks



Policies and Procedures

Screening Checklist

Applicant Name: _____ **Date** ___/___/___

Applications
- ❑ Standard application submitted.
- ❑ Application reviewed for 100% completion.
- ❑ Application reviewed for High-Risk indicators.

Background Checks
- ❑ Applicant informed that background checks will be conducted.
- ❑ Appropriate paperwork utilized to obtain written consent for background check from applicant where check done through third-party provider.
- ❑ Criminal background check completed.
- ❑ Driver's license check completed (where appropriate).

Interviews
- ❑ Applicant interviewed.
- ❑ Standard interview questions used.
- ❑ Interview responses documented.
- ❑ High risk responses from the application addressed in the interview.
- ❑ Interpretive guide used to evaluate applicant responses.

References
- ❑ Required number of references contacted.
- ❑ Reference forms completed for each reference.
- ❑ Reference information reviewed for High Risk indicators.
- ❑ Interpretive guide used to evaluate reference information.

Final Evaluation
- ❑ Screening processes fully completed.
- ❑ Essential Skills Evaluation completed.
- ❑ Risk Evaluation completed.
- ❑ Information reviewed by at least two people.
- ❑ Applicant informed of the decision.
- ❑ Screening documentation properly filed.

_____ Signature of Screening Manager

___/___/___ Date

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Risk Management Best Practices

Training

WHEN

- At time of hire and annually
- Prior to access to vulnerable population
- Periodically prior to high risk activities

WHAT

- Prevention and detection
- Preventing Abuse between consumers
- Mandated reporting
- Organizations policies and procedures

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Risk Management Best Practices

Monitoring & Supervision

High Risk Activities/Architectural Risks

- Overnights
- Bathrooms, locker rooms, aquatics
- Personal Care
- Transportation
- Periods of Transition
- Mixed Age Groups
- Isolated areas/rooms
- Rooms without windows
- Playgrounds
- Residential Spaces
- Outdoors/wilderness



Managing Risk

- Structured activities at all times
- Check in/out procedures
- Maintain ratios
- Bathroom/locker room procedures
- Groups separated by age
- Line of site supervision
- Limit one-on- one exposure
- Internal keys, fobs, locks
- Interior/exterior cameras
- Unobstructed windows
- Written procedures for trips, overnights, etc.
- Maintain a ZERO tolerance policy

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Risk Management Best Practices

Participation

- Involve parents/guardians and consumers/participants
- Recognize & name feelings, provide rules, set expectations
- Teach to recognize boundary violations
- Empower consumers/participants to protect themselves from abuse
- Provide parents/guardians and consumers/participants with multiple ways to report concerns

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Risk Management Best Practices

Reporting/Responding

WHY DON'T PEOPLE REPORT

- Shame, guilt
- Afraid nobody will believe them
- Dissociate and don't remember details
- Painful to recount the experience
- Perp. may be the trusted one
- Embarrassed

- Respond to red flag behaviors
- Be consistent
- Use a continuum of responses
- Have written procedures in place

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Risk Management Best Practices

Accountability & Buy-In

Accountability

Doesn't always need to be associated with punishment

Promote success as a positive approach to accountability

Buy-In

Leadership must not only talk the talk, but walk the walk

Is your board on board?

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B&B Family of Companies

BEECHER CARLSON

- Named winner of *Captive Review's* Captive Manager of the Year award twice
- Named winner of *Business Insurance's* Readers' Choice award twice
- Beecher Carlson teammates have been named Power Broker by *Risk & Insurance* in a variety of industries
- Won *Captive Review's* Innovation in Captive Management award
- Received the highest favorability rating and honorable mention in Excellence in the *Greenwich Associates'* Large Corporate Insurance Study of 683 corporate risk managers



- Captive Manager of the Year (*Captive Review*)
- Captive Service Provider of the Year, Pete Kranz (*Captive Review*)
- Captive Management Firm of the Year (*Captive International*)
- Reinsurance Broker of the Year (*Captive International*)
- Captive Management Individual of the Year, Pete Kranz (*Captive International*)
- Reinsurance Broker Individual of the Year, Kody Darr (*Captive International*)

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Recent Captive Marketing Efforts

Questions/Considerations

- What lines of coverage will be available in the captive program? GL, PL, Abuse only?
- What limits will be available in the captive program?
- What about umbrella/excess liability coverage?
- Will the captive utilize the preferred occurrence-based form or the inferior claims-made form?
- Would the captive discriminate based on certain high-risk programming, i.e. foster care, lockdown, sexual offender programs?
- Would the captive discriminate against certain states, cities, locations, venues?
- What about mergers and acquisitions?
- Will there be additional assessments for poor performance?
- What is the process to exit the captive?
- Are you willing and able to pay exorbitant fees ($17,000) for a feasibility study? Is it necessary?

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Alternatives to For-Profit Insurance Companies

Risk Retention Groups (RRGs)

Insurance carrier alternative that can provide affordable coverage to specialized niches of the marketplace – like nonprofit organizations.

What is an RRG?

- Special purpose insurer authorized by Congress
- Can underwrite all types of liability risks for its members
- An RRG is owned by its members



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Benefits of an RRG



- **100% focused -** on just one sector, by law
- **Specialized coverages** - deep expertise created over years of underwriting and managing claims
- **Risk management** - created for its members
- **Responsible only to its members** - not investors
- **Committed -** to the long-term health of its members
- **Board** - is elected by its members
- **Regulated** - by the same standards as commercial insurance companies

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Captive Insurance Company

A captive insurance company is a licensed insurance company owned & controlled by those it insures.

Captives are similar to RRG's in many ways:

- Works outside of the commercial marketplace
- Stability in pricing
- Increased control over programs
- Broader coverages

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Differences to consider

Risk Retention Groups (RRGs)

- May only write liability coverage*
- Not restricted by domicile
- No changes to RRG's since 1986
- Exempt from state regulations
- Must maintain excess capital

* For now!

Captive Insurance Company

- Can write any type of coverage
- Regulated by domicile
- Legislation changes frequently
- Need significant fronting
  - Requires large investment
  - Adds to cost
  - Difficult to put together

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Nonprofits Insurance Alliance (NIA)

- **Proudly supporting nonprofits for 30+ years**
- **Has 501(c)(3) nonprofit charitable status itself**
- **AM Best Rating of A VIII (Excellent)**
- **Currently insures 20,000+ nonprofits nationwide**
- **Stable source of reasonably priced liability insurance coverages**
- **Helps members develop & implement successful loss control programs**
- **2019 Financial results:**
  - Premiums: $154.3 million
  - Assets: $576.4 million



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Find Out More

We only work through brokers

Ask your broker for a quote

OR

Get a referral to a broker

Get a Quote

Insurancefornonprofits.org/GetaQuote

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The Insurance Crisis: What You Can Do

Nonprofit Property Protection Act

- HR 4523

Letter of Support

- Send to Congressmen in your district
- Add your name to the letter to Congresswoman Waters, Chairwoman of the House Financial Services Committee

Promote to Your Nonprofit Network

- Do you know other nonprofits who are struggling to obtain insurance coverage?
- Let's keep nonprofits strong by working together!



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