

# PENDULUM

## Professional Liability Risk Assessment For Senior Housing Communities

It is of paramount importance for a long term care organization to understand both its potential exposure to liability risk and its ability to defend itself in the case of a liability claim. Pendulum's Professional Liability Risk Assessment (PLRA) is an effective tool utilized by insurance underwriters, agents, brokers, and providers to make proactive and informed decisions regarding risk and defensibility. It can also be used as a significant value-added service as well as a renewal incentive. For senior housing communities, such as skilled nursing facilities, continuing care retirement communities, assisted living facilities, and hospices, among other long term care organization types, it is an effective way to evaluate and identify areas of risk.

The PLRA begins with an off-site review of organization documents, including specific risk-related policies and procedures, by a Pendulum risk control consultant. Prior to the visit, the facility will also receive an optional risk management strategies checklist. This self-assessment tool assists the facility in self-evaluating other areas of risk that should be considered within the risk management program. Any questions the self-assessment brings up can be asked of the consultant during the visit.

Following the off-site review, the Pendulum consultant will visit the organization location and evaluate the clinical and operational processes and the environment for risk of liability exposures. The consultant's visit can include specific areas of focus customized to meet the client's needs. Within 10 business days of the on-site assessment, the client will receive a written report that includes all of the consultant's findings. In addition, valuable risk control recommendations are provided. The client can elect for the organization to respond to these recommendations and have Pendulum evaluate their response and provide additional recommendations or information if necessary.

Included in the report is Pendulum's exclusive Risk and Defensibility Matrix, which allows identification of the risk of professional liability exposures and the facility's strength of defensibility should a claim be filed, as shown below. This also allows the consultant to assign a Risk and Defensibility rating to each community, as shown below.

Risk		Defensibility	
Best	Low Risk	Strong Defensibility	Best
Low-Moderate or Moderate-Strong			
Fair	Moderate Risk	Moderate Defensibility	Fair
Moderate-High or Moderate-Weak			
Poor	High Risk	Weak Defensibility	Poor

### Risk

Risk potential describes the opinion of the likelihood of a lawsuit being filed against the facility. Facility risk potential is assigned a subjective score of **Low**, **Moderate**, or **High**. Risk is identified as "practices or protocols" — what the facility does or does not do.

### Defensibility

The defensibility level describes how a facility would fare should litigation occur. Defensibility is an organization's ability to respond constructively pursuant to its procedures, policies, and training and to apply an informed perspective in the event that a claim or lawsuit arises. The defensibility level is assigned a score of **Strong**, **Moderate**, or **Weak**. Defensibility is identified as the "written documents"—policies and procedures, personnel records, etc.—that could be subpoenaed.

**Contact Pendulum now to schedule a Professional Liability Risk Assessment!**

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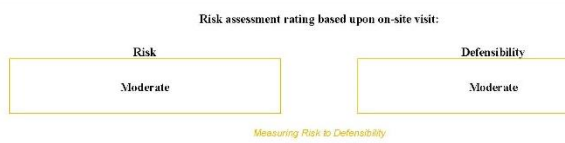
## Sample Report and Risk Management Strategies Checklist (Skilled Nursing Facility)

**Pendulum Risk Assessment Report**  
Skilled Nursing Facility

Report Date: November 1, 2017      Prepared for: A. Client Insurance, LLC  
Date of On-site: October 27, 2017      Conducted by: Sue Longhenry, RN, MS, CPHRM

Facility Name, Address, and Contact:  
Golden Sparhawk Retirement Village  
1975 Edmund Fitzgerald Parkway  
Duluth, MN 55555  
Maya Dulli (333) 123-4567

“This was absolutely the best,  
most thorough risk management visit  
we’ve ever had.”  
—Facility Administrator



**Risk Summary: Critical Observations**

**Key findings that contribute to the Rating of Moderate Risk include:**

- In the past three years, the facility has two settled cases and one open case related to a fall
- Post-incident root-cause analysis is not conducted
- The fall rate for the past three months is greater than 15 percent (per average daily census)
- The facility does not conduct risk assessments in key areas

**Key findings that contribute to the Rating of Moderate Defensibility include:**

- Action plans are not developed for incidents
- Care plans do not include the location of wounds
- Progress notes do not include resident responses to interventions implemented post-fall or with the onset of wounds
- The facility does not have a fall prevention policy

The Pendulum Rating System rates Risk and Defensibility levels. These ratings correspond directly with the critical observations risk assessment. Risk assessment is based on the mission of the facility and the level of care provided to the residents of the facility.

Essential Areas of Review	Yes No NA NR	Observations	Recommendations
<b>Wound data tracked, trended, and reviewed by Risk/Quality Committee(s):</b> <ul style="list-style-type: none"> <li>Total number of pressure ulcers</li> <li>Number of admitted pressure ulcers by stage</li> <li>Number of facility-acquired pressure ulcers, including:                             <ul style="list-style-type: none"> <li>Stage</li> <li>Possible causes</li> <li>Physician documentation as unavoidable</li> <li>Preventative measures</li> </ul> </li> <li>Pattern of successful healing</li> </ul>	No	<ul style="list-style-type: none"> <li>Tracking of wound data does not include all key elements</li> </ul>	<ul style="list-style-type: none"> <li>Consistently track the following:                             <ul style="list-style-type: none"> <li>Possible causes</li> <li>avoidable/unavoidable, and pattern of successful healing of facility-acquired pressure ulcers</li> </ul> </li> </ul>
Medication errors tracked, trended, analyzed, and reviewed by Risk/Quality Committee(s)	No	<ul style="list-style-type: none"> <li>Minutes do not include analysis of medication errors</li> </ul>	<ul style="list-style-type: none"> <li>Document analysis of medication errors</li> </ul>
Documentation in Risk/Quality Committee(s) meeting minutes of tracking and trending of data using a tracking tool or dashboard to compare month-to-month or quarter-to-quarter data	Yes		
Maintained minutes are marked as “Confidential,” along with QAI/per review language	Yes		
Issues identified through tracking and trending of risk/quality data are addressed in documented minutes, noting preventative strategies, actions taken, and resolutions	No	<ul style="list-style-type: none"> <li>Action plans and resolutions are not present in the minutes</li> </ul>	<ul style="list-style-type: none"> <li>Include action plans and resolutions in meeting minutes to reflect issues identified through analysis of data</li> </ul>
<b>2.4 Incident Reporting/Adverse Events/Unusual Occurrences</b>			
Written policy and procedure includes reporting of incidents, identification of incident severity, documentation requirements, investigation, analysis, and retention of reports in accordance with state statute of limitations, record retention laws, and company policy	No	<ul style="list-style-type: none"> <li>The policy does not address storing and retention of event reports</li> </ul>	<ul style="list-style-type: none"> <li>Revise policy to include:                             <ul style="list-style-type: none"> <li>Retention of reports in accordance with state statute of limitations and record-retention laws</li> <li>Retention of reports in accordance with company-policy, including:                                     <ul style="list-style-type: none"> <li>Not including electronic event reports as part of the EMT, where they are discoverable</li> <li>Identification of as part of the QAI program</li> </ul> </li> </ul> </li> </ul>
Reportable events protocol for notification of state and federal agencies and insurance carriers	No	<ul style="list-style-type: none"> <li>The Executive Director (ED) is not aware what events should be reported to the carrier</li> </ul>	<ul style="list-style-type: none"> <li>Identify events that are reportable to insurance carrier, such as disability, resident/family threatening suit, etc.</li> </ul>

Employment Date: June 2016      Time in current role at facility: Four months

Years' experience in healthcare, etc.):

Licensed as a nursing home administrator since 2006. She has a bachelor's degree in social work and is currently employed as a nursing home administrator.

Started on November 21.

Employment Date: February 1996      Time in current role at facility: 20 years

Years' experience in healthcare, etc.):

Director of Risk Management

Maintenance Director

Weekly Estimated Net Usage Systems Analyst

Payroll Coordinator

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**Pendulum Risk Management Strategies Checklist**  
Self-Assessment Tool Skilled Nursing Facility

The risk assessment consultation visit and report cover essential areas of liability risk and associated defensibility. This self-assessment tool will assist the facility in self-evaluating other areas of risk that should be considered within the Risk Management Program.

Risk Areas	Yes	No	NA	Comments/Action Plan
<b>1.0 Facility Presentation/Tour</b>				
<b>1.1 Environmental Review</b>				
Oxygen signs are posted and tanks are secured and stored in vented oxygen closet free of flammable items				
Hazardous chemicals and biohazard signs are posted				
Eye-wash stations in kitchen, laundry, and nursing areas (plumbed water source preferred)				
Nursing station placement and/or use of hallway mirrors allows for visibility of corridors, exits, and resident rooms (or use of surveillance camera with regular back-up)				
Space between bed rail and mattress and between mattress and head- or footboard is measured to be no greater than 2.5 inches on any side when the resident is in bed to prevent accidental entrapment				
Facility is wheelchair-accessible (ramps, handrails, and signage) and in good condition				
Beauty salon/barber license is posted				
Elevator inspection is current, and emergency communication system is operable				
Laundry area and utility rooms are separated as dirty and clean areas				
<b>2.0 Administration</b>				
<b>2.1 Marketing Brochures</b>				
Contain appropriate language and accurate description of services and promote realistic expectations (marketing brochures, website, phone book, etc.)				
Reviewed by legal counsel				

“I wanted to let you know that I read through the entire risk assessment report and found it to be excellent ... extremely thorough and asking all the right questions for this type of facility. The loss control expert who reviewed this facility is to be commended for a superb job. It is clear that she really understands these types of risks, and there are so few in the industry (at least that I’ve found in over 25 years) who truly do. Great job. Thank you.”  
—Insurance Agency Owner

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