GREAT AMERICAN INSURANCE GROUP
Loss Control

GREAT AMERICAN INSURANCE GROUP
Specialty Human Services Division

Thanks for joining! We will begin momentarily.

Third-Party Risk Transfer

With Jared Bishop

August 31, 2023

Disclaimer

The information presented in this publication is intended to provide guidance and is not intended as a legal interpretation of any federal, state or local laws, rules or regulations applicable to your business. The loss prevention information provided is intended only to assist policyholders in the management of potential loss producing conditions involving their premises and/or operations based on generally accepted safe practices. In providing such information, Great American does not warrant that all potential hazards or conditions have been evaluated or can be controlled. It is not intended as an offer to write insurance for such conditions or exposures. The liability of Great American Insurance Company and its affiliated insurers is limited to the terms, limits and conditions of the insurance policies underwritten by any of them. © 2023 Great American Insurance Company, 301 E. Fourth St., Cincinnati, OH 45202. All rights reserved.

Our Focus Today

- Introduce the concept of negligence
- Define risk transfer & why it is needed
- Overview of Best Practices of Risk Transfer

Introducing Today's Speaker

Jared Bishop, CPG

PRAESIDIUM GUARDIAN CERTIFIED

- Divisional Assistant Vice President, Loss Control

Why Risk Transfer?

You decide

After hearing the scenario, is there a case for liability?

YES or **NO**

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Why Risk Transfer?

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After hearing the scenario, is there a case for liability?

YES or **NO**

What Happens When Something No One Thought Could Happen Actually Happens?

- Shock and/or Disbelief?
- Regret and/or Guilt?
- Questions? Why? How?
- Assignment of Blame
- Demand for Compensation

Negligence

Negligence is defined as:

- Conduct which falls below the standard established by law for the protection of others against unreasonable risk of harm
- All conduct which, although not intended to invade any legally protected interest, has the element of social fault
- An act or an omission to act when there is a duty to do so

Source: Restatement (Second) of Torts, Section 282

The Reasonable Person Standard

- The standard of reasonableness is often described as the ordinary care standard or the prudent person standard. ***Source: Restatement (Second) of Torts, Section 282***

- Reasonable Person - The hypothetical reasonable person behaves in a way that is legally appropriate. **Source: Nolo's Plain-English Law Dictionary**

Making a Case for Negligence

Four elements are required to establish a prima facie case of negligence:

1. the existence of a legal duty that the defendant owed to the plaintiff
2. defendant's breach of that duty (Errors & Omissions)
3. plaintiff's sufferance of an injury
4. proof that defendant's breach caused the injury (typically defined through proximate cause)

Source: **Restatement (Third) of Torts: Liability for Physical Harm § 3 (P.F.D. No. 1, 2005)**

Risk Assessment

Physical Risks	Tabletop Discussion
✓ Slip/Trip/Fall Hazards ✓ Securement of Furniture and other heavy items that could fall over ✓ Securement of areas of the building not in use. ✓ Isolated Areas not Visible to Staff ✓ Increased sanitation of Play Areas and Surfaces in accordance with CDC standards. ✓ Electrical Safety ✓ Crisis Response Plan in Place ✓ Bathroom Procedures ✓ Safe Food Handling Measures, Food Allergies ✓ Maintaining Building Emergency Egress Routes ✓ Medication Procedures ✓ Maintaining Proper Child-to-Staff Ratios and supervision of children at all times.	✓ Compliance with local/state health codes. ✓ Prioritization of children of healthcare workers ✓ Adherence to state and federal mandates ✓ Adequate Training of all New Staff/ Volunteers and Training of Staff/Volunteers in New Roles ✓ Parent pick-up/drop-off procedures ✓ Physical Security Vulnerability Assessment ✓ Proper Screening of New Staff and Volunteers – Careful consideration of staff/ volunteers in identified "At-Risk" people. ✓ Appropriate Age Grouping ✓ Third Party Risk Transfer Measures, if needed. ✓ Sick Child Response Protocols and Isolation Procedures. Infectious Disease Safe Practices in Place. Child Screening

Risk Matrix

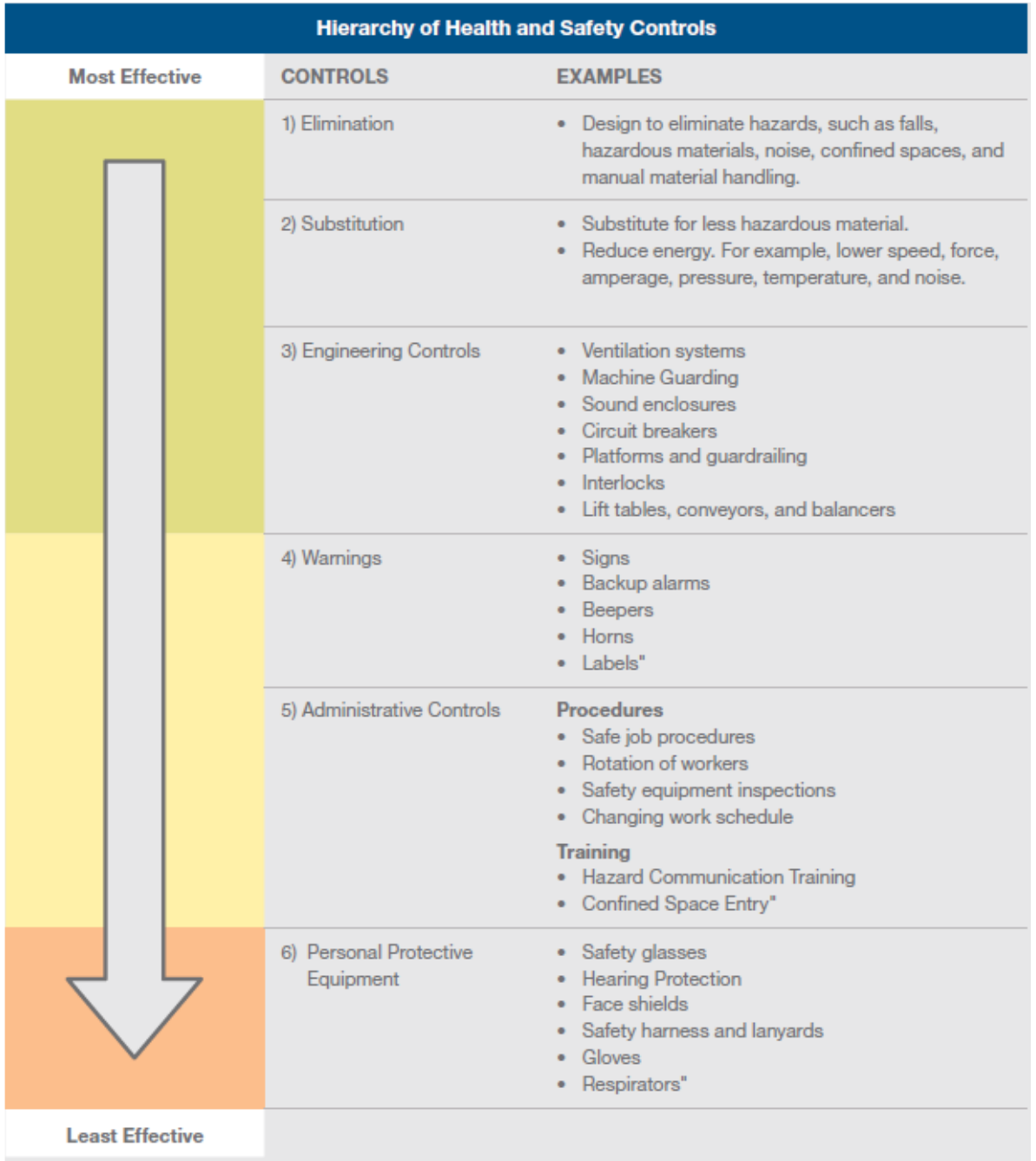
Risk Assesment Matrix				
	Severity of Consequence			
Likelihood of OCCURRENCE or EXPOSURE For selected Unit of Time or Activity	NEGLIGIBLE	MARGINAL	CRITICAL	CATASTROPHIC
Frequent	MEDIUM	SERIOUS	HIGH	HIGH
Probable	MEDIUM	SERIOUS	HIGH	HIGH
Occasional	LOW	MEDIUM	SERIOUS	HIGH
Remote	LOW	MEDIUM	MEDIUM	SERIOUS
Improbable	LOW	LOW	LOW	MEDIUM

Likelihood		Severity/Consequence	
Frequent:	Likely to Occur Repeatedly	NEGLIGIBLE:	First Aid or Minor Medical Treatment
Probable:	Likely to occur several times	MARGINAL:	Minor injury, lost workday accident
Occasional:	Likely to occur sometime	CRITICAL:	Disability in excess of 3 months
Remote:	Not likely to occur	CATASTROPHIC:	Death, disability,
Improbable:	Very unlikely - may assume exposure will not happen		

Risk Level	
LOW:	Risk Acceptable, Remedial Action Discretionary
MEDIUM:	Take Remedial action at appropriate time
SERIOUS:	High priority remedial action
HIGH:	Operation not permissible

Hierarchy of Controls

Not All Controls Are the Same



Hierarchy of Health and Safety Controls		
Most Effective	CONTROLS	EXAMPLES
	1) Elimination	• Design to eliminate hazards, such as falls, hazardous materials, noise, confined spaces, and manual material handling.
	2) Substitution	• Substitute for less hazardous material. • Reduce energy. For example, lower speed, force, amperage, pressure, temperature, and noise.
	3) Engineering Controls	• Ventilation systems • Machine Guarding • Sound enclosures • Circuit breakers • Platforms and guardrailing • Interlocks • Lift tables, conveyors, and balancers
	4) Warnings	• Signs • Backup alarms • Beepers • Horns • Labels"
	5) Administrative Controls	**Procedures** • Safe job procedures • Rotation of workers • Safety equipment inspections • Changing work schedule **Training** • Hazard Communication Training • Confined Space Entry"
	6) Personal Protective Equipment	• Safety glasses • Hearing Protection • Face shields • Safety harness and lanyards • Gloves • Respirators"
Least Effective		

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Enter Risk Transfer

- Not one specific item, but a series of controls applied in layers.

Enter Risk Transfer

- Risk Transfer is Planning
- Anticipating that the worst will happen and preparing for it.

Enter Risk Transfer

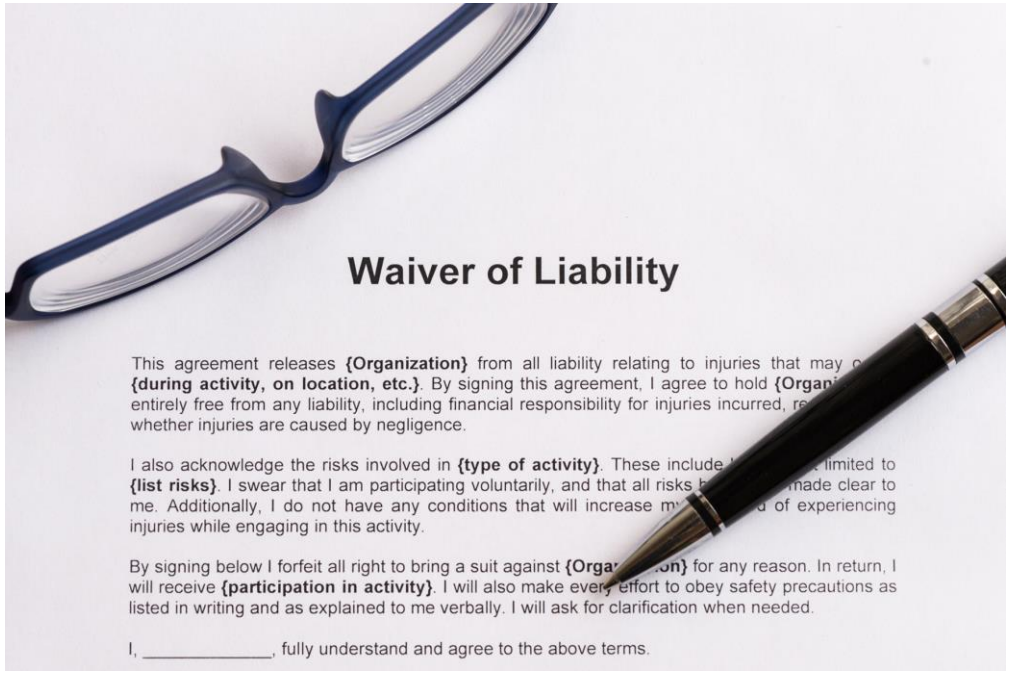
- Shifting all (or a %) of the responsibility to a separate entity.

Enter Risk Transfer

- Is necessary for the protection of people & organizations.

Best Practices for Risk Transfer

Waivers of Liability



Best Practices for Risk Transfer

Contracts

Best Practices for Risk Transfer

Certificates of Insurance

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Best Practices for Risk Transfer

Additional Insured Status

Best Practices for Risk Transfer

Follow-Up

Best Practices for Risk Transfer

Documentation & Recordkeeping

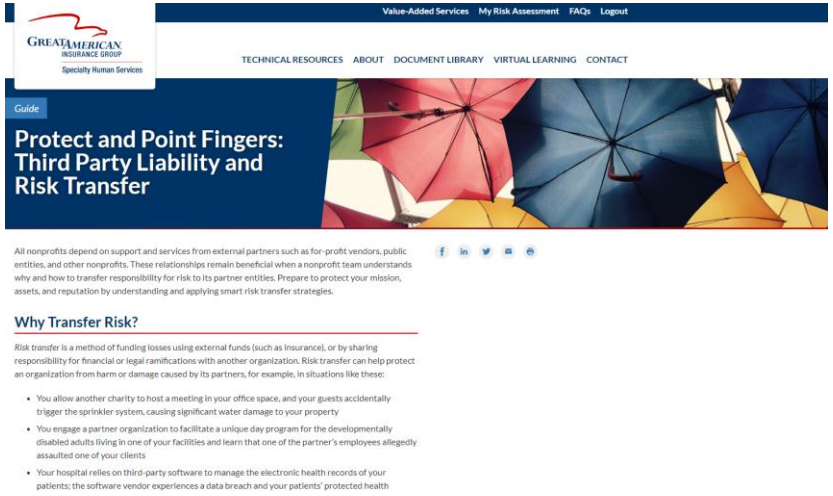
Best Practices for Risk Transfer

Visitor Controls

When to Start?

The time to prepare is before the activity begins.

Resources from Specialty Human Services

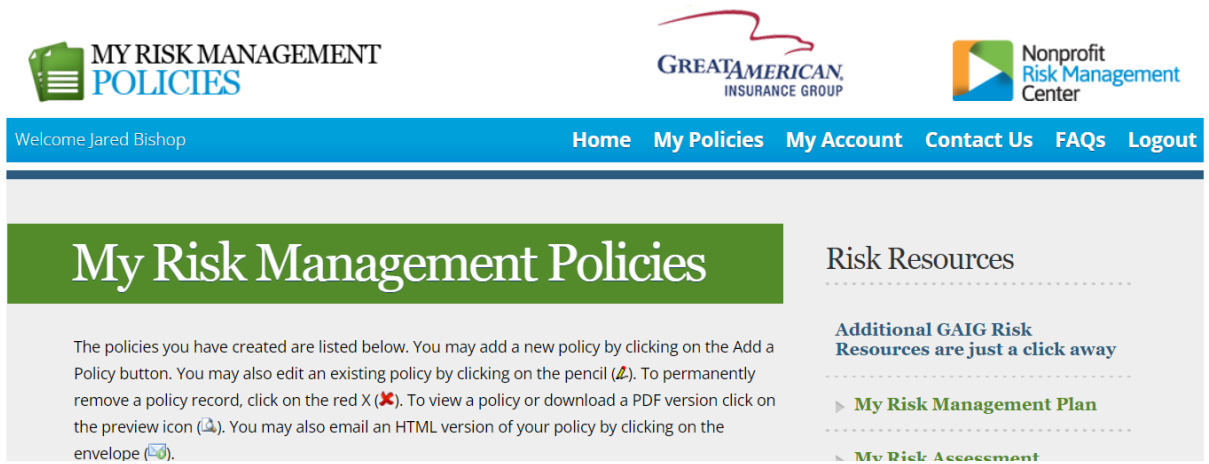


SHS Risk Resources Portal

visitu

great academy℠
online learning

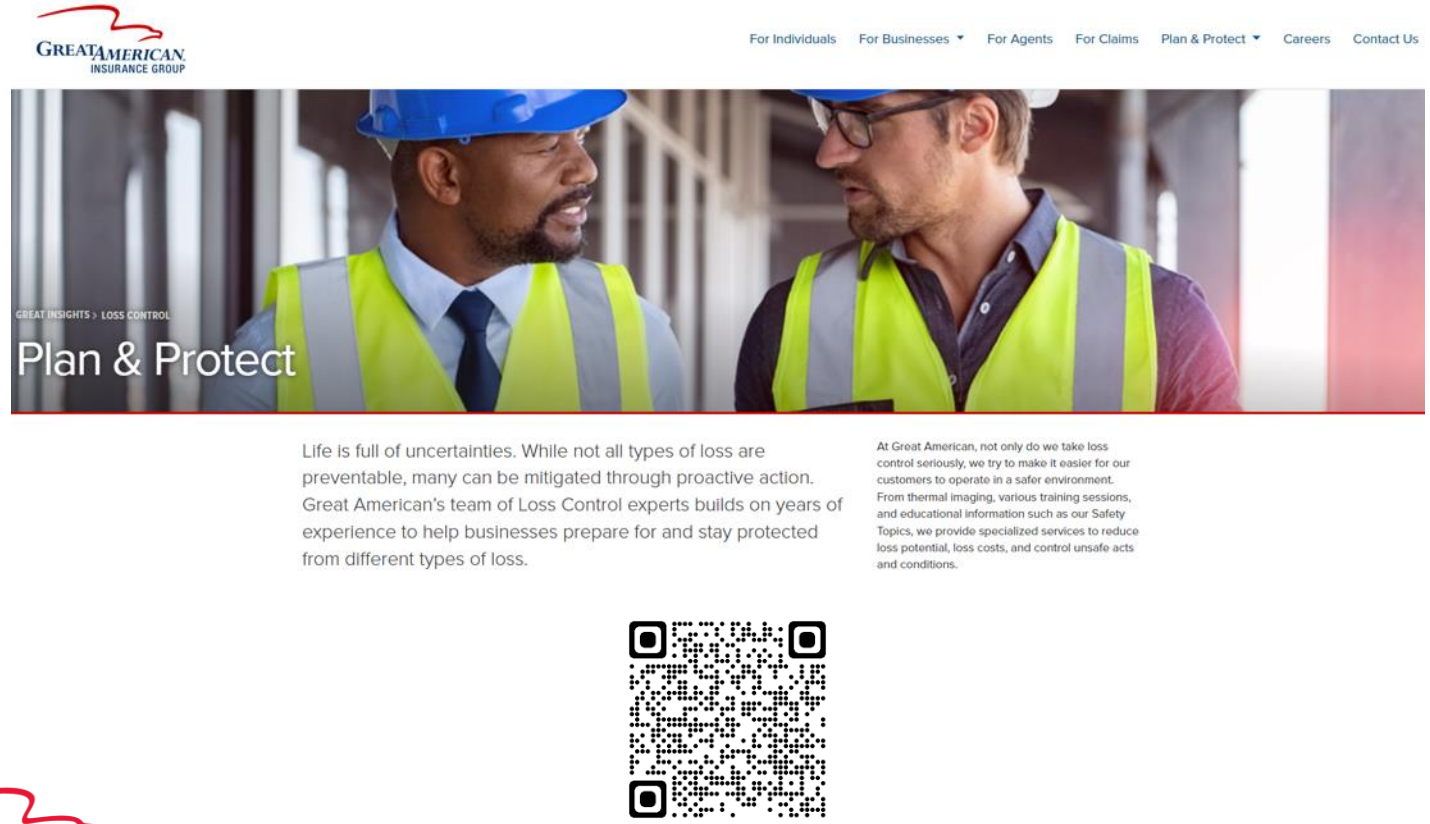
Nonprofit Risk Management Center – My Risk Management Policies

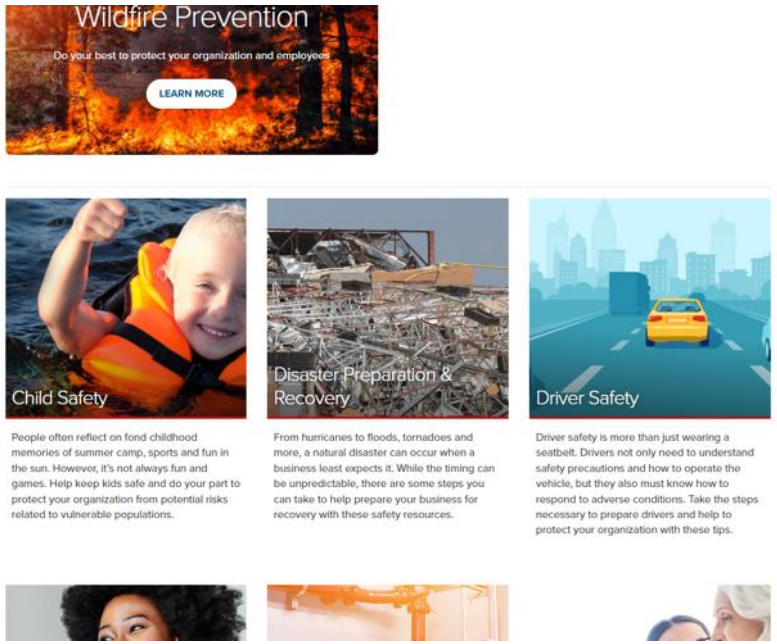


- Vendor / Exhibitor Code of Conduct
- Verification of Compliance with Background Checking Requirement
- Visitors Policy
- Volunteer Agreement
- Volunteer Driver Policy
- Volunteer Orientation Policy
- Waiver/Hold Harmless/Liability Releases
- Weapons Policy
- Weapons-Free Workplace Policy
- Weblogs and Public Internet Communications Policy
- Website Disclaimer
- Website Terms of Use

Assistance from GAIG Loss Control

gaig.com





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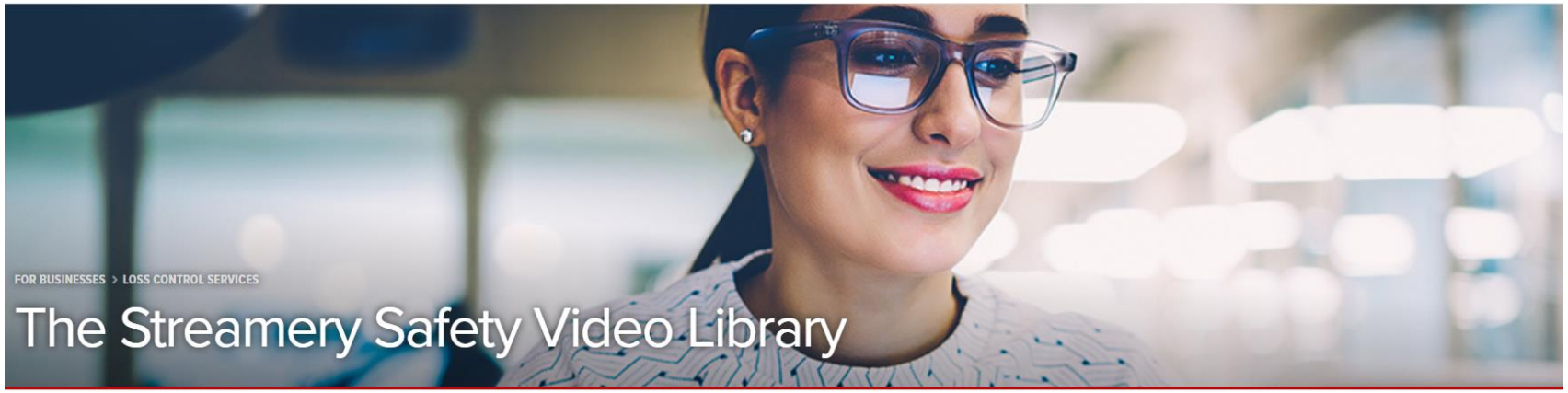
For Individuals For Businesses For Claims For Agents Career



Great American Policyholders have access to a vast library of streaming video and training content provided through Streamery. The library is an excellent supplement to our policyholders' overall safety and risk management programs.

Library Overview

Great American's safety video library includes over 800 training programs with over 400 titles available in Spanish covering a wide variety of hazard-specific and industry-specific topics. Topics are categorized in the online library to facilitate browsing by hazard, operation or industry. Content ranges from OSHA compliance and employee safety, to driving and driver issues, and human resources and management topics.

Q & A Session

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THANK YOU