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Tech-Enabled Records Retrieval — Advanced Practices for Maximizing Discovery

NARRATIVE

Tech-Enabled Records Retrieval is saving valuable time, reducing cost, and creating a consistent record format that enables the data in the record to be maximized to its full potential. Technology solutions now enable insurers and litigators to eliminate the cumbersome and inconsistent manual processes to automate the time intensive work that claims departments and law firms perform to make them “usable.”

A key factor to consider when assessing the need to invest in tech-enabled records retrieval is the return on investment—no one wants to overspend or see a technology platform under deliver. By documenting the current workflows and examining the business use case at hand, the technical tool(s) needed may not be as complex as initially assumed. It can help make current processes more efficient and pave the way to further expand and improve upon them in the future.

Employing technology is only one piece of the puzzle. Just as important is having an office culture that embraces the effort it takes to implement and adopt new tools. Change management can be tough. Getting teams to work differently and engage in a forward-thinking proactive approach to understand the organizational goal makes the return on investment more valuable.

TECHNOLOGY ADVANCEMENTS IN RECORDS RETRIEVAL

Tech Tools: Optical Character Recognition (OCR) is a technology that recognizes text within a digital image. It is commonly used to recognize text in scanned documents, but it serves many other purposes as well. OCR software processes a digital image by locating and recognizing characters, such as letters, numbers, and symbols. Some OCR software will simply export the text, while other programs can convert the characters to editable text directly in the image.

Advanced OCR software can export the size and formatting of the text as well as the layout of the text found on a page. OCR technology can be used to convert a hard copy of a document into an electronic version. For example, if you scan a multipage document into a digital image, such as a TIFF file, you can load the document into an OCR program, which will recognize the text and convert the document to an editable text file. While OCR technology was originally designed to recognize printed text, it can be used to recognize and verify handwritten text as well.

Analytics Tools: Analytical tools are instrumental in the organization and digestion of raw records. For example, automated records organization combines the power of “charting” with sophisticated algorithms to help claims and legal professionals to turn unorganized records from several records custodians into a complete chronologically organized set – providing a clear timeline of documented events which aids in recognizing nuances, patterns and analysis. As each new single set of records is retrieved from records custodians, the charting + organizing algorithms are triggered to create an up to date records chronology. Turning records into valuable and actionable information throughout the life of the claim/case.

Data Integration: From the claims and legal management systems to the records retrieval platforms that streamline the way orders are placed, the delivery of records obtained, along with relevant claim information, directly into the claims system. Case studies find that this is not only cutting the costs and time it takes to have someone manually do this work for the carrier, but also enables the claims adjuster to view the relevant records within their own claims system.

To truly understand the power of data integration, we must first acknowledge the many layers of evaluating a claim, as well as the crucial need to timely gather pertinent information in a manner that affords quick analysis, strategic planning, and can easily be shared with other members of the team. Of course, it is not surprise that having access to such information housed on several different software systems can be a challenge.

WORKFLOW AUTOMATION

Many companies and organizations are reducing unrecoverable hours and other costs associated with document drafting by looking for ways to apply automation to their workflows. This practice can help win new business, retain key clients and not only restore, but also increase profits by making possible the compelling combination of better service at a lower cost.

Legal Forms Automation is an example where a computerized system that builds the content of a document, rather than a human doing the work—think TurboTax meets legal documents. Traditionally, document creation and assembly were where young associates learned the practice. Creating new contracts and documents for every matter took lots of time and were error prone.

With legal forms automation, fields (names, dates, addresses, amounts and other information) are placed in the document after being gathered through a questionnaire. Based on the input provided by the user, the appropriate information is inserted into the master template, the system then generates the final document and it is returned to the user. Essentially, documents are created in minutes instead of days.

Legal forms automation also dramatically enhances knowledge management and retention. Currently, as claims and legal professionals go from one organization to another, their knowledge and expertise often goes with them. With document automation, much of that expertise is codified and maintained in automated templates, which are then retained by the organization once the original template author leaves. This significantly reduces knowledge drain when employees move on.

When looking to make the move to legal forms automation, there are several factors to take into consideration. The primary issue is, of course, is choosing the right technology partner. Cumbersome technology that is complicated or requires extensive training is rarely embraced. The rule of thumb is to evaluate at least three vendor partners, ask for references and identify a person within your organization to steer head the project.

Legal Hold Times: when the “Subpoena Notice Period” is issued, the applicable notice/wait period must be followed. This notice/wait period varies by state. Should Plaintiff’s counsel waive the wait period, the custodian of records can fulfill the request. At the time the records retrieval platform provides the “Legal Packet” containing the notice and copies of the subpoenas, the Plaintiff’s attorney is provided a form to “waive” the notice period. If the notice period is not “waived”, the records retrieval platforms’ workflow engine schedules the appropriate date when the subpoenas can be issued to the custodian of records.

State Rate Calculators: Each state has rules/regulations in place limiting the fees a custodian of records can charge for patient records, Statutory Custodian Fee Limits. These fees vary by state, claim/case type (i.e. Worker’s Compensation, Civil, Federal), the form of record requested (i.e. electronic vs. paper) and the type of records being obtained (i.e. Medical, Billing and Hospital Records). The records retrieval legal team reviews

the state rules/regulations annually and updates the records retrieval platform's "state rate calculator" rules engine pursuant to the rules. This calculator is imbedded in the workflow of the records retrieval process. Should a custodian of records quote a fee that is outside the statutory limit, the records retrieval platform redirects the custodian of records to the allowable state rate.

FROM CLAIMS REVIEW TO CASE DISCOVERY

Now that we have established the different types of tech tools and the many benefits of work flow automation, it is important to acknowledge that the way in which claims adjusters utilizes these tools for claims review is different than how an attorney applies the tools for case discovery.

RISK & COMPLIANCE

With the increase in technology and automation, there can also be a need to ensure that your approach to risk and compliance is also elevated. For example, even though the ability for law firms to quickly share the records obtained during the discovery process with claims adjusters is crucial, it still must be done securely. Those files should not be emailed without the proper encryption. Additional security concerns and increased risk should be discussed thoroughly and the proper procedures as outlined by HIPAA regulations and SOC 2 Type II should be followed closely.

BEST PRACTICES

Claims and legal professionals are under significant pressure to deliver higher-quality services at a lower price. Clients are asking for specific examples of how firms are more efficient and how they use technology to improve the speed and quality of the work. Carriers are also looking for ways to improve their internal process. The following are some of the best practices that a company should follow to get the most out of a Tech-Enabled Records Retrieval Program:

Leveraging Technology Partners: It is crucial for an organization to leverage the right technology partners in order to have a success program. When evaluating those partners, be sure to ask questions around data security, technology and real-world applications. Furthermore, it is also important to discuss which specific functions should be outsourced, as they will vary from organization to organization based on a wide range of variables.

Centralized Management of Records: Requesting, collecting, indexing, and follow-up on medical records consumes an enormous amount of time for both paralegals and attorneys. The decision to use a qualified medical records retrieval provider to collect the records and follow-up on a regular basis with identified providers for additional treatment records can save time and reduce cost.

The medical records retrieval provider stores the records in a secure online portal, allowing online access, indexing of the records upon request, and through OCR text recognition, allows searching of the records efficiently. The provider also runs searches to collect certain information such as billing records, drug test results, etc. All these additional services save law firms and carriers a tremendous amount of time and frees them up to focus on more substantive work.

SUMMARY

Technology solutions now enable insurers and litigators to maximize claims management and discovery via "tech-enabled" records retrieval. By eliminating the cumbersome and inconsistent manual processes, many claims departments and law firms are realizing great benefits and advancements. If you haven't explored a new technology like one of these, take a few minutes and search for what is out there. You might be surprised at how easy it is to turn your office into a technology innovator. Law firms and insurance carriers who embrace the right systems, tools and technologies will enjoy tremendous benefits resulting from their new competitive advantage over firms that refuse to embrace the future.