

## DME/HME Insurance – Liability A.B.C.'s

Most DME / HME businesses typically carry a portfolio of insurance products. Workers Compensation, Property, and General Liability are the usual suspects, but are these coverage lines enough? Are the insurance products broad enough to address the critical exposures inherent in running a DME / HME operation? Do they meet the contractual requirements of valued provider partners? The answer is often provided with a great deal of uncertainty.

While Workers Compensation and Property insurance are important in their own right, the liability risk associated with DME / HME operations requires special attention due to the nature of their *product* driven business. Many DME business owners assume that in the event of a lawsuit driven by product failure, the liability will be assigned to the manufacturer. This assumption is fair, but the vendor or distributor must be prepared for the fact that all parties involved in the sale of the product are likely to be named, not just the manufacturer. The manufacturer of products a vendor sells will defend themselves if they are sued, ***but they do not necessarily have a duty to defend the vendor.***

A Senior Underwriter of VGM Insurance in Waterloo Iowa offers the following claim scenario:

“A DME dealer sold a power scooter to a customer, and a couple of years later installed new batteries with manufacturer replacement parts. A few weeks later, the chair caught fire and burned, and the customer died. The dealer and the manufacturer were sued by surviving family members. The source of the fire was identified as either the wiring or the batteries on the chair. The dealer and the manufacturer both settled the matter – the dealer’s share of expenses and settlement (products liability) were in excess of \$200,000. The insurer and the dealer are now forced to pursue the manufacturer to recover costs even though the dealer documented that they followed manufacturer guidelines and used manufacturer replacement parts.”

**A:** Do not **assume** that your general liability policy provides adequate coverage for products related exposures. Obtain a Products Liability insurance policy tailored to DME / HME vendors and distributors. And further, do not assume that the manufacturer will be “responsible” and step up to defend the vendor or the product. Forcing them to do so is expensive, and very time consuming.

Another liability exposure often overlooked is Professional Liability. Customers will frequently request the advice of an experienced DME / HME vendor as to which product or piece of equipment they recommend. A DME / HME distributor may also employ licensed staff such as respiratory therapists, audiologists, etc. Securing Professional Liability coverage for the acts of licensed professionals and for the exposure incidental to the rental or sale of DME / HME products is critical.

**B: Be certain** that your liability insurance portfolio includes a Professional Liability provision.

Stable provider relationships complimenting a solid client base can build the foundation for a strong and successful business. Keep provider relationships healthy by review of your current

contracts and affirming that you are in compliance with the insurance requirements. DME / HME distributors are finding that more and more providers are asking for details beyond the customary evidence of insurance. They want to confirm that the coverage type and limits carried meet the contractual minimums by reviewing the policy declarations page, coverage definitions, and even contacting the carrier directly for verification. Failure to meet these contractual obligations can strain provider alliances, and if left unchecked can lead to the suspension of remittance and/or the termination of a provider contract.

**C:** Maintain **contractual compliance** with your provider partners. Not only should this help to prevent an unanticipated interruption of revenue, but also provide a reference point from which to gauge the coverage types and limits you should consider carrying.

To sum, following the A.B.C.'s of liability insurance can help your DME / HME business avoid potential gaps in coverage while keeping your operation in good standing your provider partners.

Scott Murphy, Vice President  
Brown & Brown of California, Inc.  
HealthCare Practice Group

[www.hcpinsurance.com](http://www.hcpinsurance.com)