

# Understanding Liability Insurance Issues For Home Care Agencies

*Presented By*

Mark A. Caldwell

Caldwell & Associates Insurance Services, Inc.

St. George, UT

Endorsed by State Associations



Homecare & Hospice  
Exclusive Representation



A Member of the Tokio Marine Group

# Introduction

1970's "Commercial Mass Marketing"

Specializing in Home Care – 1982

- Home Health Care
- Hospice
- Home Medical Equipment
- Staffing
- Multi-State

# Common Types of Coverage

1. General Liability
2. Excess Liability
3. D&O (EPLI)
4. Property (Crime / Bond)
5. Workers Compensation

# Professional & General Liability

## 5 Parts of Policy (6 for Claims Made)

### I. Coverages

Insuring Agreement

Exclusions for Coverage #

### II. Who Is An Insured

### III. Limits of Insurance

### IV. Conditions

### V. Extended Reporting Period

### VI. Definitions

# Professional & General Liability

## SECTION I. COVERAGES

### COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

#### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any "claim" or "suit" that may result. But:
  - (1) The amount we will pay for damages is limited as described in **SECTION III – LIMITS OF INSURANCE**; and
  - (2) Our right and duty to defend ends when we have exhausted the applicable limit of insurance in the payment of judgments or settlements under **COVERAGES A, B OR C** or medical expenses under **COVERAGE D**.

1. Bodily Injury & Property Damage
2. No defense against any suit to which this insurance does not apply.
3. "We may settle...."
4. "Our right and duty to defend ends when...."

# Professional & General Liability

## Occurrence vs Claims Made (know your form)

Occurrence Form = Claim Occurred during policy period

Claims Made = Claim must be Reported during policy period

When is “Tail” or “Extended Reporting Period Endorsement”  
needed?

# Professional & General Liability

Defense “Inside” or “Outside” the limits?

Can actually double (or more) your limit

Consent to Settle?

Most Policies transfer the right to settle to Insurance Company

# Professional & General Liability

## Coverage for all Professionals? (more than Nurses)

1. PT / RT / ST MSW, RpH, Ect...
2. Read Definitions, Exclusions & Endorsements

## Sexual Abuse

1. Defense or Defense & Indemnity
2. Sub-Limit?
3. This is Sexual Abuse – not EPLI type Sexual Harassment

## Medical Directors

1. Patient Care or Admin only?

# Professional & General Liability

**\* \* This Could Be Your Greatest Exposure \* \***

## Non-Owned / Hired Auto

Liability when Employees Drive their own Vehicle

Confirm Employees have coverage –

Some NOA now being written on Excess Basis – (\$20K Ded)

Should Include on Excess Policy

# Excess Liability

Should you purchase this coverage?

Consider Limits Needed

Consider Cost

What it does

Increases “Per Occurrence” Limit

or

Increases Aggregate

Include all “Underlying” policies?

# Fidelity Bond (If No Crime Coverage)

How to determine limit (No Aggregate)

Conviction Clause? What is “Proof of Loss”

Types of Common Claims

Theft of Jewelry

ATM Card

Vehicle

Third Party Coverage?

# Directors & Officers / EPLI

“Employment Practices Liability”

(Not “Employer’s Liability” – W/C )

Wrongful Termination

Sexual Harassment (Not “Sexual Abuse”)

Discrimination

Third Party Coverage Possible

# Workers Compensation

- ✓ Payroll Properly Classified?
- ✓ Monthly Audits Accurate?
- ✓ Owners Included or Excluded?
- ✓ Claims Management – Direct Effect on Experience Modification
- ✓ Stop-Gap Liability for Monopolistic States  
(~~Nevada~~ – North Dakota – Ohio – Washington – ~~West Virginia~~ – Wyoming)



# THANK YOU

Please feel free to call:

Caldwell & Associates Insurance Services, Inc.

1173 South 250 West, Ste 306

St. George, UT 84770

Tel: (435) 628-5378 Toll Free: (877) 460-8080

Website: [caldwellinsurance.com](http://caldwellinsurance.com)

Email: [mcaldwell@caldwellinsurance.com](mailto:mcaldwell@caldwellinsurance.com)