



CNA HealthPro

Liability Insurance: Rational Protection in an Irrational World

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A Professional Protector Plan[®] (PPP) package policy includes several types of liability insurance protection, including professional liability and general liability. In addition, the policy provides protection against products liability and vicarious liability under both of these coverage parts. Why is it so important to insure against *all* of these forms of potential liability? First, because liability is unpredictable, and second, because insurance is the best means of protecting your assets in the event of a court's finding of liability.

Legal liability has been defined as "a liability which courts recognize and enforce as between parties litigant." (*Abbot v. Aetna Casualty & Surety Co.*, 42 F. Supp. 793,803.) The circular nature of this definition furnishes a strong hint as to just how irrational liability can be. Most dental professionals are keenly aware of the uncertainty that accompanies a professional liability lawsuit. Expert testimony regarding the standard of care and its applicability to the facts at hand can be fuzzy, leaving a court plenty of wiggle room in determining liability.

The arena of product liability can be even less rational, as a recent incident illustrates: A man bought a new rotary lawn mower. After mowing his lawn, he decided that his hedges needed trimming. He picked up the still-running mower by the cowling, amputating his fingers in the process. The court found liability on the part of the mower manufacturer for failing to print a warning on the cowling against using a lawn mower as a hedge trimmer.

Are you exposed to potential product liability? Yes, to the extent that you insert or craft bridges, crowns, appliances or any other "products" designed for insertion in the patient's mouth.

Vicarious liability is liability that seeks redress from the deeper pocket of the principal for the misdeed of its agent. An assistant (agent) who causes an auto accident while delivering a sandwich to her dentist employer (principal) can give rise to a vicarious liability claim against the employer.

Managing risk is a worthwhile pursuit. But risk can be managed only to a limited extent, given its unpredictable, changing nature and wide range of forms. For that reason, insurance is necessary. The Professional Protector Plan provides the comprehensive coverage you need to protect your practice and your peace of mind.

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