

QUESTIONS AND ANSWERS: LIABILITY OF THE FAMILY CHILD CARE PROVIDER

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This article consists of questions and answers to provide general background information on liability and insurance issues associated with providing childcare. This information should be considered a starting point and not a substitute for expert advice concerning particulars of your situation.

Q. Do family childcare providers really need to be concerned about liability protection?

A. Yes, there is a need to be concerned because all childcare providers could be sued and the recognition of the factors, which lead to suits, can help providers avoid situations, which could increase their liability.

Q. Do I have any insurance protection for my child care business under my homeowner's policy?

A. Since 1991 the standard Homeowner policy form specifically excludes any liability coverage arising out of any business activities and of the rendering of professional services. Most homeowner policies will also add a specific EXCLUSION for home childcare business. To adequately protect a homeowner against situations that relate to the operation of an in-home business the best choice would involve some type of business liability policy.

Q. Can I add coverage to my homeowner policy?

A. Though not readily available, the homeowner policy can be adapted by the use of specific endorsements to give some limited protection, but these endorsements may not provide adequate coverage. Very few companies offer this option and they will often restrict you to a maximum of 3 to 4 children in your care.

Q. Is business liability insurance available to me as a family childcare provider?

A. Yes, as of this writing there are a good number of companies willing to offer liability protection to the in-home childcare provider. Although the policies differ, many offer protection for professional liability claims and for allegations of sexual abuse and corporal punishment. Homeowner policies do not usually extend coverage in these areas.

Q. What should I look for?

A. Child care liability policies are different in how they extend coverage and what exclusions apply. Some of the more common exclusions are for claims involving medical expenses of the children, dispensing of medicine, pets, pools, lead paint, field trips, and the transportation of children. Make sure that you know just what exclusions will be in your policy before you buy it. Some companies will provide coverage in these areas for an additional premium charge.

Q. Must any requirements be met to obtain childcare liability coverage?

A. The basic requirement is the need for a license to provide childcare services. In addition to this, most insurance companies will have their own unique requirements. Some require a fenced play area; others will make issue with household pets. You should try to secure the least restrictive policy. Some companies are more stringent than others this is evidence of their efforts to minimize their risk in providing coverage based on what they believe to be relevant to the outcome of any lawsuits that may be filed.

Q. What kinds of coverage are necessary?

A. To begin with, all coverage that is required by State license is necessary. Special policies for general liability and professional liability are certainly important. These policies will protect and defend you for bodily injury or property damage to third parties. Food safety will be provided under the product liability portion of the policy. Accidents involving medical expenses will be provided under accident medical policies or under the medical payments portion of the general liability policy. Coverage for allegations of sexual abuse and corporal punishment is also becoming more of a necessity than a luxury in today's litigious society. All represent important coverage for the childcare provider. For convenience some insurance companies will package all coverage provided by one insurance contract.

Q. How much coverage should I purchase?

A. One of the problems in ascertaining the level of protection is that lawsuits may not be filed for many years after the actual event had occurred. Deadlines for filing suits could be extended until the child reaches adulthood. Based on these uncertainties you would want to purchase limits adequate enough to cover claims on suits brought in the future for events that happen today. It is the policy that is in effect on the date of the occurrence that will respond in the payment of claims. Most childcare providers purchase limits of \$1,000,000 per claim.

Q. Are there ways to reduce my risks?

A. Yes, simply keeping in mind that your actions and decisions in supervising the children can lead to lawsuits will often lead to a course of action that eliminates hazards and improves the quality of care. Good and regular communication with the adults responsible for the children is an important element in responding to a child's needs and in dealing with adult concerns. Beyond that, the most obvious, but often overlooked thing to do is to make sure that all State codes are complied with. Violation of these codes can have an important bearing on the outcome of a lawsuit.