



AMERICAN MEDICAL DIRECTORS ASSOCIATION

## Medical Director Liability: Know Your Coverage Options, Minimize Your Risk

The federal nursing home regulations ([42 CFR 483.75 \(i\)](#)) state that the medical director is responsible for "implementation of resident care policies, and the coordination of medical care in the facility." Since these words bestow a large responsibility upon the medical director, regulators and legal counsels may interpret them differently thereby leaving the door open for the possibility of greater liability.

### Guidelines for Medical Director Liability Coverage

Medical liability insurance plans generally cover clinical issues as defined by hands-on care of patients, but do not cover medical director administrative activities and decisions, implementation of resident care policies, nor coordination of medical care. Therefore it is necessary to have separate liability insurance that covers the administrative duties and role of the medical director. This is obtained through the nursing facility general liability policy.

Medical directors should know whether the facility policy contains a clause that either names the medical director position or its responsibilities, or if an administrative policy is was taken out, to cover the medical director's administrative work for the position. Such policies are usually obtained through the facility and are an extension of the administrative liability coverage afforded to the nursing home administrator, director of nursing, etc.

In addition to these measure, the medical director should ask the facility to [insert an indemnity clause into his or her contract with the facility](#).

AMDA's research concludes that most medical directors obtain this coverage by being listed by title on the nursing facility's general liability policy. The recent crisis in coverage for nursing facilities has left medical directors bare in addition to the facilities. Although there is no standard medical director liability insurance policy, AMDA recommends that medical directors do the following to ensure coverage for their medical director responsibilities:

1. Obtain a statement of policy coverage, including the roles and responsibilities of the medical director from the facility you serve.
2. Require the facility to notify the medical director in writing if the facility's coverage or the policy is changed or canceled.
3. If necessary, require the facility to add an indemnity clause to your contract with the facility.
4. The facility policy should contain the following information:
  - a. Amount of potential legal support should be defined.
  - b. Coverage for the medical director regardless of facility culpability.
  - c. Tail coverage (coverage for issues that arise after the Medical Director leaves the facility).
  - d. Coverage extended to physicians making administrative decisions for the medical director in the medical director's absence.
  - e. Coverage/support for the medical director if deemed either negligent or innocent of alleged issues
  - f. Coverage for regulatory issues, requiring legal counsel, directed against the medical director, including federal and state oversight committees and organizations.

AMDA does not support any specific insurance product but advises its members to become knowledgeable about medical director liability insurance so that they can make the best decisions in their interest and in the interest of their residents and facilities.