



## Abuse & Molestation Coverage – A Safety Net That You Cannot Afford To Be Without

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As a child care provider you have become an expert in foreseeing, avoiding and preventing those situations that might bring harm to your young clients. Likewise, your insurance agent and company should have a strong enough understanding of the childcare business so as to protect you from both the inevitable and unusual claims. Look for an agent and a company who knows the childcare business so that they can determine what coverage options are best for your operation.

Don't assume that the terms and conditions of one company's policy are the same as that of another company. There are significant differences in the amounts and types of insurance coverages available from one company to another. Take the time to examine your insurance protection and obtain at least a rudimentary knowledge of what types of claims are, and are not, covered. By having the right coverages and appropriate limits of coverage you may save yourself a lot of grief and money later.

Start your coverage review with your insurance agent. Does he or she understand the child care business? Does he represent those companies who have proven knowledge and programs tailored specifically for childcare? Can he explain the coverages that are available and act as your advocate? If you don't believe your agent knows enough about the childcare business, find another agent. Don't risk your livelihood on someone just because they are your brother-in-law or next door neighbor. There's far too much to lose.

One of the most important and misunderstood insurance coverages that you can purchase is for claims of physical abuse and sexual molestation. Operating your business without this coverage is comparable to a tight rope walker that doesn't use a net. Maybe and hopefully there will never be a loss, but if there is it will be probably be significant, both in terms of time and money. Everyone who professionally cares for children should have abuse & molestation coverage, regardless of whether they work out of the home or as an employee for one of the large operations. The financial and emotional ramifications of an abuse claim, even a groundless one, can be devastating to proprietors, employees and even the operator's other family members. NSI's attorney and claims manager, Peter Hans, has supervised the investigation and defense of numerous abuse and molestation claims. He notes, "the cost alone of defending even a small claim with no merit can easily exceed \$5000. Those businesses without coverage will probably be financially wiped out, even if they are found innocent. And then there are the claims where the expenses and damages can be well into six figures." When you consider that the annual cost for \$1 million dollars of abuse coverage is approximately \$5-\$10 per child, there is little excuse for not being insured.

Many operators, particularly those with no employees, feel that they don't have a need for abuse coverage, yet anyone can be the target of an abuse claim. Unfortunately for sole providers, it is often their word against that of a young child. Or the charge can be made that another person (family member, neighbor, or other client-child in the center) had inappropriate contact as the result of the provider's lack of supervision. Anyone in the industry should consider himself or herself as potentially becoming involved in a claim. The most common claims of abuse or molestation do not have the owner as the perpetrator, but allege that through improper supervision the contact was made by another person.

As you review your liability insurance policy for abuse and molestation coverage consider the following points:

- **Do you even have coverage for Abuse & Molestation?** Most of the insurance that is an extension of a homeowner's policy excludes abuse & molestation. Numerous companies that insure childcare operations do not provide abuse and molestation coverage. Look through your policy and ask your agent. If there is coverage, he should be able to tell you the limit of coverage and provide you with a copy of the specific form. This form should clearly explain the terms and limit of coverage. If you don't understand, ask for clarification.
- **Is there a bodily injury deductible or self-insured retention (SIR)?** This requires the policyholder to share in the payments with either a predetermined amount or a percentage of any payments or settlements. In today's competitive marketplace the money saved in premiums generally doesn't exceed the amount of the deductible or SIR. Avoid deductibles and **SIRs**.
- **What is the maximum dollar limit that is available for paying abuse and molestation claims?** This varies significantly from company to company. A few provide coverage up to the liability limits, which may be as high as one million dollars per occurrence (claim) and up to three million dollars for all claims in a policy period. They may even have higher limits available via an Umbrella policy. Check to see if the Umbrella covers abuse & molestation.
- **Is there a sublimit for abuse & molestation claims?** Some insurers are not willing to "risk" the full liability limits on the chance of an abuse or molestation claim. They only provide a "sublimit" of coverage from that of the general liability limits. In other words, the limit of coverage for abuse claims may be lower than the limit for other types of claims. Beware of sublimits.
- **Is the cost of defense (investigations, legal bills) within the limits of liability?** Often, the majority of payments will be for defense costs, rather than the cost of settlement. Some companies have the defense costs "within the limits" of liability, rather than unlimited. For example, a policy with \$500,000 liability limits and defense "within the limits" would only pay a maximum of \$500,000 for loss and defense costs. Look for coverage where the defense costs are not within the liability limits.
- **Who is insured by the policy?** In your policy it states "who is an insured". Sometimes this is defined differently with regard to abuse & molestation coverage. Does your policy include volunteers as an insured?
- **Who is excluded from abuse & molestation coverage?** Those companies that provide even the broadest of coverage still exclude coverage for the actual molester. As an intentional act, rather than an accident, the perpetrator is not covered. But often the facts are disputed and unclear. Look for a company that will defend any insured who is accused until the investigation determines that the accusation is correct. If a company isn't sure whether the accused party is guilty they should send a letter explaining that they are reserving their rights to deny coverage for the accused if the facts determine that the accused is guilty of intentionally causing the abuse or molestation. The insurance protection may be denied to the abuser but still provided to other insureds. For example, if an employee abused a child the insurance company could deny coverage for that employee but still provide protection for the owner's improper supervision or hiring.

In addition to reviewing your insurance program, take the time to establish a concise and written procedural statement regarding abuse & molestation. Make sure that there is awareness on the part of the parents, all employees, volunteers, family members, and anyone else who has contact with the children. Do not attempt to handle claims on your own. If in doubt, report any evidence of abuse or molestation to the appropriate authorities and your insurance carrier immediately. And finally, obtain your insurance from a professional agent and company that understand the childcare business.