

HEALTH

Medicine Chest

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INTERNET RESOURCES

Consumer's Guide to Daycare
Liability Insurance,
oci.wi.gov/pub_list/pi-054.htm

National Network for Childcare,
www.nncc.org/Business/cch.liability.html and www.nncc.org/Business/liability.ins.html

Redleaf National Institute,
www.redleafinstitute.org

Liability in the Childcare Setting

Like other small business owners, childcare providers need life, health, and disability insurance to protect you from losing income. Because you work with and care for children, childcare programs face risks that are unique and different from other small businesses.

Sometimes in a childcare setting, injuries happen and children may be seriously injured. And sometimes parents may seek legal action against a childcare program for those injuries. Preparing for that possibility can be helpful if such an incident takes place in your early care and education setting.

LIABILITY INSURANCE

Childcare programs, including family-based settings, should have a liability insurance policy to help protect your program from financial hardship in the event of a claim.

Liability insurance pays the medical expenses and damages if someone gets hurt in your childcare setting. This insurance can protect you, up to the limits of the policy, if a judge, or your insurance carrier, decides that a child and his family should be paid. Even with appropriate insurance, you may still have to deal with a state investigation and the stress of a lawsuit.

Injuries to children have a devastating effect on the staff and the parents of the children in your care. Insurance companies fear these lawsuits because they believe that the jury's sympathy will be with the child and her parents, not the childcare provider. As a result, they want to settle these cases, which ultimately leads to higher insurance premiums for this type of liability insurance.

For all these reasons, it makes sense

to try to head off trouble beforehand. A good place to start is reviewing your staff training and the safety of your facility.

ONGOING TRAINING

State regulations on staff:child ratios and qualifications vary from state to state. It is important to know what rules apply in your state and to enforce those rules in your program.

No matter how qualified your staff is, it is a good idea to have a policy of regular in-service training. This ongoing training does not have to be formal sessions with a presentation by a visiting professional. Regular, perhaps monthly, sessions to discuss subjects of interest will help keep childcare programs current on health and safety issues.

For example, one staff member could be assigned the task of presenting a discussion topic each month, such as from an article that appeared in *HealthyCHILD-Care*®. Whatever the source of the topics, the idea is to have a setting where caregivers are encouraged to exchange information and ideas.

Here is an example of how these meetings could prove beneficial: two children stood near a door. One child opened the door and pinched the other child's finger when he closed it, causing serious injury and a lawsuit. With regular staff meetings, the staff member who recognized the problem would have had a forum to warn all staff to be aware of this situation and to install protective door guards.

It also is a good idea to review materials that staff provide for play and learning. Some facilities let staff select their own materials.

In one incident, a staff member brought glass jars for use in a science proj-

ect for six-year-olds. A child cut her finger and required surgery when she broke a jar trying to catch a moth. A lawsuit and expensive settlement followed.

While it seems obvious that glass containers should not be used by young children, no one knew the staff member was using the jars until an incident occurred. Do not assume that everyone is as careful as you are. Make sure no one can second guess the choices of items you allow the children under your care to use.

INSPECTIONS

Do not rely on state inspections as your only tool for spotting safety concerns within your facility. The inspector is only there for a short time with a checklist of things to look for.

While that inspection may be helpful, it is no substitute for your ongoing watchful eyes. If you have several rooms, it is a good idea to have an inspection checklist.

Note every area that children have access to and make a list of each item in that area that should be reviewed. For instance, anything that is attached to the floor or wall should be checked regularly to make certain it is secure and cannot fall and injure a child.

If you make a checklist and use it regularly, you will have evidence that you do repairs as the need arises. Staff meetings are the perfect place to emphasize the need for staff to notify the responsible person whenever something is out of repair. And be certain that all such items are repaired or removed immediately.

INFANT CARE

If you care for infants, take special steps to make sure the infant rooms are safe. Improperly designed changing tables, for example, are a source of problems. It only takes a second for an unsupervised—and squirming—baby to fall from a table.

Cases involving infants are difficult to defend. In a case, an infant suffered a skull fracture and made a complete recovery. While no staff member acknowledged witnessing the incident, the parents' attorney argued that such an injury could not have occurred without the negligence of a staff member.

Although the childcare provider insisted that the incident might have occurred

at home, the thought of a going to a trial where a jury would contemplate head injury to an infant, led the insurance company to agree to a quick and expensive settlement.

INJURIES HAPPEN

Unfortunately, sometimes incidents just happen. It is common knowledge that toddlers are still developing motor skills. In

one incident, a child fell down and suffered a femur fracture. The area where he fell was well supervised but no one saw him fall.

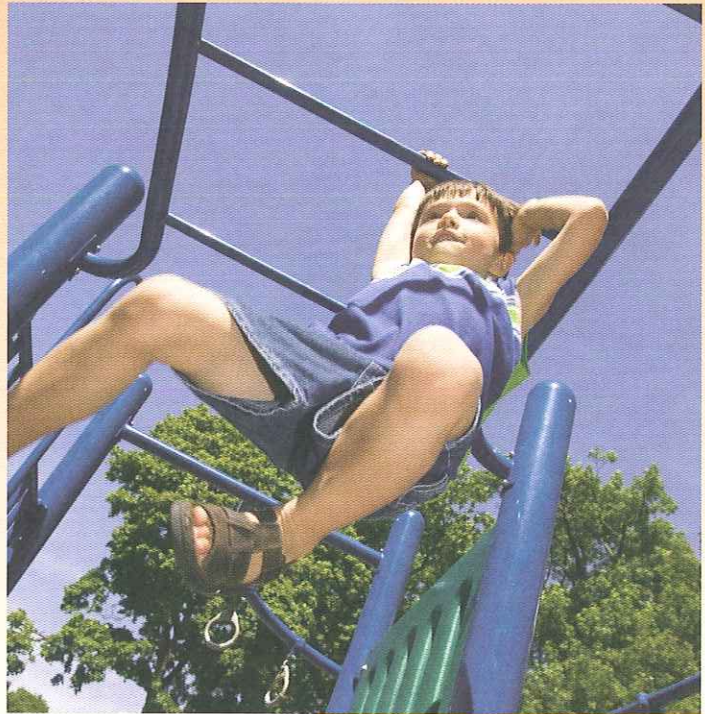
The parents' attorney insisted that he must have tripped on a mat in the vicinity of the incident. Liability was very questionable but the insurance company settled rather than risk a jury trial.

Perhaps the mat could have been put up when not in use. Or perhaps this incident could not have been foreseen. Regardless, it does illustrate the expectations that parents have about their children's safety and the importance of supervising children by sight and sound at all time.

An important overall strategy to prevent lawsuits is to have good communications with the parents. Listen to and address any concerns. Keep families apprised of children's activities; emphasize good events, not just behavior and other issues.

Even if you have liability insurance, it is important that your program be safe. It is your responsibility to provide a safe environment with good supervision so that children do not get hurt.

Having good policies in place, providing ongoing training, and keeping a careful eye on the everyday safety in your childcare program may help avoid injuries. ▲



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Some states require liability insurance for childcare programs. Check with your state licensing agency to determine liability coverage rules for your state.



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HEALTH & SAFETY IDEAS FOR THE YOUNG CHILD

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