The question of whether EMS medical directors need insurance for their EMS duties can be answered in one, unequivocal word: Yes. In today’s world, physicians incur a high level of risk if they provide EMS medical direction without appropriate insurance coverage. The better the question is, What kind of insurance do they need, and is it available at a reasonable cost? For the past 10 years, EMS medical directors have struggled to obtain appropriate insurance coverage at all. Consequently, many physicians have “gone bare” in the employment-law department, providing medical supervision that may subject them to liability not covered by their insurance.

This is about to change, however, because a group of EMS medical directors has taken the initiative to work with an insurance expert to create an insurance package that covers all functions of modern EMS medical directors. (See “New Heights—EMS Medical Director’s Insurance,” p. 7.)

Most policies available to EMS medical directors have not provided the level of coverage that EMS grows more sophisticated, we have started to appear on the radar screens of plaintiffs’ lawyers, who may view EMS medical directors as a “deep pocket” wor- thy of a position as a defendant in a lawsuit against an EMS agency or EMS provider. But aren’t EMS medical directors fully covered by their medical malpractice policies? Wisconsin State EMS Medical Director Keith Wesley, MD, chair of the National Council of State EMS Medical Directors and an active EMS medical director, asked malpractice insurers that question. “Several said that if the doctor works in emergency medicine, then [his or her] EMS activities are an expect- ed function of that practice and are covered,” he reported, adding, “I could not get any med-mal insurer to put [its] opinion in writing, which makes me wary that [it] actually would defend me.”

First of all, many—if not most—EMS medical directors are not emergency physicians. If your medical director does not practice emergency medicine, then it is highly unlikely that his or her med-mal carrier will provide any coverage at all for his or her EMS activities.

Besides, Wesley noted, the key question for insurers is: Covered for what? The answer is that these insurers limit their exposure to claims of medical negligence, which might be brought against the physician from a patient cared for by the EMS agency. They don’t cover medical supervision or the medical director’s administrative activities.

Although errors and omissions coverage is important to his medical practice, the physician has been negligent in providing direct patient care in the prehospital setting, coverage for all the administrative functions a medical director performs is most essential.

The claims a plaintiff makes against EMS medical directors may well fall into the employment civil rights arena. Even if those claims are ultimately dismissed due to the fact that the medical director is not an employer, the costs of defense can be quite expensive. If the claims are allowed to stand, and the physician has no coverage, or he will be responsible not only for attorneys’ fees, but for the payment of a judgment, should one be awarded.

Some states provide immunity from prose- cution if the EMS medical director provides the services for free, but it is not appropriate for the medical director for employee practice issues has never been tested in court.

EMS medical directors have a broad range of responsibilities for the EMS and paramedics they supervise, including direct and indirect medical control, protocol development, issuing field-provider skill maintenance, field-performance evaluation, liaison activities with other agencies in the medical community, dispatch-protocol development and supervision, EMS education and a host of other areas in which their input is needed. Although physicians traditionally do not hire or fire the EMS and paramedics they supervise, their decisions are likely to result from the responsibilities outlined in their contracts or job descriptions.

References

We will determine the appropriate deployment for this person, who the employer would be, how many [the program] would be organized and how they would be deployed. For example, if paramedics were stationed an hour apart from each other, they should be within 30 minutes of a patient.

Bigger Than Idaho project plans also include development of a model curriculum for the anticipated new or revised scope of practice. And the project plans also include networking with other states and other regions to develop a model that could serve other states and other regions.

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