

Making the case for products liability insurance

It's not just the obvious products contractors need to worry about.

IF YOU'RE SELLING product to your landscape clients — whether it be fertilizer, mulch, or even lawn décor — and you're not protected by products liability insurance, that's a huge exposure. If any product you've sold causes physical harm or property damages, you might be faced with a lawsuit. That's why products liability coverage is critical.

Products with a danger factor, like fertilizer, pesticides, weed control and outdoor power equipment, are the obvious concerns because of their potential for causing harm or damage. But in reality, *any* products contractors sell to clients need to be considered potentially harmful. Landscape professionals might be held liable if a product they sell or use on a job harms a person or damages property.

"Say a home and garden center sells a pre-lit Christmas tree, and those lights are defective and cause a fire," John Hodapp, senior vice president, Agency Operations, Hortica Insurance, offers as an example. "If a person is injured or property is damaged, that would be covered by products liability."

While the manufacturer of the product would be responsible for a defective product claim, actually collecting from the manufacturer can be difficult.

"If the manufacturer of those defective Christmas lights is based in China, it's going to be very hard to seek recovery from them," Hodapp explains. "Therefore, the responsibility might fall on the importer, the wholesaler or the retailer — the last of which might be the landscaper who sold the product."

Landscape professionals should know, however, that products liability insurance does not cover

their work. If the work is faulty and must be redone, that is not covered under products liability, says Hodapp.

"But if the faulty work leads to a product causing bodily injury or property damage, then the coverage would kick in," he explains. "It wouldn't pay for the work to be redone, but it would pay for any medical bills or damage that result for your client."

Completed operations claims

Products liability coverage falls under general liability coverage, as does completed operations coverage, which is the second key piece to the puzzle. In addition to the products a landscaper has sold, potential liability exposures are also created as the result of work performed. The work might be completed and the contractor has moved on, but something about that work causes bodily injury or property damage.

"For example, say something about the landscape design is flawed and it results in mud coming through the property," Hodapp says. "If that mud damages the property or causes someone to fall and get hurt, it would be a completed operations claim."

Fortunately, these are typical facets of liability insurance for the landscape contractor. Still, it always makes sense to review your policy and ensure you're not only covered for any potential scenario, but that you have the appropriate amount of coverage.

"It's definitely an area where landscapers want to make sure they're fully covered," Hodapp concludes.

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LANDSCAPE PROFESSIONALS NEED TO REALIZE THEY COULD BE HELD LIABLE IF A PRODUCT THEY SELL OR USE ON A JOB HARMS A PERSON OR DAMAGES PROPERTY.

WORK INJURY CLAIM FORM

Be sure to complete this form in its entirety may result in a delay in processing.

OR (check all that apply):

Injury With Disability

Injury With Hospitalization

Short-Term Disability

Hospital Indemnity

Hospital Intensive Care

Policy Number

Policy Number

Policy Number

Member/Patient Information

Physician's Statement. If you are filing for disability, please include and sign Section D: Employer's Statement.

Signature

Signature

Signature

SUBBED OUT

Subcontractors are often needed and frequently used in the landscape industry, but landscape business owners need to remember that they create potential liability as well. A sub could install a product that causes bodily harm or property damage, putting the company at risk. Here are a few ways to protect your business.

- Obtain a "Certificate of Insurance" from the subcontractor and make sure the subcontractor names the primary company as an "Additional Insured."
- Require subs to have Workers Compensation insurance so you are not responsible for injuries caused to the subcontractor or any of his or her employees while on the job.
- Verify Workers Compensation insurance by asking to see your subs' Certificate of Insurance. Don't make any exceptions. Liability for an injury could cost you thousands.