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Medical Facilities Claim Scenarios

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Why do construction projects for medical facilities need professional liability and pollution coverage?

Protect your projects from potential costly claims like these.

Trends in Medical Facilities Claims

At Berkley Construction Professional, our goal is to help brokers and OPUS (owners protective professional indemnity) policyholders assess trends in claims related to medical facilities, enabling them to reduce the likelihood of future risks.

Due to the nature of hospitals and their design, mechanical, electrical, and plumbing (MEP) issues are of the most concern. Failures to correctly specify the systems designed by the MEP consultant or the design-build MEP contractor can lead to both frequent and sometimes severe claims. Associated issues, including those affecting the patient's or hospital employees' health, safety or comfort can also result in claims, such as the potential transmission or spread of airborne illnesses or mold through the air handling systems. In addition, issues such as poor lighting, inadequate sound insulation, and persistent odors can impact the quality of the patient and employee experience in the building and require remedial action.

Another key issue impacting these types of claims is that, in most states, there is a heightened standard for hospital buildings, and sometimes a separate dedicated state agency is responsible for regulating and approving hospital construction. For example, California has the Office of Statewide Health Planning and Development (OSHPD). These regulatory agencies have the capacity to mandate changes in design after scopes are completed, resulting in rework and expensive change orders that can cost millions of dollars.

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Financial Fallout of Inadequate Lighting in Healthcare

A medical facility's surgical suite had inadequate lighting. The design-builder failed to specify the required lighting levels in the design. The lighting system had to be upgraded, and the design-builder and the electrical engineer settled the matter by the costs and any delays in surgical operations. The total amount paid to resolve the claim was $7.5 million. The design-builder paid $5 million in policy limits, and the electrical engineer's policy paid paid $1 million and the owners protective indemnity policy paid $1.5 million in damages.

Air Filtration Failure

A hospital's HVAC system failed to maintain proper air quality. The MEP engineer omitted critical specifications for air filtration in the design documents. The HVAC system had to be retrofitted with advanced filtration units, and the engineer settled the claim by covering the retrofit costs and compensating for the hospital's operational disruptions. The total amount paid to resolve the situation was $5.3 million. The MEP engineer paid policy limits of $2 million, while the owner's protective indemnity policy paid the remaining damages.

A Costly Ventilation Failure

A hospital's ventilation system was found to circulate contaminated air. The design-builder did not include proper air filtration and sterilization measures. It was found that the design-builder self-designed the air filtration system. The ventilation system had to be retrofitted with advanced filtration units, and the parties involved paid $6.1 million for the retrofit and health-related claims. Of that, the design-builder contributed its remaining policy limits of $1.5 million and the owner's protective indemnity policy paid the remaining $4.6 million.

Soundproofing Slip-Up

A hospital's patients complained that there was not enough privacy in their rooms. The hospital discovered that the rooms had inadequate soundproofing, affecting patient privacy. The architect failed to include proper acoustical design and soundproofing measures. The owner had a limitation of liability with the architect of $3 million in insurance. To resolve the matter, the architect was required to pay the remaining policy limits to retrofit the rooms with soundproofing materials, and the project owner's protective indemnity policy paid the remaining damages of $1.2 million.

The Elevated Risk of ADA Compliance Failure

A third party filed a lawsuit against a hospital claiming that the facilities' elevators were not compliant with American Disabilities Act (ADA) regulations. The hospital brought the architect into the lawsuit, and it was found that the architect did not design the elevators to comply with the ADA code. The architect had a professional liability policy of $1 million and damages were approximately $1.5 million. The elevators were upgraded to meet ADA code regulations. The hospital settled the claim with the architect for the architect's remaining policy limits of $850,000. The owners third party defense coverage paid the hospital's portion of the claim which was $650,000.

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About Berkley Construction Professional

Berkley Construction Professional is a leading provider of professional liability, pollution liability, and protective professional indemnity insurance for contractors and construction project owners. Our experienced underwriters focus exclusively on the construction industry, enabling them to understand the complexities of today's projects and develop tailored insurance solutions for challenging risks. Deep industry expertise and broad underwriting authority allow us to respond quickly and to customize coverage to meet each client's unique needs.

Brokers value our collaborative approach, specialized construction knowledge, and commitment to exceptional service. Policyholders benefit from industry-specific risk management resources, experienced in-house claims professionals who advocate on their behalf, and the peace of mind that comes from working with a financially sound insurance provider dedicated to protecting their business, reputation, and long-term success.

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BCP:26-114:PDF:9/26

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