

Miscellaneous Healthcare Spotlight

Allied Schools Offer a Lesson In Subtlety

by Evan Smith



Healthcare is touted as one of the few bright spots on the employment horizon – and that is good news for Allied Schools. These schools, which range from small specialized institutions to large multidimensional universities, cater to students who want to advance their vocational interests in many health- and nonhealth-related fields. The risks of this class differ from those of other schools and higher education institutions – in subtle but pivotal ways – and require artfully nuanced protection all their own.

An intricate web of risks

Allied Schools provide a pathway to a diverse array of jobs and professions. People looking to launch a career – or change careers – enroll in these schools to become anything from a billing and coding assistant, dental hygienist, medical sonographer, or alternative medicine provider, to an occupational or physical therapist, optometrist, or certified nursing assistant. “Beautification” fields, such as hair styling and cosmetology, also have a major presence in this class. As the improving economy enables more consumers to take advantage of elective health services, including cosmetology procedures, people are returning to school to acquire job training in these areas.

Inherently people learn best by practicing their craft and it is within that learning that risks emerge. These risks can be wide ranging: the risks of services performed by future medical billing and coding assistants (who might make financial or regulatory mistakes) are very different from those of students training as certified nursing assistants, who may be involved in conscious sedation, or from the acupuncturist inserting needles into patients during training (one mis-stick resulted in a collapsed lung). Similarly, hairstylists using chemical dyes for various hair treatments and estheticians doing microdermabrasions pose markedly different risks from trainee speech therapists or dental hygienists.

Risks also vary based on how and where learning happens. Students may sit in classrooms reading or studying remotely, completing coursework online. In many cases, they practice their craft on people, often fellow students. Sometimes students train on people outside the school community, offering discounted services to the general public in school-affiliated clinics or salons. This is common in programs for massage therapists, cosmetology and hairstyling, among others. Despite close supervision, when an inexperienced student is cutting hair or practicing injections on a fellow student, mistakes happen, injuries occur. As learning progresses, from textbook studies to hands-on training, exposure elevates.

Some schools partner with local clinics and businesses to provide on-the-job training, or “externships,” essential for some certifications. Students may need to take part in these externships post-graduation to reach requisite

training hours or to obtain additional training after failing a certification exam. While students are supervised at these off-campus externships, they are under the watch of a third-party – not school faculty – which creates uncertainty and increases exposure. These third-parties may want – and expect – coverage under the school's professional liability program for damages caused by students.

Claims in this class can be frequent and sometimes severe. Scissors in the hands of a hairstylist in training have resulted in everything from an ear grazing to a severed jugular vein. A trainee dental hygienist might crack a bridge or cut a tongue. A certified nursing assistant in training accidentally snaps a needle off a syringe, leaving it in a fellow student's arm. A mis-calibrated microdermabrasion can cause facial scarring; a botched perm can result in permanent hair loss.

Nuanced underwriting

Underwriting the professional liability exposures of Allied Schools is an intricate process, riddled with nuances. Carefully defined professional services must align correctly with the coursework the school offers and the specific professional services being rendered by its students. Coverage must expressly encompass services rendered by students in the classroom, in school-run public clinics, and during school-sponsored externships.

While the primary named insured on these policies is the school, what about the students? When damages arise from professional services rendered by a student, not only the school itself but the student allegedly causing the damage can be named in a lawsuit. Damages caused by one student practicing on another student are a frequent source of claims. This unique facet of the exposure makes the insurance industry-standard "Insured versus Insured" exclusion a glaring "glitch" in coverage for this niche.

Faculty members must be considered as well. While their on-the-job injuries are likely to fall into the workers compensation realm, the faculty member in charge at the time of an incident that leads to a claim could be faulted for failure to supervise and be named in a claim.

Clinics, salons and businesses that host school-sponsored externships for students are another challenge. Some of these enterprises may want the assurance of insurance before they take on the risk of hosting trainees in their shop. And who will pay for claims arising from trip and falls at the school-sponsored salon? Will the school's general liability policy respond or will the clinic need general liability coverage in the professional liability policy?

Identifying where Allied Schools coverage should not go is just as important as uncovering the intricacies of how it should apply. Meaningful general liability coverage should be available within the professional liability policy to cover certain exposures (such as slips and falls in the clinic, or being injured by clinic equipment), but without picking up everything from bleacher collapses at the stadium to liability arising from a campus shooting. (Just as the school's Business Owners Policy is not meant to respond to claims arising from students' professional services, an Allied

School's professional liability policy cannot be expected to address its broad general liability exposure.)

What about when students are practicing professional services on friends and family outside of school approved clinics or externships? The budding esthetician seriously injures her friend's eye when trying a facial at home. Coverage would not address these exposures, as it is outside the realm of any school-approved supervision and risk control.

Many Allied Schools are for-profit enterprises. They are competing for students and under pressure to demonstrate success in securing post-graduation employment. Claims regarding the quality or marketability of the school's accreditation (or non-accreditation, should the school lose status), loss or devaluation of degree, and return of tuition are business hazards for this class and not in the domain of a professional liability policy. An Educators' E&O policy may respond to these types of exposures.

Coverage that makes the grade

Along with a school's student and medical faculty count, the primary measures of professional liability exposure for Allied Schools are its courses of study/accreditation and the means by which they are taught. Coverage must contemplate the full spectrum of professional services students render in the course of their studies, in all of the school's venues of learning – gauging the amount of clinic/in-service training versus the far less hazardous online and in-class study. In addition the volume of traffic a clinic generates should be considered when weighing the level of exposure. In a book of business that combines everything from low risk medical office assistant training, to large publicly traded schools of alternative medicine, crafting coverage to match professional services is challenging. But in this class in particular, the real devil is often in the details.

For instance, in order to adequately protect the institution, the policy should include a “carve back” of coverage for claims brought by one student injured by services performed by another. Without this, a policy's Insured versus Insured exclusion would make coverage meaningless in what are likely to be common claims. Adding third-party externship-hosting businesses to the school's policy as Additional Insureds addresses another challenge schools face. When and if this makes sense, the named insured must understand the implications of opening its limits to others. Underwriters should ask about the need for coverage for post-graduation externships as well.

A clear distinction must be made as to what general liability claims are covered under the policy (presumably those in the clinical setting). Coverage should contemplate faculty who could be injured during the training process. Medical faculty merit special consideration: Some may have practices adjacent to the school; it is useful if coverage can be endorsed for these individual practices too.

While there is a frequency of low severity claims in this class, proper handling of these seemingly benign claims can make or break a school. Many of these institutions rely on the goodwill of their communities to attract customers for students to train on and local businesses to host student externships. If the school gets a reputation for harming people – and not properly handling even minor injuries inflicted by students, it could spell disaster for the school's programs. Moreover, many of these claims involve an individual's grooming and appearance. Claims must be addressed promptly and with sensitivity to the personal nature of the situation.

Allied Schools represent unique risks – each with its own distinct blend of exposures that can be identified during a thorough underwriting process. There is much even an experienced underwriter must learn in order to properly distinguish the exposures and craft coverage that comprehensively addresses them. When it comes to Allied Schools, off-the-shelf options are sure to fail, while coverage created by an underwriter that appreciates the subtle differences in these risks – and the sensitivities of these claims – will go to the head of the class.

To learn more about Beazley's solutions for Miscellaneous Healthcare Professional Liability Risks, contact Evan Smith at evan.smith@beazley.com

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