



Liability risks in home health

Addressing concerns beyond
the doorstep



Liberty Mutual
INSURANCE

Between 700,000 and
1 million people experience
a health care related fall
each year.¹

Today's home health phenomenon

The aging of the Baby Boomer generation has caused a rapid growth in home health care. Aging in place and receiving recovery, rehabilitation, and hospice services in the patient's own home has become a popular health care delivery choice. However, providing home health services in the home is the least predictable setting to provide care.

Industry growth has allowed traditional skilled home health care to offer other services such as hospice, home infusion, durable medical equipment, rehabilitation services, and privately paid non-skilled care such as homemaker/companion services and privately paid health aides.

With this growth comes an increased potential for liability claims and lawsuits. The provision of home health care poses risks to both patients and caregivers. Organizations should protect themselves from those risks by fostering a culture of safety and developing comprehensive Risk and Quality programs.

This article discusses the most common liability risks in home health as well as risk mitigation strategies.

¹ Agency for Healthcare Research and Quality, "Falls," ahrq.gov, www.ahrq.gov/topics/falls.html

A safer sanctuary: tracking the five most common patient risks



1. Falls: According to the Agency for Healthcare Research and Quality (AHRQ), between 700,000 and 1 million people experience a health care related fall each year. Patient falls are the most reported incident in home health/hospice care. The biggest liability risk for home health is a fall that occurs when staff is present and using equipment or assisting the patient. While it is impossible to prevent all falls in the home setting, a strong home safety assessment process and risk mitigation techniques can help protect the patient from harm if a fall occurs and may reduce the chance of a liability claim.



2. Medication risks: Delivery of patient medications in the home setting has a liability risk, as medications are most often delivered by licensed staff based upon physician orders. Errors can occur if medication orders are incorrectly added into the homecare medical record and then improperly administered to the patient, or the medication is correctly added into the medical record, but the licensed staff administers the wrong dose and an unexpected result occurs causing the patient harm. To prevent medication errors, up-to-date information and communication between providers is important when patients transition to home health. It is also important to have staff competency training to assure proper medication administration. Ideally, open communication when medication errors occur with investigation and notification to the patient and family may deter a claim or lawsuit.



3. Infection control: The home setting is more challenging to provide a pathogen-free care environment. Difficulty in providing wound care, injections, and intravenous (IV) medications potentially exposes the patient and staff to infection. Home health lawsuits have resulted in claims that the infections or wounds were caused by negligence of home health staff. Infection control policies and procedures that include extensive staff education on skin assessments, reporting any fever or vital sign changes to physicians, and education on the proper disposal of needles and dressing supplies are effective ways to decrease liability.



4. Patient care risk: Liability risks in patient care include providing a timely admission to home health that establishes an effective and safe treatment plan, including a home safety assessment, and keeping an accurate medication record. Liability claims can result if a referral for home health is received but admission is not timely, resulting in the patient needing to return to the hospital. Poor communication between providers can result in a poor patient outcome. Risk mitigation includes having open and clear communication between all care providers with an understanding of the patient's condition and care needs. All care provided needs to be properly documented in the patient medical record. Patients requiring specialized treatment such as wound care, tracheostomy, oxygen management, and IV medications pose liability risks if staff is not properly competency trained to provide care. Staff competency policies can address the need for proper orientation and competency verification for any special procedure that is part of the treatment plan.



5. Technology and health care data breaches: Between 2009 and 2021, 4,419 healthcare data breaches of 500 or more records have been reported to the HHS' Office for Civil Rights. Those breaches have resulted in the loss, theft, exposure, or impermissible disclosure of 314,063,186 healthcare records. These breaches occur through computer hacking, theft, or employee error. Home health staff record patient information into the medical record using laptops or tablets while in the patient's home. Loss of a laptop with patient information can result in a Health Insurance Portability and Accountability Act (HIPAA) violation. Employees improperly accessing patient information or inadvertently sharing patient information can result in liability to the home health Agency. New emerging technologies will play an important role in delivering home health care in the future. Some of these technologies include the use of the internet with specialized patient care applications. A rapidly emerging technology allows for virtual monitoring of patients using equipment that monitors vital signs and allows a virtual visit with results entered directly into the home health medical record and the possibility of directly notifying the physician of any changes. A robust technology policy and procedure that includes employee education and competency verification for proper computer and technology use can mitigate liability. Best practice dictates that the policy include information encryption, password changes, and a process to have a signed patient agreement to share information.

Limiting exposure: preventing five risks to home health staff

Home health care employees delivering care in patient's home experience some unique risk exposures that employees in hospitals do not face. Home health staff work in a setting where they are a guest in the patient's home – an environment that might put the staff at risk. Risks to the staff are then transferred to the home health Agency if there is a staff injury. Workers compensation claims and liability lawsuits alleging employer negligence have been brought against home health agencies.

Some home health risks to staff include:

1. The home environment: Care might be provided in homes with environment hazards, such as difficult entry into the home, inadequate lighting, trip and fall hazards, unsanitary conditions, or lack of working water. Staff have little control in the home environment and may be exposed to bed bugs, fleas, or allergens in the home. Home health staff have provided care not only in patient's residences but also in emergency and homeless shelters. Home health agencies can provide protection to staff if there is a concern for staff safety by offering detailed direction to patient homes, sending two staff to the home, providing an escort, and establishing a way to immediately communicate with either the home health office or emergency services. They can also provide proper equipment to staff such as masks, gowns, and supplies to establish a clean area to provide care.



2. Pets: Injury from a pet is a significant risk to home health staff. This includes an allergy to a pet or a bite or scratch received while providing care. A home health pet policy includes requesting patients to remove pets from the area where care will be provided to mitigate the chance of staff injury. Care can be postponed or refused if the patient declines to comply with a pet policy.



3. Use of owned auto and travel:

Generally, staff use individually owned vehicles to travel to patient's homes. Risk in traveling to patient's homes includes traveling to remote locations, inclement weather, and the possibility of having an accident while on work time. Agency liability can be mitigated with a detailed travel and auto policy that includes a Department of Motor Vehicle (DMV) check upon hire and annually with the employee providing proof of insurance coverage yearly. Information should be provided to and signed by the driver regarding insurance coverage that is provided or not by the agency relating to the use of the driver's personal vehicle. A best practice policy includes safe driving education, not using a cell phone while driving, and not transporting patients in their vehicle.

Between 2009 and 2021, healthcare data breaches have resulted in the loss, theft, exposure, or impermissible disclosure of 314,063,186 healthcare records.²



Gait belts and transfer sheets that provide safety in transferring, moving, or repositioning a patient can help prevent lifting accidents and injuries.

4. Patient lifting: Employee worker compensation claims and negligence claims and lawsuits can stem from improper patient handling and lifting. Incidents involving injury to patients and staff have occurred with the use of mechanical lifts. Staff injury and patient falls may also occur in the home when there is not an additional person available to assist in moving a patient. Reduction of liability and risk of injury to both staff and patients can be achieved with a patient handling policy that limits or restricts the use of mechanical lifts and outlines safe lifting and transferring procedures for patients. The policy can also include a competency validation and personal orientation to the patient treatment plan. Safety equipment provided by the agency to staff, such as gait belts and transfer sheets that provide safety in transferring, moving, or repositioning a patient, are other mitigation strategies.

5. Reputational risks: Since the home environment is not monitored, employee theft has been a source of reputational risk for both the agency and an employee who is accused of theft. A risk mitigation technique is to establish and follow a strict policy and procedure on how staff will handle money if shopping for the patient or picking up medications. Keeping a medication count on narcotics can also protect staff from being accused of medication theft. The policy should include a process for notifying and cooperating with law enforcement for any complaint that alleges theft. The policy and procedures for employee honesty, boundary setting, and money handling given to and signed by the employee is maintained in the employee's personnel file.

Establishing an effective risk management plan

Having a robust risk management plan that is communicated to all employees can help mitigate the risk of a liability claim or lawsuit. Best practices have been established to assist agencies to develop a proactive plan with a focus on safe provision of care. An effective risk management plan can be established using an eight-step process:

1. Conduct an agency assessment to identify all areas of liability risk
2. Analyze each identified risk for the level of severity
3. Examine appropriate risk management mitigation processes that can eliminate or reduce the risk to treat each identified risk
4. Select the most appropriate method to handle the risk
5. Implement the chosen risk mitigation technique
6. Communicate the plan to all employees
7. Evaluate if each technique was effective
8. Make changes as necessary

A risk management committee can be established as a complement to the quality committee. Risk management meetings are scheduled with minutes kept to routinely evaluate agency risk and proactively analyze existing and emerging risks. Below is a sample template that can be used when analyzing risk.

Liberty is here for you.
**Today. Tomorrow.
 Together.**

For more information,
 please visit: lmi.co/business.



Follow us on LinkedIn and be in the know on emerging trends, legislative updates, and announcements.



Liberty Mutual
 INSURANCE

Additional references

Victoria Department of Health, "Victorian Assistant Workforce Model implementation manual: overview" [health.vic.gov.au](https://www.health.vic.gov.au/allied-health-workforce/victorian-assistant-workforce-model-implementation-manual-overview)
<https://www.health.vic.gov.au/allied-health-workforce/victorian-assistant-workforce-model-implementation-manual-overview>

National Library of Medicine, "Home Health Care Patients and Safety Hazards in the Home: Preliminary Findings," [ncbi.nlm.nih.gov](https://www.ncbi.nlm.nih.gov/books/NBK43619/), <https://www.ncbi.nlm.nih.gov/books/NBK43619/>

Occupational Safety and Health Administration, "Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers," [osha.gov](https://www.osha.gov/sites/default/files/publications/osh3148.pdf), <https://www.osha.gov/sites/default/files/publications/osh3148.pdf>

A typical risk mitigation table

Potential risk	Risk rating	Response/Potential mitigation techniques	Team members responsible	Timeframe
Falls	High	<ul style="list-style-type: none"> Establish a fall mitigation policy and procedure Educate all staff on the policy Evaluate, track, and trend all falls Conduct post fall assessments and adjust care plan with fall mitigation techniques 	<ul style="list-style-type: none"> Quality/Risk committee Clinical educator Clinical supervisor 	Ongoing with yearly review of policy
Late admissions	Medium	<ul style="list-style-type: none"> Develop a time sensitive policy for admitting all referrals within 48 hours of referral receipt Notify the physician of all referrals who request a delay in admission or refuse admission Document all reasons for delays or admission refusal 	<ul style="list-style-type: none"> Quality committee Supervisor Staff members 	Three months to develop policy then ongoing yearly review
Employee injury	Medium	<ul style="list-style-type: none"> Conduct orientation and clinical competencies for all employees Conduct an annual skill fair to refresh competencies Educate employees on safe patient handling Provide annual safe driving education 	<ul style="list-style-type: none"> Human resources department Clinical supervisors 	Ongoing

Summary: staying secure at home

Provision of care in the home setting has unique risks that are not faced in hospitals or other health care facilities. Providing open communication to the patient and family when an unexpected event occurs, including an adjustment in the treatment plan to prevent further harm, fosters trust and can reduce the chance of a liability claim. Developing a comprehensive risk management program that involves employees at all levels and plans for all current and future risks fosters a culture of safety to provide quality care as well as helping mitigate liability risk.