

Triple line of defense

Did you know that acts of employee salespersons or independent contractor sales associates can void indemnification agreements provided by manufacturers and can void additional insured vendors' endorsements? Or that many vendors' endorsements exclude coverage for damages arising from distributor's sole negligence?

Things such as this underscore the need for IMDA members to pursue what Matt Cohn calls the "Triple Line of Defense":

- Indemnification from all manufacturers.
- Additional insured endorsement from all manufacturers.
- Their own product/professional liability insurance program.

Cohn is national insurance program manager, life sciences and medical products solutions, as well as first vice president, for Alliant Insurance Services, which carries IMDA's product/professional liability insurance program with Medmarc. He made his comments at the 2014 IMDA Annual Conference in Scottsdale, Ariz.

Medical products distributors need their own product liability coverage if they repair product; repackage product; re-label product; or alter, modify or customize product. They also could face allegations that they provided expired product, said Cohn. But they need their own coverage for other reasons as well:

- The manufacturer may not accept tender of the claim.
- The manufacturer may go bankrupt.
- The manufacturer's limits of liability may be exhausted from other claims.
- The manufacturer's coverage could be cancelled for non-payment of premium.
- Issues may arise in the case of foreign manufacturers.

IMDA members need to keep all certificates/endorsements for all manufacturers in a permanent file for the required number of years, Cohn reminded those at the Conference. But in addition, "control your own destiny and the quality of your asset protection program" by purchasing product/professional liability insurance, he added.

To learn more about IMDA's product/professional liability program with Medmarc, contact Matt Cohn at 602.707.1917 or mcohn@alliant.com