

The Elements of a Product Liability Prevention Program

Your customers expect you to have safe and reliable products, and failing to meet these expectations can lead to huge financial losses. If one of your products hurts a customer in any way, they can sue your business, leading to costly legal fees and settlements that can easily reach six figures. This legal concept is referred to as product liability, and litigation of this kind is becoming more and more common.

While you may do everything in your power to ensure that your products are safe for the public, mishaps can still occur without warning. That's why, to protect against claims and ensure the longevity of your business, you need a product liability prevention program.

The Benefits of a Product Liability Prevention Program

Above all, establishing a product liability prevention program helps businesses produce goods that are reasonably safe when used as intended. What's more, an effective program can help your business reduce accidents and product recalls while enhancing your position in the market.

In the face of litigation, a product liability prevention program can even be used in your defense, as it provides evidence that your organization takes safety and the risk of injury or damage seriously. Additional benefits include the following:

- Improved management systems throughout each step of a product's development

- Reduced warranty expenses
- Improved customer satisfaction
- Reduced product development time and costs
- Strengthened ability to defend lawsuits
- Improved shareholder value
- Enhanced competitiveness through the reduction of product development costs

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What to Focus on When Creating a Product Liability Prevention Program

While product liability prevention programs differ from business to business, the key elements remain the same. When building a program, consider the following.

Management Coordination and Control

When it comes to reducing product liability exposures, management must play an active role. In fact, in order for risk management strategies to be effective, an organization's commitment to product safety must come from the top down and be effectively communicated.

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As part of their job responsibilities, leadership should weave product safety into company planning as well as operational and control activities. Doing so establishes a holistic program that encompasses all phases of the product life cycle, including the initial design, manufacturing process and final sale.

Design and Product Development

The majority of product liability claims stem from problems with design. Things like improper materials, noncompliance with safety and industry standards, inadequate warnings and product defects are all design issues that can lead to litigation. As part of a product liability prevention program, your organization must focus on designing products that are reasonably safe during foreseeable use, unforeseeable use, service and maintenance.

Reviewing design safety is an ongoing and evolving challenge for businesses. You will need to re-evaluate your designs based on technological advancements, recent court decisions and public expectations. You will also need to make hazard analysis techniques a part of every design review, taking into account destructive and prototype testing, reliability studies, accelerated life cycle testing and safety audits.

Product Warnings and Instructions

When designing products, your organization should eliminate or engineer out as many hazards as possible. If potential hazards still exist, your organization should include specific warnings and instructions:

- Warnings help educate consumers on the unsafe use of a particular product or identify specific hazards. Warnings should be consistent with any industry standards and practices.
- Instructions provide directions for the proper and safe use of a product. Write these instructions clearly and in a way that's easy to understand.

To create these warnings and instructions, you will want to involve multiple parties, including design and legal personnel. It should also be noted that warnings and instructions are not adequate substitutes for safer designs, and they should only be used to address unavoidable dangers and hazards that cannot otherwise be eliminated.

Manufacturing and Quality Control

Quality control is critical when it comes to detecting and preventing product safety hazards. Quality control measures will differ depending on the complexity of a particular product but must extend to all phases of the manufacturing process. Essentially, quality control should be implemented at every stage of product design to ensure no item leaves your worksite unchecked.

Sales and Marketing

While you must maintain a strict standard of product safety throughout the entire life cycle of a product, you also have to take sales and marketing into consideration. In fact, the way a particular product is positioned to the general public can have a great effect on customer expectations and the way a specific product is used.

In terms of limiting product liability, sales and marketing initiatives should highlight product features, uses and limitations of note. Your sales and marketing team should have a good understanding of basic product liability concerns to help minimize potential exposures. They can even use this information to better position your product and set clear expectations relating to consumer usage.

Vendor Management

One effective way to reduce liability concerns is to ensure that the raw materials you use to design your product are properly sourced. That's where vendor management comes in.

Strong vendor management practices help companies find qualified vendors and acquire quality product components, often at a competitive cost. Working closely

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with your design, manufacturing and quality control teams, vendor management personnel can help ensure consistent compliance with design specifications.

Moreover, together with your quality assurance team, vendor management should regularly evaluate the capabilities and reliability of suppliers. To further enhance your product liability prevention program, it's crucial that suppliers of key components have their own contracts and insurance policies to help address any exposures related to defective supplies.

Legal

A legal team, whether you use in-house staff or an outside firm, can be an invaluable resource when it comes to educating your organization. Legal teams serve as advisors, helping organizations:

- Review marketing materials, which, in turn, helps reduce undesired implied- and express-warranties
- Document retention policies
- Assist in the defense of product claims
- Interpret laws and regulations as they apply to product safety

Another legal consideration to keep in mind is document control. Effective documentation is important when demonstrating the level of care your organization takes when designing, manufacturing and selling safe products.

Document control procedures should be based around company policies, management analysis, regulatory requirements and recommendations from your legal counsel. When creating a document control procedure, it's important to keep things like storage, protection and retrieval in mind.

At a minimum, documents that relate to product liability loss control should be retained for the expected life of the product (or its design), plus the longest statute of limitation.

Field Service

Field service refers to a number of after-sales activities and can include things like installation and repairs. Because field service staff often interact with your customers one-on-one, they can provide a number of valuable insights.

In particular, field service personnel often hear about product issues, incidents and complaints first-hand. They may even witness product misuse in person, which makes field service feedback all the more important.

Post-sale Management

Managing product liability doesn't end once you've made a sale. In fact, post-sale management can go a long way toward reducing your exposures.

Among other things, post-sale management strategies help organizations receive and review:

- The user experience
- Customer complaints
- Accidents
- Claims
- Service and warranty reports

Reviewing this information can help identify common trends and hazards that directly affect design, manufacturing, quality control, packaging, customer service and product messaging. Product analysis is an ongoing process—one that affects multiple departments at your organization. What's more, poor post-sale management can directly result in expensive product recalls or worse, product liability claims.

Enhance Your Risk Management Strategies

Product liability is a complex exposure, and managing your risk can be a major undertaking, even if you have access to all the right resources. To supplement your risk management strategies and address specific exposures, it's important to speak with a qualified insurance broker to review your insurance coverage. Contact JGS Insurance today for more information.

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