

FACING THE RISK - LIABILITY INSURANCE CHECKLIST

By Kenneth A. Hall

In past bulletins, the subject of "Facing the Risk" has focused on specific liability issues faced by churches and other Christian charitable organizations. This article is intended to provide board members, administrators and other decision makers with a general checklist of liability coverages. These coverages should be considered as part of any complete insurance program in order to protect against some of the more common legal liability exposures faced by churches and charities today.

GENERAL LIABILITY - Basic coverage for legal liability against your organization arising out of bodily injury or property damage caused as a result of your activities, ministries and operations. This basic form of coverage should be expanded to include most, or all, of the following additional coverage extensions.

PERSONAL INJURY LIABILITY - Provides coverage in the event of allegations of libel, slander, defamation of character, malicious prosecution and abuse of process caused by your organization and its representatives.

CIVIL DAMAGES - Most policies only include coverage for compensatory damages awarded by civil courts. However, coverage should be obtained for all civil damages, including exemplary and punitive awards.

LEGAL DEFENSE COSTS - Coverage should contain a "duty to defend the policyholder" including legal defense costs. Check to make sure coverage is in excess of the policy limits and does not contain any maximum limit, in order to avoid unnecessary erosion in the coverage limits available to respond to a judgement.

POLICY TERRITORY - Policy should extend to include liability coverage for activities and operations on and off your premises anywhere in Canada and the United States and preferably include coverage for employees, volunteers or other representatives temporarily overseas on behalf of your organization.

ADVERTISING INJURY - Coverage for legal liability arising out of your oral or written publication of material causing "economic damage" or "personal injury" to a third party.

ADDITIONAL INSUREDS - The extension of coverage to include your organization's recognized leaders and representatives, including directors, officers, trustees, employees, members and volunteers.

PARTICIPANTS COVERAGE - Legal liability protection for your organization for bodily injuries suffered by participants in your sponsored recreational and sports activities.

MEDICAL EXPENSES - No-fault coverage for supplemental medical expenses due to injuries suffered on your premises. Try to obtain coverage that does not exclude volunteers working on your premises or participants in sports or athletic activities.

NON-OWNED COVERAGE - Includes coverage for liability against your organization arising out of the use of non-owned automobiles, non-owned watercraft or non-owned aircraft used in your operations.

MENTAL ANGUISH RIDER - Broadens the standard definition of bodily injury coverage to include mental anguish or mental injury alleged against your organization.

COUNSELLING LIABILITY - Coverage for legal liability arising out of sponsored counselling activities conducted by your employees or volunteers (refer to CCCC Bulletin #5 - 1997 for further details).

ABUSE AND HARASSMENT - Coverage for "vicarious liability" against your organization and its leaders arising out of actual or alleged abuse and harassment committed by your employees, members or volunteers (refer to CCCC Bulletin #2 - 1997 for further details).

EMPLOYERS LIABILITY RIDER - Provides coverage for legal liability arising out of bodily injuries suffered by your employees while in the course of their employment.

EMPLOYEE BENEFITS LIABILITY - Coverage for your organization due to your errors and omissions in administering a group benefits plan for your employees, including failure to report new plan members or failure to add new coverage.

POLLUTION LIABILITY - Coverage for limited or sudden and accidental pollution due to environmental damage originating from your premises or as a result of your activities.

TENANTS LEGAL LIABILITY - Legal liability protection for negligence in causing property damage to any premises you rent or occupy, including subrogation by a landlord or their insurer.

DIRECTORS AND OFFICERS LIABILITY - Protects your board members against legal liability arising out of their wrongful or negligent acts and should ideally include the following features:

- * Unlimited retroactive coverage for unknown prior acts
- * Claims-made coverage for past, present and future directors and officers
- * Extended coverage to include trustees, employees, volunteers and advisory committee members
- * No exclusions for wrongful dismissal or "employment practices" suits
- * Reimbursement of the organization if it is required under its by-laws to indemnify directors and officers (refer to CCCC Bulletin #3 - 1997, for further details)

UMBRELLA OR EXCESS LIABILITY - Additional limits of liability coverage in excess of your primary policy. It is especially important for larger organizations or those who operate schools, daycares, campgrounds, buses, or any other activities which contribute to a higher than normal legal liability exposure.

This checklist is not intended as a complete review of your liability exposures. Your church or charitable organization may have unique operations or activities which require additional liability coverages. For more information or a no-obligation review of your insurance requirements, please contact Robertson Hall Insurance directly.

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