



THINGS TO KNOW

A few things to understand about
Property & Liability Insurance



ROOKIE THINKING

We aren't doing anything controversial.

**We're doing GOOD WORKS!
Who would sue us?**

What could go wrong?

We have policies in place to prevent that.

Can someone really sue us for X?

The background features a repeating pattern of chemical structures, including hexagons and various molecular diagrams, in a light grey color. A teal horizontal banner spans the width of the slide, with a black sphere containing white dots on its left side. A white line curves from the sphere, looping around the top right of the banner.

Reality Check

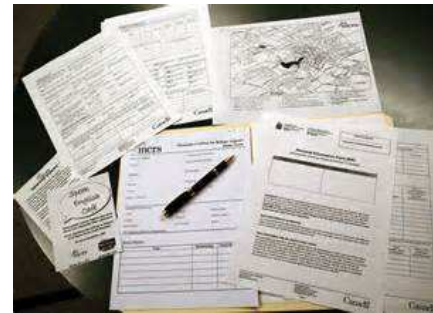
You can be sued
by anybody
for anything
at any time.

Insurance is also about the cost to defend you.

Insurance 101

☀ Coverage doesn't come in one neat policy

- Property, Crime, Liability
- Directors & Officers (D&O, EPLI)
- Workers Compensation
- Cyber/Data breach liability



☀ Applications. Signatures. Financials.

- Carriers need to know things prior to quoting.
- Numbers, numbers, numbers



Where to start? Risk Tolerance

✦ Board of Directors / Senior Management

- What kind of deductible can be managed?
 - Higher may not be better for total out-of-pocket cost
- Personality of board: risk takers or risk-averse
- Loss control measures in place...**in writing**
- How high of a limit should we buy?

✦ External Forces

- **Contracts, leases and funding sources may dictate certain limits. ASK your agent BEFORE you sign!**

How Many Quotes?



🔦 If your budget is below \$2,000,000

- Not large pricing differences between carriers **EXCEPT** when there is substantial differences in coverage.
- **Cheapest is not always best.** Don't save \$100 in premium and forego the best fit for an on-going relationship with **knowledgeable nonprofit agent.**
- The 'whistles and bells' coverage is often where claims fall, not the big line item limits.
- Don't shop coverage every year or two.

↓
PLUS: You can drive yourself nuts with too many quotes!



How much does it Cost?

☀️ This is VERY dependent on what you do

- Kids? Seniors? At Risk youth? People with disabilities?
Controversial? Where you are located...
- Scope of services provided
- Our clients range from \$500 to \$375,000 in annual premiums

☀️ Insurance **is cheaper than losing everything**

- Out of pocket expenses to defend the agency, the employees or volunteers involved if you are not insured.
- More than 50% of agencies close after an uncovered claim.

Claims & Mayhem

- ☛ Insurance policy may have “All Risk” wording...
 - “All Risk” or Special Cause of Loss refers to the broadest types of risks you can purchase coverage for **but...**
 - **All** policies have **significant exclusions**
 - **Cannot buy insurance to cover everything**
 - Examples: Bedbugs, lightning striking a parking lot requiring new paving, mold, intentional acts to name a few.
 - We have seen all of these come through our office!

“I want the umbrella policy.” Do you know what this is?

The Details Matter

✦ Underwriters assume a buyer is not giving them the full story...and price accordingly.

- **Be candid** and explain your operations completely.
 - What you do and what you do NOT do.
 - **Don't leave anything out! Could cause denial of a claim.**
- More information makes an underwriter feel secure about how the policy is priced so no need to upcharge.
- We write a narrative about our clients including safety protocols, any special circumstances to get the best price. **We know what makes underwriters nervous.**



Directors & Officers

☀ Board members have a right to be protected from claims.

- Failure to keep / file appropriate records
- Failed grant commitment
- Self-dealing, conflict of interest
- Most common claim is misuse of funds
 - Restricted v. Unrestricted
 - Investment firm choices



Employment Practices

✚ Employment Practices Liability

- Discrimination claims (EEOC)
- Termination issues, failure to promote, favoritism
- Harassment, hostile work environment
- Board should want this in place even if the sole employee is a part-time Executive Director

It is part of the D&O policy.

COVID has caused employment related claims to skyrocket.



PROPERTY

Where You Sit and What You Own



Where is “the” Office?

🔦 Employees working remotely

- Is their computer agency or personal property?
- Limits in policy for ‘unscheduled’ locations? (Whistles and Bells)
- Homeowners or Renters policy may **NOT** provide insurance for contents related to the business.
 - Also - May not be covered if it’s in your car.

🔦 Leasing space / Donated Space

- **Landlord is not responsible for damage** to your contents for any reason. Neither is the kind person allowing you to work in their space.

VOLUNTEERS

✦ Carriers and Agents that specialize in nonprofits know **Volunteers are a necessity.**

- Policies can include protection for volunteers when properly structured
- Protection for volunteers if they are named in a suit
 - General liability, professional liability, abuse, auto, theft
- What if a volunteer is injured?

Not all carriers provide coverage protection for volunteers.

GENERAL LIABILITY

 Claims for non-professional services, products provided, property damage or injury caused

– Pricing may be based on:

- # of clients, members, patients, mentees
- Square footage of your space / traffic flow
- Fee for service revenue
- Type of activities on site

Check the rating information in the policy for accuracy.



SPECIAL EVENTS

⚡ Carriers specializing in nonprofits offer Event Coverage (fundraising) in the general liability policy.

- Low Risk Events: golf, dinner/auction, walk
- Attendance less than 500
- Risk management measures in place
- **Host Liquor Liability:** only when served by venue or trained caterer that carries their own liquor liability



Not So Fun Fact: Insurance carriers hate bouncy houses!

Talk to your agent BEFORE you plan an event to be sure it's covered.

PROFESSIONAL LIABILITY

 Claims for services provided – think of it as malpractice coverage

- Positions requiring higher degree of knowledge and skill or a certification
- Social workers, Counselors, Teachers, Tutors, Interns
- OT, PT, Speech therapists, **Referrals** made
- Technical Consulting, Speakers, Trainers
- **Read carefully regarding coverage for independent contractors!!!!**
- Can include coverage for Volunteers

ABUSE COVERAGE

✦ **MUST HAVE** if your organization

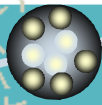
- Provides counseling or services
 - Especially one-on-one
 - Especially behind closed doors
- Works with minors
- Works with a fragile population
 - Developmentally or physically disabled
 - Seniors
 - Abused

INCLUDES DEFENSE COSTS!

May be innocent but will need funds to defend against allegation.

1:1 Youth Mentoring - getting tougher to get coverage





WORKERS COMPENSATION

Who Must Be Covered?

☀ EVERY EMPLOYEE

☀ Many independent contractors

☀ Can exclude volunteer board members

☀ Other volunteers? Most traditional work comp policies do NOT provide coverage.

- Coverage for volunteer injuries can be covered elsewhere or via accident policy



W2 v. 1099 – Clear as Mud

✚ IRS Common-Law Rules

- Behavioral control: where and when to work, how results are to be achieved
- How the worker is paid: hourly, weekly, flat fee, time/materials
- Reimbursement for expenses
- Training
- Permanency of relationship

IRS Employer's Supplemental Tax Guide
Publication 15-A
Cat. No. 21453T

Independent 1099's - Illinois

⚡ You are legally responsible to pay for injuries sustained by 1099's...it is the law.

- unless they prove to you they carry their own work comp policy.
- Exception: Individual not on location and is not solely engaged in a full-time project for your organization.
- Stipend only? Prepare a written explanation of what the stipend is for so it can be excluded.

⚡ Payroll audits by your work comp carrier will include wages paid to 1099's. (Not vendors who carry their own.)

⚡ Work with your agent to provide auditor a clear picture of what the 1099 does for your agency.



VEHICLES & DRIVERS

But we don't have any cars.

Hired & Non-Owned Auto Liability

✦ EVERY entity should carry this coverage

- Even when no vehicles are owned by your organization
- Even when no one is transporting people

✦ Employee or Volunteer is driving own car to a meeting, transporting meals, or running an errand for the organization

- Employee causes accident with damages that far exceed his personal insurance limits.
- Attorney for other driver(s) and their insurance carriers will look to your organization for reimbursement BECAUSE the employee or volunteer was driving on 'company business'!

Does NOT cover physical damage coverage to employee's or volunteer's vehicle.





Cyber Crime & Data Liability

Major Causes of Claims

...AND OUT OF YOUR IT VENDOR'S CONTROL

- ✘ Lost or Stolen portable media
 - Laptops, thumb drives, tablets, phones
- ✘ **Employee Actions**
 - Deliberate or by mistake
- ✘ **Cyber Crime**
 - Viruses, Malware, Ransomware, Phishing Schemes, Social Engineering
- ✘ Improper Disposal
 - Dumpster diving for **paper** records, old computers/printers, fax machines

*Hackers make the headlines, but almost **half of incidents** result from "**insider negligence.**"*

-Ponemon Institute

3 phishing claims this year!



What Businesses Should Understand

YOU own the information REGARDLESS of what party hosts it.

Standard general liability policies WILL NOT cover all the costs or claims.
State and federal laws relating to breach of personal information.
Crime bonds don't cover majority of cyber crime claims.

READ YOUR IT CONTRACT regarding cyber breach events.

Who pays expenses for notifying consumers, employees, etc.?
Will the IT security vendor pay for third or first party expenses? **None?**
NO COVERAGE for social engineering scheme losses.



Why don't you have insurance?

- We **don't have thousands of records**.
 - ✓ Employee related: health, banking, employment records, payroll deductions (alimony, debt collection, retirement plan)
 - ✓ Client related – personal, file notes
 - ✓ Every financial transaction carries protected info
- Our **employees would NEVER be fooled**...NEVER click on a link...
- We have **top-notch security**.
 - ✓ No failsafe security: CIA, White House, NSA have all been compromised.
 - ✓ Security may be great at blocking what comes in but **simple employee actions can defeat anti-virus**.

The slide features a teal banner at the top with the title "Why don't you have insurance?". The background is a light gray network diagram with nodes and connecting lines. A blue line with a sphere at its end curves across the top of the slide.

Why don't you have insurance?

- We have an **IT department** or **IT Vendor** that **takes care of this**.
 - ✓ IT cannot stop every attack or prevent employee errors
- We are a **small organization** - no one wants our information or would hold our system hostage or...
 - ✓ 43% of attacks are on small businesses – assumption of weakened security
- We **use a payment processor for our credit cards** / we use a **payroll service** so we do not have any exposure.
 - ✓ Liability comes down to who is the data owner
- We **do not conduct business over the internet** so we do not have this exposure.
- We have a crime/fidelity bond for computer fraud. **Better read it!**



But We Bought a Crime Bond

COMPUTER TRANSFER FRAUD COVERAGE

IS NOT

DECEPTIVE FRAUD / SOCIAL ENGINEERING COVERAGE

Computer Transfer Fraud: Hacker uses computer outside control of company to transmit funds transfer instructions directly to bank. Hacker moves the money.

Social Engineering: Hacker uses realistic emails or other method to trick employee into sending money willingly to what is thought to be employee, vendor, client. Employee moves the money.

SIMPLE VIEW of a CYBER BREACH

IMMEDIATE

- ✦ Discovery of Cyber Breach
- ✦ Evaluation of Breach – by Experts
 - Forensic investigation \$\$
 - Legal review \$\$
- ✦ Notification & Credit Monitoring for potential victims \$\$
- ✦ Public Relations \$\$
- ✦ Trying to stop fraudulent money transfer \$\$

LONGER TERM

- ✦ Regulatory Fines and Penalties
- ✦ Loss of work (plans, case files)
- ✦ Income Loss
- ✦ Irretrievable Funds
- ✦ Class Action Suits

Who in your agency is going to manage and coordinate all this?

What to Look For in a Policy

DEFINITIONS are **CRITICAL** to **COVERAGE**

Not all carriers and policies provide the same coverage.

- ✓ **Computer systems & equipment** – are Employee owned computers, devices included? Or only company owned equipment?
- ✓ **Employees** – whose actions are covered? Independent contractors or senior executives included?
- ✓ **Cyber Crime** – what types of coverages are included?
- ✓ **Social Engineering & Fraudulent Instruction** – Is there coverage if an internal procedure is violated or is it No Fault coverage?
- ✓ **Silos of Limits** – what coverages are bundled into one limit?

Minimum Requirements

**Cyber / Data Breach coverage is increasingly difficult to obtain.
Claim costs are up 400% since 2019.**

- ✓ **Multi-factor authentication** (MFA) for email, cloud-based services and for all remote access to your network
- ✓ Annual cyber security awareness training, including anti-phishing
- ✓ Implement **critical patches** and update systems within time frame
- ✓ Protect all devices with **anti-virus/malware**, endpoint protection software
- ✓ **Scan incoming emails** for malicious attachments and links (Office 365)
- ✓ Regularly **back up critical data**
- ✓ Require a virtual private network (VPN) to allow remote access into your systems (this may not be applicable)

WHETHER YOU BUY COVERAGE OR NOT!!!

So What Would You Do?

Opt Out of Insurance

- ✦ How much **money** will you set aside in reserves to respond to potential breaches?
- ✦ What **vendors have you identified NOW** to handle forensics, notification, fines and legal issues?
- ✦ What is the very **first action you would take upon discovery?**

Have Insurance

✦ **CALL YOUR CARRIER!**

Don't UnPlug!!!

IT Help Desk v IT Security

- ✦ We've partnered with **XL.net** to help get you insurance ready at **no cost**.
- ✦ Brief interview with leadership or IT and a review of current cyber insurance policy (if any) to create a **one-page, cyber-insurance-ready action plan**.
- ✦ **Why are we offering this service?** Organizations with less than 50 employees often lack the infrastructure or controls to meet the current cyber environment.
- ✦ Many IT vendors are focused only fixing problems after they occur or function as a help desk. To understand your relationship:
 - **Ask your vendor** what your organization's **Security Maturity Level** is based on the national standard

Employee Dishonesty

📈 On the rise

- Typical organization loses an estimated 5% of its annual revenues to fraud
- 77% of all frauds were committed by those working in accounting, operations, sales, customer service, purchasing or upper management
- 49% of victim organizations do not recover any losses that they suffer due to fraud



HOW IS IT STOLEN?

Common Methods of Theft

- Forged or unauthorized checks
- Theft of cash receipts
- Bogus vendors
- Fraudulent expense reimbursement
- Unauthorized use of company credit cards

RULE OF 3: separate bank reconciliation, check signing and purchase order review if possible.



ROOKIE MISTAKES

- ✖ **Signing a contract** without reading the insurance section.
 - Not just the limits part...
- ✖ **Assuming** nothing serious can happen.
- ✖ Being overwhelmed with everything else and **tuning out** when your agent talks insurance.



EMBRACE the BORING

☀️ **Invest time** in the insurance process and **understand** what you need.

- You are protecting your agency
- **Be active in the insurance process**



☀️ It's dry, it's boring and the first few times through can be confusing.

- **Ask questions** no matter how silly you THINK they are! We've probably heard it many times.




Get Ready to Shop



Shopping for coverage begins with you

- Do you have policies and procedures in writing?
- Do you have liability waivers and agreement forms for volunteers in place?
- Employee code of conduct manual?
- What donations are not worth accepting?
- What coverage is critical what can be added over time?

“I have a guy”

 If you are in a situation where you can't pick your insurance agent....

- We work with nonprofits as a consultant to get you ready to apply for coverage or shop the market
- Prepare the structure of the coverage and arm you with language so you know what to ask for
- Assist with waivers, policies & procedures
- Evaluate the quote(s) received

Every carrier has industries and coverages they are good at but not one can do it all well.





GREAT RESOURCES

No Surprises: Harmonizing Risk & Reward in Volunteer Management - **Nonprofit Risk Management Center**

World-Class Risk Management for Nonprofits – Norman Marks and Melanie Herman



**It's Risky World.
Get Protected.**



Thank You for Your Time

Michelle Hooper

630.853.1516

michelleh@ilselectrisk.com

www.linkedin.com/in/michellehooperisr/



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