

RISK ASSESSMENT CONCERNS FOR NONPROFIT BOARDS & STAFF DURING COVID

Presented By:



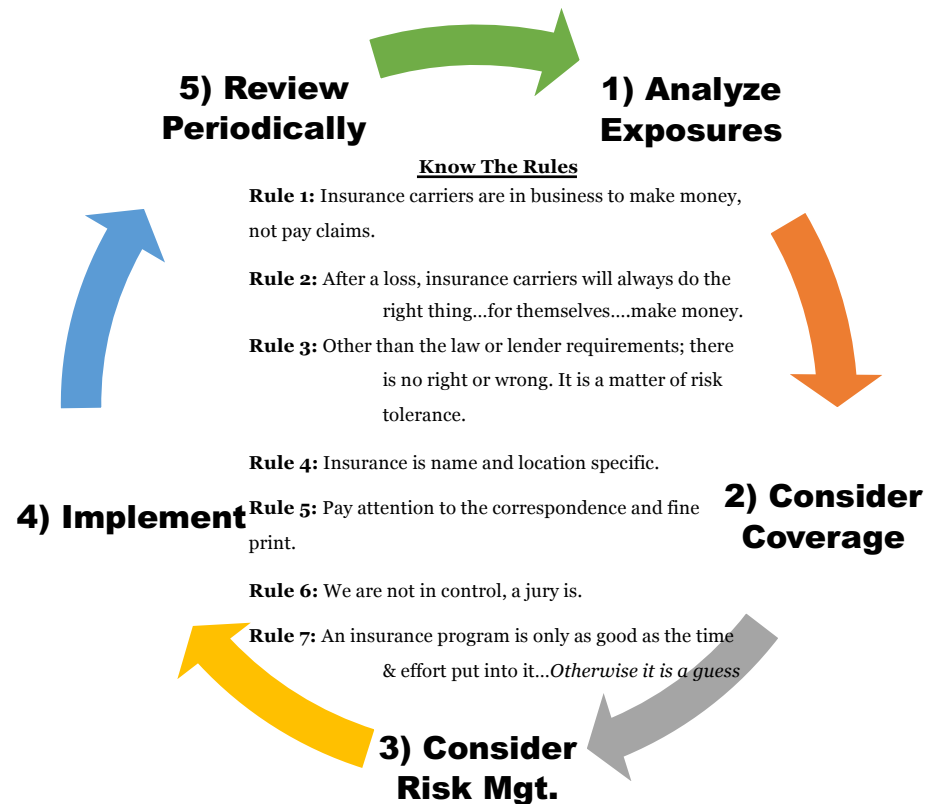
Discussion Overview

- 1) Review of Insurance and Risk Management Process for all organizations
- 2) Review of Insurance Program Structure for a Non Profit
- 3) Discussion of COVID 19 issues and Insurance / Risk Management
- 4) Legal Risk Management Concerns and Mechanisms.

Specific Topics

- Working from home
- Employee use of personal auto
- Cybersecurity
- Volunteers
- Reopening
- Subletting
- Crime
- Legal duties of directors and officers
- Personnel management/human resources
- Collaborations
- Mergers & Acquisitions

Insurance / Risk Management Process



Organizational Basics

Excess / Umbrella

- Package
 - Contents
 - On Site
 - Off Site
 - General Liability

Auto
Non Owned and Hired

Workers Compensation
&
Employers
Liability

Non-Profit Basics



Employee Benefit Basics

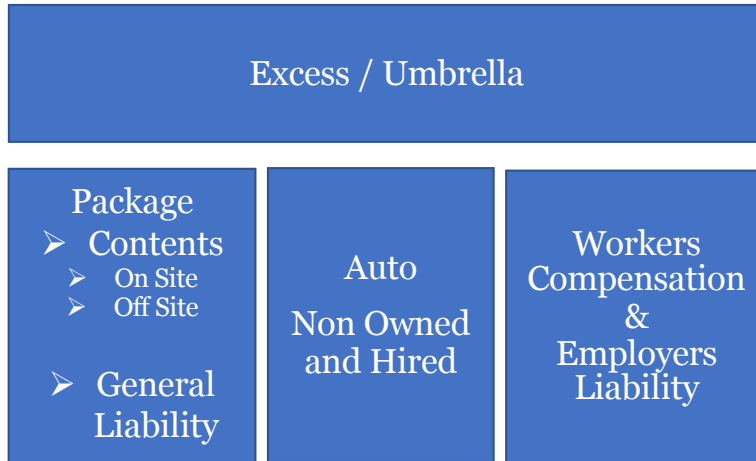
Group
Health

Group
Dental

Group
Life

Group
Disability

Organizational Basics



Employee Benefit Basics



Non Profit with Employees Basics



Issue:

Employees Working From Home

TO DO:

- Property offsite at employees homes?
- Consider adding employee home location to property policy or adding Inland Marine coverage for property (including Computer Equipment).

Issue:

Employees Working From Home

TO DO:

- Suggest employees discuss need for “Permitted Incidental Occupancy” coverage with their personal insurance agent.
- Have Employees complete a questionnaire for Cyber Security

Issue:

Employees Working From Home

TO DO:

If employees live out of state, add the state to the Workers Compensation policy coverage A.

Issue:

Employees Using Personal Autos

TO DO:

- Communicate with Employees that they are responsible for damage to their vehicles and their personal liability.
- Suggest Employees discuss need to Business Class 30 with their personal broker.

Issue: Cybersecurity

TO DO:

- If Cyber *is not* in place, consider obtaining coverage.
- If Cyber *is* in place, review coverage for what & whose computer equipment is included.
- Consider hiring a Security Consultant for
 - Gap Analysis
 - Creation of a WISP
 - Creation of a Recovery Plan

Issue: Volunteers

TO DO:

- Consider obtaining Volunteer Accident program. Approx. \$300 per year. (Personal Group Health Deductible / CoPays)
- Waivers!

Issue:
**Directors & Officers / Wrongful
Management**

TO DO:

If coverage not in place, consider obtaining.

Issue:

Human Resources & Personnel Management

TO DO:

Consider working with a HR consultant to make sure laws being followed on local, state and Federal level.

Issue:

Reopening the Office

TO DO:

- Working HR consultant to make sure local laws being followed.
- Establish a COVID Protocol for the Office

Issue:

Subletting Your Offices

TO DO:

- Review Lease to see if this is allowed.
- Discuss with your insurance agent to add Lessor Risk classification
- Create Lease to protect your organization and transfer risk.

Issue: Closing Your Office

TO DO:

- Discuss with your insurance agent to eliminate location
- Review Vacancy Clause with agent

Issue: Crime

TO DO:

If not in place, consider obtaining and coordinating with the Cyber program.

Issue:

Information Resources

TO DO:

Ask your insurance broker to invite you to carrier and law firm webinars.

Consider annual distribution of the

[MA AG's Guide for Board Members of Charitable Organizations](#)

Issue: Collaboration

Hypo: Online collaboration—group of performers coming together to bring their performances online.

- What are the agreements between the parties?
- Who bears liability? (Who's insured?)
- Who retains ownership (intellectual property)?
- Are there power disparities between the collaborators?
- How will everyone communicate?

Collaborations take extra time and resources.



Issue:

Mergers & Acquisitions

Full M&A workshop on March 23!

The **ultimate** collaboration
(collaboration x10).

Different flavors:

- Absorption
- Merger

Dissolution is also an option.

Mergers *do* require a business audit:

- Governing documents (articles & bylaws)
- Finance
- Insurance
- Strategic planning
- Implementation
- Human resources
- Legal/Compliance

Liability Protections in the Law

- Massachusetts Charitable Immunity Law – *M.G.L. ch. 231, sec. 85K*
- Protections for Volunteers
 - **MA**: Immunity from acts solely relating to performance of duties as an officer, director or trustee of a nonprofit charitable organization – *M.G.L. ch. 231, sec. 85W*
 - **Federal**: liability shield who work without pay and cause harm while acting in the scope of their volunteer activities – *Volunteer Protection Act, 42 USC 139*
- Limitation on liability from corporate form
- Indemnification of officers, directors and agents

Helpful Legal Resources

- Massachusetts Attorney General Guide for Board Members

<https://www.mass.gov/files/documents/2016/08/oz/guide-for-board-members.pdf>

- Massachusetts Department of Revenue Guide on Remote Work

<https://www.mass.gov/technical-information-release/tir-20-15-revised-guidance-on-the-massachusetts-tax-implications-of>

- Guidance on Charitable Property Tax Exemption

<https://www.mass.gov/doc/religious-and-charitable-organizations/download#:~:text=Real%20estate%20bought%20by%20a,until%20it%20is%20so%20used>

Applying for VLA Legal Services

You can now apply for legal services directly through our website!

1. Visit <https://artsandbusinesscouncil.org/apply-for-services> and select “Apply Now”
2. Complete the application. Please include: your contact information, a brief explanation of your legal issue, and the names of any other related or involved parties.
3. For *pro bono* legal services, please also complete the financial information, **including proof of organizational income** (990, profit & loss statement, balance sheet, etc.)
4. Submit!

We’re continuing to waive VLA service fees for organizations and individuals financially impacted by COVID-19!



Contact Us!

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