

Modernizing Liability Insurance for ABmunis Insurance Program Participants

Thursday, May 4



Information Flow

- Liability Insurance Policy [Educate]
 - What it is and why you need it
 - How does it work
 - Know your coverage type
- Finding coverage [Understand]
 - Certificate of Insurance or Policy
 - Modernization - Coverage changes
- What changed [Analyze]
 - Good to Know
 - Coverage enhancements
 - Coverage deemed less significant
 - Deductibles

Liability Insurance Policy

What is it and why you need it?

- Policy Trigger: Negligence, Demand, Peril
- Not goodwill, No First party cover (in theory), Third party cover
- Mostly all perils coverage subject to exclusions
- Defends allegations or actual acts
- Duty to defend but no duty to indemnify
- Defence costs (upfront or reimbursed)
- Are you an insured?
- Criminal or intended actions excluded

Liability Insurance Policy

How does it work?

- Claim is made by you or third party
- Claim: Discovery of wrongful act, Demand letter, Sued
 - Discovery of wrongful act: We handle and adjust as per policy terms and conditions
 - Demand Letter: Assign to lawyer, review allegation, deny/ indemnify / settle
 - Sued: Retain litigation counsel, research, file Statement of Defence, negotiate settlement or litigate
- AB MGA protections – Municipalities only
- Complex claims: Legal opinion to understand coverage scope
- Statute of Limitations
- Different limits may apply to different claims

Liability Insurance Policy

Know your Coverage Type

- No two liability policies are similar
- Devil is in the details – Know what you have in the policy
- Broad Liability policy is worth every penny. Can you guess what you will be sued for next?
- Did you know how your policy responds if incident occurred years ago vs. happened just now
- Will your policy go back to the date of incident, or you are required to have the incident and claim reported in the same policy year or need to carry a specific coverage each renewal
- Understand coverage sections (read coverage headlines)
- Ask your broker questions, don't accept the wording as presented. You may have no coverage for some exposures. Discuss.....

Finding Coverage

Certificates of Insurance or Policy

- Insurance Policy is the governing document
- Certificate of Insurance (COI) confirms coverage limits and any deviations from the Insurance Policy
- Is Certificate of Insurance (COI) a convenience document?
- COI and Policy documents are to be read together
- These are intellectual properties and must not be shared with other parties
- Your COI defines deviations to the Insurance Policy incl Limits
- Interpret coverage by reading Policy section + Common Exclusions + Definitions
- Understand Warranties (Drone & Wrongful Dismissal)
- Other Insurance Clause

Finding Coverage

Modernization - Coverage Changes

- Original Liability Insurance Policy was 20 years old
- Claims environment and regulatory framework has evolved
- New claims trends
- Coverage was modernized keeping up with new realities
- Focus on frequently seen claims
- Remove gap in coverage scope vs. other liability policies
- Reduce Cost of Capital
- Flexibility in Limits and Deductibles
- Coverage customization based on risk tolerance

What Changed?

Good to know

- Policy structured in sections
- Definitions of important terms added
- Important / most used Coverages unchanged, even enhanced
- Insuring agreement for each coverage defines coverage intent
- Several new coverages added following industry trends
- Language clarified; grey areas eliminated
- Deductibles increased for high-risk exposures
- Ski-hill liability removed (Toboggan hills OK)
- Prior & Pending legislation exclusion (new members)

What Changed?

Coverage Enhancements

- All employees covered including on contract and leased from staffing agencies while performing duties of an employee
- Criminal Defence as applicable (Reimbursement if not guilty)
- Defence Cost coverage where non-monetary relief sought
- Liability within airports (for non airport operators)*
- Products & Completed Operations*
- Abuse liability* – Sexual & Physical (Civil action only)
- D&O Liability* (Not-for-Profits)
- Drone Liability*
- Conflict of Interest*
- Crisis Management*
- Fire-arm liability added for authorized staff (by-law / Police)*

(* New coverages for 2023)

What Changed?

Coverage deemed less significant

- Personal Injury Liability
 - Electronic chatrooms / social media exclusion
- Medical Malpractice Liability
 - Not applicable to many – limit now \$2M
- Wrongful Dismissal Liability
 - Defence costs mostly – Limit now \$1M
- Professional Liability
 - Outside work for fees excluded – Limit \$2M
- Criminal defence coverage excluded in most cases (e.g. Abuse)
- Costs to appeal a criminal conviction excluded
- Medical Professionals (except First Responders) excluded

What Changed?

Deductibles

- Deductibles are meant to incentivize active Risk Management
- “You have skin in the game”
- Insignificant deductibles lose their purpose
- Option to increase deductible supporting good Risk Control
- Claims with adverse trends attract higher deductible (minimum deductible shown)
 - Abuse Liability - \$25,000
 - Professional Liability - \$10,000
 - Employment related Practices Liability – 25,000
 - Medical Mal-Practice - \$10,000
- Ineffective Risk Control = higher deductible

QUESTIONS

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