

does your insurance coverage meet your current business needs?

Exchange invited ECE professionals from the field to provide us with insurance coverage questions that are of concern to them in today's child care business environment. We took these questions to three insurance professionals: Greg Thompson, CPCU, ARM, Thomco; Gary Klein, AVP Underwriting, NSI-West Bend Insurance Company; Thomas K. Smith, Managing Director and Carolyn Tormey, Director of Underwriting and Production, Markel Insurance Company who helped us develop this article by answering the following 10 key questions:

1. Besides liability coverage, what other coverage is critical to my child care business.

Thomco: You need sexual abuse protection in case your staff is accused of inappropriate sexual contact with the kids. Even if absolutely nothing has happened, it can be expensive to defend your center against a lawsuit from an angry and determined parent. Some insurance companies will say that they provide this coverage by 'being silent' on the sexual abuse issue, i.e., not having an exclusion for it.

Unfortunately, insurance companies have in the past successfully denied sexual abuse claims even when there was not an exclusion for it on their policy. Therefore, insist on specific

policy wording that provides sexual abuse protection.

Also, make sure your policy provides corporal punishment protection in case one of your teachers should lose their temper and punish a child physically. You will be held liable if this happens.

Finally, child care centers like many small businesses are not aware of the importance of adequate Business Income and Extra Expense Protection. If the center burns to the ground, for example, you will immediately lose your revenues but many expenses will continue. Business Income covers losses that occur as a result. Extra Expense, on the other hand, covers the expense of staying in business after the loss, like temporarily moving to another location. Be sure to discuss this with your insurance agent and verify that you not only have the coverage, but that you have adequate limits.

NSI: The most critical insurance coverage for a child care center is the liability. The liability policy does more than pay for an injured third party, it also provides defense cost. The must-have coverage includes:

- Abuse
- Professional Liability
- Medical Payments
- Off Premises

Abuse coverage is one of the most important coverages for a child care center to consider. Even if a claim has no merit, the cost to defend such cases can extend well into the tens of thousands of dollars.

A traditional general liability policy will only respond to a claim where there is bodily injury or property damage. Professional liability will broaden the coverage trigger to respond to other than bodily injury and property damage. An example of this would be a child care provider feeding the wrong breast milk to an infant. Since no harm occurred, a traditional general liability wouldn't respond. A policy with professional liability may respond to this situation.

Medical payment coverage is a 'good will' offering regardless of fault. Before a payment is made under a liability policy, the owner of the policy must have some degree of negligence in order to trigger the coverage. Medical payment coverage steps in and takes care of reasonable medical bills with no regard to negligence. In most cases the injured party only wants someone to take care of the medical bills.

Insurance companies specializing in child care insurance understand the importance of providing this coverage

to avoid a lawsuit and they'll routinely offer medical payment coverage up to \$10,000.

Markel: Other than the usual general liability and auto coverages, it is also critical for any child care business operation to have Child Care/Teachers Professional Liability coverage to protect against wrongdoing, Sexual Abuse and Molestation coverage, Communicable Disease and Food Contamination Business Income coverage to cover loss of income that could result from food contamination or communicable diseases, and Property coverage to cover items such as buildings, business personal property, business income, and playground equipment.

2. Do I have enough liability coverage? What is enough, what's not enough?

Thomco: There are several schools of thought. Some argue that you should buy low limits on the theory that a plaintiff's attorneys are reluctant to go to the trouble of seizing your personal assets to satisfy a large settlement. The problem is that they can seize your personal assets, and the more the settlement exceeds your insurance limits, the more likely they are to do so. Most insurance consultants would recommend a minimum of \$1,000,000 for the smaller operations with excess umbrella liability limits which vary according to the size of your operations. A large chain with a lot of assets might look for \$10 million excess, while a three-location operation might buy \$1 million or \$2 million excess liability.

NSI: People ask me all of the time if there is a rule of thumb for limits of liability insurance. I ask people how much of your assets do you want to protect. There are no rules when it comes to lawsuits. Purchase a limit you feel comfortable with and can afford.

3. Does having a lot of coverage make my center a target for lawsuits?

Thomco: Yes and no. If you have a lot of assets in the company, you are a target anyway.

NSI: Nobody is going to know what your liability limits are or what limit you carry on your umbrella policy until after the lawsuit has been filed. Purchase a limit you feel comfortable with and can afford.

Markel: Having a large amount of coverage should not make a center a target for lawsuits. A higher insurance limit simply provides better protection for the insured. It is also important to note that controls for good safety, proper facility maintenance, employee training and supervision, thorough staff criminal background checks, and appropriate staff-to-child ratios based on the age of children are among the key things an insured will find helpful when facing claims and lawsuits indicating negligence.

4. Do I need D&O coverage in addition to general liability?

NSI: Director and Officer Coverage (D&O) covers the negligent acts of the Director and Officers that is not otherwise covered in the general liability policy. If you are a corporation, you need to consider D&O coverage to protect the Board members' personal assets. There are many different coverage forms offered by companies, some broader than others. Review the coverage closely with your agent.

5. What kind of student accident coverage do I need?

Thomco: Usually a \$5,000 limit is quite adequate. This prevents small injuries from coming under your General Liability policy and keeps your costs down with the liability carrier. Most

liability carriers do not like to see a lot of claims frequency on their policies.

NSI: You don't necessarily need a student accident policy. A student accident policy acts similarly to the medical payments in that it will respond regardless of fault, and usually the limits are much higher than that of the medical payment coverage offered under a general liability policy. The real benefit of a student accident policy is the protection it offers the general liability policy from claim frequency.

Markel: It is helpful to have student accident coverage as the payment of medical claims can help to protect the insured's general liability. Markel can offer limits ranging from \$12,500 to \$20,000 for accident medical, with \$10,000 for Accidental Death & Dismemberment, and a \$250,000 aggregate.

6. What is the real danger surrounding child abuse charges regarding employees?

Thomco: Besides the cost to defend or pay a settlement, the negative PR in the community can be devastating. We recommend that our insureds have a contingency plan in place to handle negative publicity in the event a sexual abuse allegation surfaces.

NSI: Pre-employment background and routine background checks on employees keeps you abreast of whom you are employing. Finding out you have a known sex offender on staff after an abuse claim occurs will be detrimental to your business. Know your employees.

Markel: There is a real exposure to abuse and molestation charges in all youth related industries. Allegations of abuse and molestation can damage a facility's reputation, so it is important that the insured establishes policies that protect

children. Staff criminal background checks should be conducted, prohibit or limit staff members from being alone with a child, and conduct staff training on what is considered appropriate or inappropriate conduct.

7. Is my centered covered for child abuse charges with my current coverage?

Thomco: If you have sexual abuse coverage and limits specified in the policy, you have coverage.

NSI: This is the million-dollar question. You don't want to find out you lack the necessary coverage at the time you receive the lawsuit. Some companies remain silent when it comes to abuse. Although there may not be an exclusion in the policy, don't assume you have the coverage. Most insurance coverage forms exclude intentional acts. If your policy doesn't specifically address abuse coverage, you need to get something in writing from your agent or insurance company stating their intent.

Markel: It is important for the insured to speak to their insurance agent to find out what exactly is being covered under their insurance policy.

8. How are we protected in child custody battles?

Thomco: There are no exclusions that we have seen in any policies for allegations or claims arising from child custody conflicts, so you should be protected.

NSI: Child custody battles can get ugly and sometimes it is the children who suffer. The courts are there to protect the child's interest. My suggestion is when a child custody battle elevates to a level where it is unclear who has custody, you should

immediately call a meeting with both parents and the advocate for the child to determine who has rights.

9. How can I get affordable health care coverage for employees?

Thomco: Inexpensive health care coverage is available, but by necessity it is more limited than some of the broader plans out there. We recommend an agency called Child Care Insurance Professionals (ccipros.com) for affordable protection.

Markel: Markel offers an affordable option for health care coverage to both the employer and the employee. This medical plan does not intend to replace Major Medical. It does provide meaningful benefits at a reasonable rate that directly reimburses employees a fixed amount for the medical services they use most, such as doctors' office visits, emergency room visits, and surgery. This may be an alternative to more costly plans.

10. Can I get better insurance rates for owning multiple centers?

Thomco: Generally yes, provided you have had good loss experience. As in anything else you buy, volume counts.

NSI: Child care centers, like other businesses, are underwritten based on their management experience, years in business, condition of the premises, prior loss experience, and their overall exposure. If the exposure, condition, and experience of a one-location child care center were the same as a multiple location center, the rate would be the same. Ask questions about your coverage before you purchase. Know what is covered before the claim occurs. If your agent can't explain your coverage, then you probably need to find another agent.

Markel: From a Property and Casualty coverage standpoint, the larger an account gets, not just for child care accounts but most commercial accounts, the more credible the risk may become and can be eligible for size credits in pricing. With that said, larger accounts generally have some level of loss, which makes good policies and procedures even more important in controlling insurance costs.

This article is presented for informational purposes. Readers are advised to consult with their insurance representatives. It is important to review your current insurance policy periodically. Ensure that your child care center is properly covered and that it meets any changes that you may have made to your center. Often in our busy day-to-day operation we overlook those details that protect us when the unexpected occur.