Have You Got It Covered? Insurance 101 – The Basics



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LEARNING OBJECTIVES

- Learn the basics of securing an adequate insurance program for an outdoor organization
- Review the fundamentals of the most important insurance policies and coverages
- Case Studies – Navigating Insurance Claims

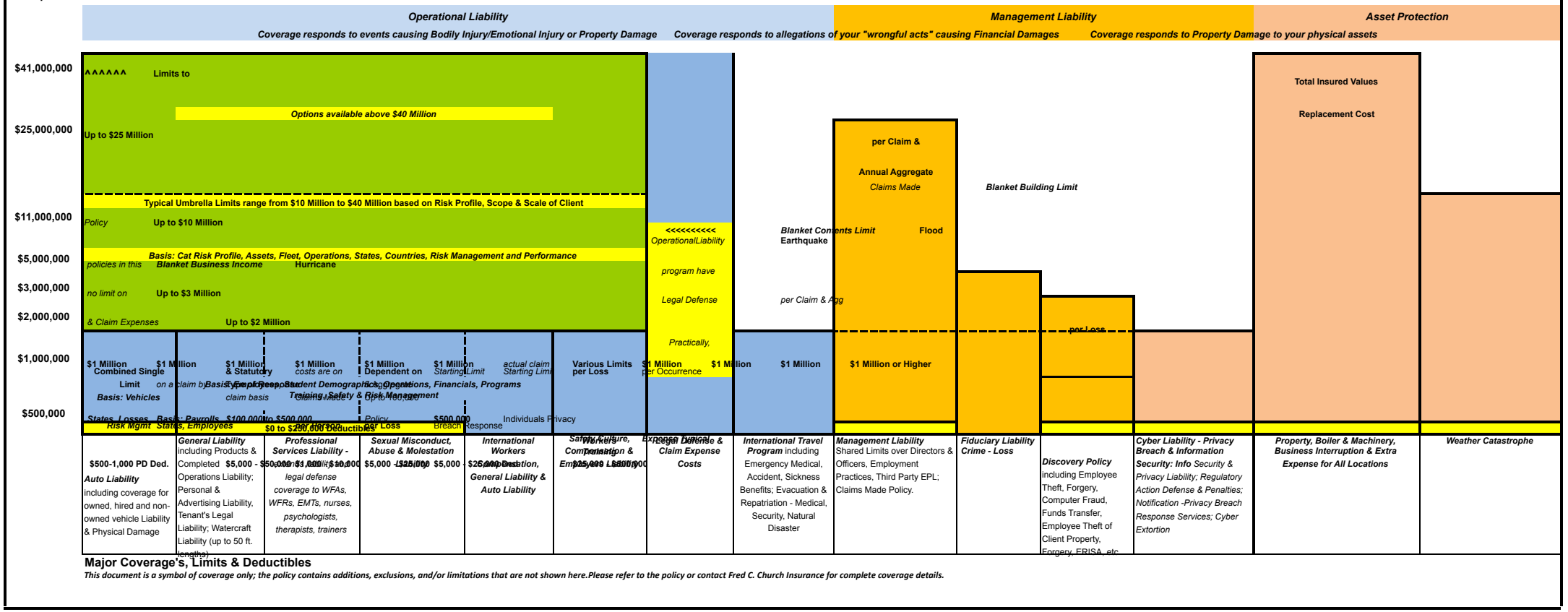
SELECTING BROKER PARTNER

- Insurance Carrier vs. Insurance Broker/Risk Management Partner
- Broker’s Role
- Broker Selection Process

Gallagher Sample Insurance Program Illustration - Outdoor + Adventure Practice
Sample Design for Large Experiential Educators - U.S. & International

Risk Transfer Rate = Total Premium Cost as a Percentage of Annual Revenue, ranges based on quality of insurance program and risk profile of client.

Limits per Occurrence/Claim



Major Coverage's, Limits & Deductibles

This document is a symbol of coverage only; the policy contains additions, exclusions, and/or limitations that are not shown here.Please refer to the policy or contact Fred C. Church Insurance for complete coverage details.

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GENERAL LIABILITY

- $1 Million per Occurrence / $2 Million Annual Aggregate (for Awards and Settlements)
- Coverage for Negligence claims:
  - Bodily/Personal Injury (including Wrongful Death Claims)
  - Emotional Distress, and Property Damage.
- Right and Duty to Defend
  - Legal Defense Cost usually in addition to the Limits of Liability
- Additional Insured (as required by contract—executed prior to loss)
- Blanket Waiver of Subrogation (prior to loss)
- Coverage Territory
  - USA only? Often, worldwide, but only if a trip is temporary and suit is brought in USA.

GENERAL LIABILITY
COMMON EXCLUSIONS/RESTRICTIONS

- Intentional Acts
- Contractual Liability; exception to exclusion BI/PD in “insured contract”
- Understand contracts with third parties
- Workers’ Compensation; Employment Liability; Stop Gap Liability
- Pollution
- Aircraft, Auto, Watercraft
- Understand watercraft exclusions/restrictions/length of boat
- Mobile Equipment (vehicles designed for off roads)
- Malpractice/Professional Liability
- Add coverage for guides/counselors
- Understand who is required to be licensed
- Mental Anguish
- Legal Liability

AUTO LIABILITY & PHYSICAL DAMAGE

- Combined Single Limit of Liability: $1 Million per Accident—Injury & Damages to others
- Comprehensive and Collision—Damages to your Vehicles
- Symbol “1”—all vehicles
  - Understand registration requirements —vary by state
- Hired and Non-Owned Auto Insurance
- Make sure employees understand the organization’s Liability and Physical Damage coverage for rental vehicles
  - Buy or not buy coverage from rental agency?
  - Business and personal use concerns

AUTO LIABILITY & PHYSICAL DAMAGE

- Employees use of Personal Autos for Business
  - Liability—Employee's Policy Primary; Organization's Policy Excess
  - Physical Damage—Employee's Policy Only
- Trailers
  - Liability/Physical Damage
  - Size/Weight
- Uninsured and Underinsured Motorist Coverage
- Carriers' Enhancement Endorsements

UMBRELLA LIABILITY

- How much is enough?
  - Defense and Settlements
- In excess of claims for Bodily njury and Property Damage underlying coverages:
  - General Liability
  - Auto Liability
  - Employers Liability (embedded coverage in the Workers' Comp policy)
  - International Liability
- Usually does not cover:
  - Directors and Officers (D&O), Employment Practices Liability (EPL)
  - Professional
  - Fiduciary

EMPLOYMENT PRACTICES LIABILITY (EPL)

- Discrimination, Wrongful Termination, Sexual Harassment, Failure to Supervise, Negligent Hiring/Supervision

- In response to Civil Rights Act of 1991 allowing awards for punitive damages for employment discrimination and allowing jury trials

- Significant volume of litigation

DIRECTORS & OFFICERS LIABILITY

- Covers legal defense costs and settlements for wrongful acts (breach of duty)
  - Defense costs can be expensive
  - Litigation can be lengthy, emotionally draining, and time consuming
  - Reputation issues can be significant
- Source of Suits
  - Donors, beneficiaries, members
  - AG, other governmental officials involving antitrust/anticompetitive, tax issues, misallocation of funds
  - Creditor suits, breach of contract suits
  - Governance/improper voting
  - Breach of Fiduciary Duty
    - Loyalty, care, state nonprofit laws
    - Mismanagement leading to bankruptcy
    - Loss of tax status

FIDUCIARY LIABILITY

Organizations maintaining employee benefit plans should include:

- Protects plan fiduciaries against claims alleging:
  - Breach of duties to plan, its participants, and their beneficiaries
  - Claims out of errors and omissions and administration of plans
- Not covered elsewhere:
  - Employee Benefit Liability (on CGL) provides protection for administrative errors - does not cover breach of fiduciary duty under ERISA
  - Specifically excluded in D&O and EPL
  - Crime covers Employee Theft from plan (as required by ERISA) but not breach of fiduciary duty
- Excessive Fee Litigation – Do your plan review due diligence

CONSIDERATIONS - D&O AND EPL

- Duty to Defend policies
  - Insurance carriers select and control defense and settlement
- Completing applications
- Warranty and Prior Acts coverage/restrictions
- EPL—Third party coverage
- EPL—Wage and hour violations (excluded or sub-limited)
- Deductibles—usually significant

CRIME & SOCIAL ENGINEERING FRAUD

Crime

- White collar crime on an uptick
- More than just employee theft
  - Forgery and Alteration
  - Computer Fraud
  - Funds Transfer Fraud
  - Money Orders and Counterfeit Currency
  - Credit Card Fraud
  - Client Coverage (Student)
  - Claim Expense (can be expensive—forensics)

Social Engineering Fraud/Fraudulent Instruction

- "Human Hacking"
- Art of influencing people to disclose information and getting them to act inappropriately
- Excluded from most Crime Policies—need to ask to add it
- Training/Awareness

CYBER

- HUGE uptick in claims—Ransomware, Data Breaches, Social Engineering Fraud
- Cybersecurity a must—Audit, MFA, Encrypted Back-Up, Etc.
- Training Important – Human Element leading cause of claims
- Be prepared—create an Incident Response Plan
- Insurance considerations:
  - Third-party Liability
    - Defense Costs
    - Regulatory Defense and Penalties
  - First Party Coverage
    - Cyber Extorsion—Ransome Attacks
    - Breach Response—Forensic and Legal Costs
    - Customer Notification Requirements and Costs
    - Credit/ID Theft Monitoring Services
    - Crisis Management (PR)
    - Social Engineering Fraud/Fraudulent Instruction/Invoice Manipulation

THE BASIS OF ASSET PROTECTION

1. ***Know your Property Values:*** Rebuild/Replacement costs of buildings and contents

2. ***Know your major risks:*** Fire, Flood, Wind, Earth Movement

3. ***Know how and what it costs you to get back in business***

4. ***Determine your Probable Maximum Losses (PML)***

5. ***Reduce your PMLs through loss prevention and disaster recovery plans***

PROPERTY

- All locations/buildings listed? (Statement of Value)
- Vacancy/un-occupancy restrictions
- Business Interruption/Extra Expense
  - Direct Physical Damage coverage trigger
  - Civil Authority—Closure due to governmental authority
- Flood/Earthquake/Wind/Wildfire
- Inland Marine
  - Miscellaneous equipment away from premises

MISCELLANEOUS

- Student Accident/Student Medical
- Trip Cancellation/Trip Interruption
- Tuition Refund
- Medical/Security and Evacuation Assistance (International)

Case Studies – Navigating Insurance Claims

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