

# Oxygen for your business: General Liability, Errors and Omissions, and Professional Liability - Which one to protect your business and YOU?

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# Let's Begin

- An Insurance Adventure
- Oxygen means *something that sustains* (Merriam Webster)
- One question that will 'cross' your to do list will be what insurance do I need?
- Think of the insurance you have now: Home / Automobile / Umbrella / Life all **OXYGEN**.

# Here is what I plan to cover today:

- General Liability
- Errors & Omissions
- Professional Liability
- Reference to Insurance Companies, Agents, Brokers, on-line markets
- Miscellaneous Paraphernalia

General Liability, Professional Liability and Errors & Omissions are *sometimes* used interchangeably.

**NOTE:** You will need to check the insurance policy form

# What is General Liability?

- Protects YOU if someone holds you liable, or responsible, for a certain incident or outcome.
- Why do you need general liability insurance?
- 4 out of 10 small business will have a liability claim in the next ten years.
- Slips and falls are the leading cause of emergency room visits
  - a. Avg costs \$35,000
  - b. If a lawsuit more than \$75,000
- Can your business survive with these costs?

You need general liability insurance before you can work other businesses. Some companies may ask you to provide proof of insurance. **Certificate of Insurance.**

# Standard General Liability

- Bodily Injury and Property Damage Liability
- Personal and Advertising Injury
- Medical Payments

# Bodily Injury and Property Damage Liability

- Provides protection against losses from the legal liability of insureds for bodily injury or property damage to others
- Mental injuries and emotional distress can be considered bodily injuries even in the absence of physical bodily harm

# Personal and Advertising Injury

Personal and advertising injury liability protects an insured against liability arising out of certain offenses, such as:

- Libel
- Slander
- False arrest
- Infringing on another's copyright
- Malicious prosecution
- Use of another's advertising idea
- Wrongful eviction, entry or invasion of privacy

# Medical Payments

- Includes payments for injuries sustained by a non-employee caused by an accident that takes place on the insured's premises or when exposed to the insured's business operations.
- Prompt settlement of smaller medical claims without litigation
- Pays for all necessary and reasonable medical, surgical, ambulance, hospital, professional nursing and funeral expenses for a person injured or killed in an accident taking place at the insured's premises or arising from business operations.

**Does not Cover:** *Professional Errors / damage to employees and property / auto accident*

# Why you should have coverage as a business owner

1. Clients you interact with often require it
2. Protects you when clients visit your workplace
3. Protecting your employees when traveling to third party locations
4. Provides coverage in the event of damage to a client's equipment
5. Protects you when you speak about a client and their business

# Types of commercial general liability insurance policies

1. Stand-alone policy
2. Business Owner Policy (BOP) – Part of this policy
3. Commercial Package Policy (CPP) - Part of this policy

# Let's become confused for a moment: there are other types of liability insurance for you.

- Directors and Officers Liability
- Liquor Liability - protects your business against loss or damages claimed as a result of a patron of your business becoming intoxicated and injuring themselves or others
- Pollution Liability - protection for gradual, as well as sudden and accidental, first-party and third-party environmental liabilities
- Commercial umbrella insurance - provides additional limits on top of some of your existing liability policies to help pay for expensive claims.
- Employment practices liability insurance - can help cover your legal defense costs and settlements or judgments if a current or former employee sues you for employment-related harassment, discrimination or wrongful termination.
- Management liability insurance - helps protect your business' directors and officers from costly claims.
- Commercial auto insurance - helps protect you and your employees on the road if you're driving a car for business.

# How is a price established for General Liability?

1. ACORD Application takes business address - looks at state and location (Ever hear of redlining?)
2. Type of business
3. Classification codes
  - a. Insurance companies assign general liability class codes based on company industry and type of work performed - 5-digit code
  - b. Rates are applied to the gross sales, square footage, or payroll as rate per \$1,000.
4. Sales or Revenue

# How is a price established for General Liability? (cont'd)

5. Underwriter follows Company Underwriting rules: Policy, Position, and Guidelines
6. Selection of Insurance Company
7. Application of credits or debits depending on the state filing
8. Claim History
9. New Venture position – riskier to an insurance company

# Underwriting Note:

## **Example of how General Liability Class Codes are used:**

Business Consultant (ISO CGL Code 41677) vs. Carpenter (ISO CGL CODE 91340)

## **When class codes are used for Exclusions.**

Residential carpenter (ISO CGL Code 91340) frames a residential house that is faulty and incurs damages, the business is covered.

Loss occurs on the framing of a building that exceeds three stories in height, but this is excluded from that GL code.

# Claim Information:

With general liability insurance, the insurance company assumes the following:

1. The duty to defend you
2. The duty to indemnify you
3. The duty to settle a reasonably clear claim

# General Liability Insurance summary

Liability coverage for many of the things that can go wrong as a result of running a business, such as property damage or bodily injuries (to anyone who doesn't work for you), and personal and advertising injury (copyright infringement, slander, libel).

## Coverage highlights:

- Bodily injuries and any associated medical expenses (clients, customers, and other people who do not work for you)
- Property damage
- Non-physical damage, such as libel, slander, and personal/advertising injury

General liability insurance is a good safety net, no matter how big or small your business is. That's why this is often considered the ultimate business “starter policy.”

# Professional Liability

- Professional Liability coverage that is specific to your professional work and services.
- *Think “malpractice insurance” for different professions.*
- It covers you when a client is unhappy with your work because they feel they’ve suffered a loss.

# Coverage includes costs and lawsuits arising from:

- Failure to deliver promised services
- Negligent professional services
- Mistakes, omissions, or incomplete/shoddy work

These types of lawsuits can be extremely expensive, and they can happen even if you didn't do anything wrong. An unhappy client can easily take you to court if things go poorly in their eyes

- Professional Liability coverage can protect you and your business against actual or alleged errors and omissions.
- Can occur while providing your professional services such as giving incorrect advice or omitting a piece of information to failing to deliver your service within a desired time frame.

# Here are some examples:

- engineers or designers sued by clients for misinterpreting renderings and/or ordering costly materials that can't be used.
- project Managers sued for project delays and cost overruns after failing to inform clients about necessary signoffs.
- a massage therapist sued by a client for purported tissue damage following a massage, even if the therapist stopped the massage immediately at the onset of pain.
- medical billing employees sued for incorrectly coding medical procedures on an insurance form.
- public notaries sued for notarizing a document in which not all the required fields were completed.

The above is just a handful of innumerable scenarios in which a professional liability policy could cover your expenses and relevant damages resulting from a negligence claim.

# What does Professional Liability Insurance cover?

- Alleged or Actual Negligence
- Defense Costs
- Personal Injury (e.g., Libel or Slander)
- Temporary Staff and Independent Contractors
- Claims Arising from Services Provided in the Past
- Worldwide Coverage

# What does Professional Liability Insurance NOT cover?

- Bodily Injury or Property Damage
- Fraudulent Acts
- Employment Matters
- False Advertising
- Other Services

TIP: There may be additional Exclusions, READ the policy wording!

# Calculating your professional liability insurance premium

1. Your industry / services you offer
2. Experience in your field
3. Types of clients
4. Type / number of key employees
5. Business location
6. Policy limits
7. Deductibles
8. Inclusions, exclusions, and policy features
9. Claims history
10. Payment plan

# Considerations on Professional Liability

- Higher the limit of liability, the higher the premium.
- Limits occurrence / aggregate 250/250, 500/500, 1,000/1,000, 1,000/2,000, 2,000/2,000, and other
- *Policy is offered as a “per occurrence limit” with an “annual aggregate.”*
- May want to consider claims-made policy or occurrence policy
- Policies will generally have a deductible ranging from \$1,000 to \$25,000.

# Considerations on Professional Liability (cont'd)

- Insurance will pay the cost of legal defense against claims and payment of judgments against you, up to the limit of the policy.
- You may be able to include professional liability coverage in a Commercial Package Policy (CPP) as an endorsement.
- Professional liability coverage is *not* included in an in-home business policy or Business Owners Policy (BOP).
- 69% of small business pay less than \$1,000/year for Professional Liability and 80% for GL.

# Here's how GL and PL are alike:

- Clients may require you to have one of these policies (A carpenter might need a general liability policy to get hired, while a designer's contract may require a professional liability policy.)
- GL and PL cover common (but different) risks that businesses face.
- GL and PL both help protect you from the financial fallout of getting sued: lawyer's fees, court costs, and any settlements or judgements.

# Here's how GL and PL are different:

- General Liability and Professional Liability cover different types of risks.
- A general liability policy will help you if you spill your latte on your client's new 3D printer.
- A professional liability policy will come in handy if your client loses money because of the work you did, or advice you offered.

# Let's continue.....Which liability policy is right for you?

## **You need general liability insurance if...**

You run a business. Any business, regardless of size, can benefit from this policy. It becomes more important the more you interact with the public.

## **You need professional liability insurance if...**

You provide services or expert advice to clients for a living. If clients rely on you for your knowledge, skill, or expertise, they could suffer a great loss if you don't deliver what you've promised.

**It's important to understand which liability policies you need so you have the right protection if something happens.**

# Still not sure what you need?

- General liability (GL) insurance is the most basic kind of business insurance, and virtually every business should have it to protect themselves.
- It covers three main categories of claims: property damage, bodily injury, and personal and advertising injury.
- Keep in mind that GL covers third-party claims, which means that someone else is blaming you for their injury or damage.

# Here are some examples:

- A contractor is remodeling a kitchen when one of their workers is moving equipment and breaks a large window in the home. The contractor's general liability policy could cover the cost to replace the customer's window.
- An IT consultant is meeting with a client to discuss a project. As the client is getting up to leave, they trip over a cable, falling and injuring their wrist. The consultant's general liability policy could cover the customer's medical costs, including lost wages.
- At a hair salon, one of the stylists is overheard making false and disparaging statements about a one-time client. The conversation gets back to the client, who sues for slander, a type of personal injury. The salon's general liability policy could cover defense costs as well as any settlement or judgment.

# Professional Liability

Professional liability insurance, sometimes called errors and omissions (E&O) coverage, protects you against claims or lawsuits that result from professional services you provided.

- If you give advice to customers (even if you also sell a product), you should have professional liability insurance coverage.
- It covers you when you did something you shouldn't have done (an error) or when you didn't do something you should have done (an omission).
- Professional liability insurance also covers personal injury, like libel and slander.
- A professional liability policy can cover you even if you haven't made a mistake.

Here is another example:

- Suppose a business consultant makes a recommendation to a client that they eliminate several jobs and reduce expenses to improve their profitability. The client reduces the expenses, but doesn't eliminate any jobs, and profits decline. The client insists that the consultant gave bad advice and sues for negligence. The consultant's professional liability insurance policy could cover their defense costs and any damage award.

## There are some other kinds of business insurance you may hear about.

- Again the business owners policy (BOP) includes general liability coverage plus coverage for the business's property, like equipment, tools, etc.
- Cyber security insurance protects your company against the costs associated with a cyber breach.
- Worker's compensation insurance covers medical costs and lost wages if an employee gets sick or injured on the job. It's required in nearly all states if you have employees.
- Short-term liability insurance is coverage you get for a specific period, whether it's months, weeks, days or even hours. It can cover you for a specific project or if your business is seasonal.

# Errors and Omissions

## What does Errors and Omissions Insurance cover?

- If a dissatisfied client sues your business over a work mistake, errors and omissions (E&O) insurance can cover your legal expenses, including the cost of a settlement or judgment.
- Errors and omissions insurance provide coverage for:
  - ❖ Work mistakes and oversights
  - ❖ Undelivered services
  - ❖ Accusations of negligence
  - ❖ Missed deadlines

# Errors and omissions insurance does not cover:

- Customer injuries or property damage
- Employee injuries
- Damage to business property
- Employee discrimination lawsuits
- Vehicles used by a business
- Contingent bodily injury

# Errors and omissions exclusions

- E&O insurance has exclusions that limit the scope of its coverage. For example, it won't pay for lawsuits that allege discrimination or abuse against clients.
- It also only covers lawsuits filed against your business by clients. If you file a lawsuit against a client who refuses to pay you, E&O won't provide coverage.

You can fill the gaps in your E&O coverage with insurance endorsements. To make sure you have the coverage you need, contact an Insurance agent.

# What goes into rating my premium?

Major Factors are:

- State of Domicile
- Gross Commission/Sales/Revenue Income
- Breakdown of Business Activities
- Number of Professionals
- Claims, Incidents, and Disciplinary Actions.

# What are the differences in Errors and Omissions vs. General Liability Insurance?

- Both are types of liability insurance
- Both protect your business
- Both protect you from third-party lawsuits. The difference is what triggers the policy for the claim.
- E&O triggers if you were negligent in your professional duties
- GL triggers if your business caused bodily harm, property damage or other personal injury

# Other topics regarding these insurance policies.

## Who do I go to for this coverage?

- Licensed Agent or Insurance Broker? What is the difference
- Both insurance brokers and insurance agents act as intermediaries between insurance buyers and insurance companies.
- Brokers and agents are both licensed to sell insurance policies and required to abide by the laws or regulations enforced by state insurance departments.
- The key difference between insurance brokers and insurance agents is **who they represent**.
- Insurance brokers represent you.
- While insurance agents represent one or more insurance companies.

# What is the Role of the Insurance Company?

- Ratings – A.M. Best / Fitch / Moody's / Standard & Poor's
- Provide coverage and address claims
- Regulated by State – Department of Insurance
- Commission

# What does it mean to be Direct or On-Line?

- Usually a lower price
- Lower premiums and less coverages
- Maybe easier for the business owner but no professional advice

# What are the Disadvantages of Sole Proprietorships?

- Owners are fully liable. If business debts become overwhelming, the individual owner's finances will be impacted.
- Self-employment taxes apply to sole proprietorships.
- Business continuity ends with the death or departure of the owner.
- Raising capital is difficult.

# What about my Homeowners Policy?

- A standard homeowners insurance policy may provide limited coverage for business property that is stored in your home.
- Not every homeowner's insurance policy provides coverage for business property.

# Defense Costs

- What does it mean about Defense Costs?
- Defense costs refer to all the costs of defending against a lawsuit
- Expenses include the cost of hiring a lawyer, court fees, investigations, gathering facts, filing legal paperwork, and other related costs.
- “Duty-to-Defend”
- An Indemnity

# Next steps for OXYGEN

- Think about your business and how does it interface with customers.
- What can go wrong?
- If I am brought into a legal suit what protection do I think I need?
- Now start your discussion with a licensed Agent / Broker or check On-line.

# THANK YOU

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FOR THE LIFE OF YOUR BUSINESS