



KMRD PARTNERS

Risk Management & Human Capital Solutions

What You Should Know About Business Liability Insurance

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GENERAL LIABILITY

- A Commercial General Liability (CGL) policy protects your business from financial loss should you be liable for property damage or personal and advertising injury caused by your services, business operations or your employees. It covers *non-professional* negligent acts. Understanding this coverage is an important first step in managing CGL risks.
- Here are just a few examples of situations in which your business could be responsible for paying various costs, such as medical and legal expenses, as well as compensatory and punitive damages:
 - While visiting your business, a customer trips on loose flooring and is injured.
 - False Arrest – Shoplifter in at your retail store accuses you of false arrest.
 - An employee in your painting or construction business accidentally leaves water running, causing substantial damage to a customer's home.
 - A class action lawsuit is filed against your business, alleging advertisements constituted misleading information.
- [What commercial general liability insurance covers](#)
- A CGL insurance policy will usually cover the costs of your legal defense and will pay on your behalf all damages if you are found liable—up to the limits of your policy. CGL coverage is one of the most important insurance products, due to the negative impact that a lawsuit can have on a business and because such liability suits happen so frequently. Standard CGL includes:
 - **Coverage A: Bodily Injury and Property Damage Liability**
 - Bodily injury and property damage coverage provides protection against losses from the legal liability of insureds for bodily injury or property damage to others arising out of *non-professional* negligent acts or for liability arising out of their premises or business operations. Mental injuries and emotional distress can be considered bodily injuries, even in the absence of physical bodily harm.
 - Workers compensation and employment practices liability insurance are excluded but can be purchased as separate policies. In addition, pollution liability is excluded and can be purchased as an endorsement. However, this coverage is very limited, and high-risk businesses should consider purchasing a separate pollution liability policy. Liquor liability, professional liability and other risks may also be excluded. An insurance professional can help you to determine endorsements that are right for your type of business.

GENERAL LIABILITY

- **Coverage B: 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

- **Coverage C: Medical Payments**

- Limited coverage for 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. Medical payments coverage can be triggered without legal action. This provides for prompt settlement of smaller medical claims without litigation. It is included in the CGL policy and 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. There is no defense or legal liability coverage—as there is with bodily injury and property damage (Coverage A) and personal and advertising liability (Coverage B) —since coverage is provided on a no-fault basis.



GENERAL LIABILITY

General Liability Claim Examples:

- Ice & snow caused Claimant slipped & fall on parking lot, fracturing her hip. Case settled out of court for \$325,000.
- Contractor installed new doors inside of a home & while performing finish work, a finishing nail slightly pierce a water line. Several years later the head of the finish nail rusted away & line began to leak causing property damage. Insurance company paid \$15,000 in damage to the customer's home.
- Claimant attempted to rob a retail beer distributor. Our insured clerk shot & killed the claimant. Over \$200,000 in legal fees were paid.
- Alleged shoplifter sues a retail store for excessive force when security guards tackled her leaving a store with stolen merchandise. Claimant fractured her wrist that required surgery. Jury awarded the claimant \$150,000 in damages.
- General Contractor was sued when a subcontractor fell through an unsecured opening at a jobsite. \$450,000 in damages were awarded to the plaintiff.
- A retail home brew supply company was sued by Heineken Beer for infringing upon their trademark. The insured unknowingly purchased knockoff Heineken neon bar signs with the Heineken logo & sold them on their website. Heineken sued & was awarded \$50,000 in damages.
- Auto repair shop did not tighten oil plug on oil pan after an oil change for a client. Oil leaked from the car causing the engine to seize. Claimant was awarded \$8,000.



PROFESSIONAL LIABILITY

- What is the difference between professional liability insurance and general liability insurance?
- The main difference between general liability and professional liability is in the types of risks they each cover. **General liability covers physical risks, such as bodily injuries and property damage. Professional liability covers more abstract risks, such as errors and omissions in the services your business provides.**
- **General Liability vs. Professional Liability**

As a business owner, it can be a challenge to figure out what types of liability insurance you need. The right policies depend on the types of risks your company faces.

Big and small businesses both face liability risks, but the type of liability can change based on what you do. For example, a contractor might be liable if something they've built injures someone, where a consulting business might be liable for a client's financial losses if they made a mistake in the advice they gave.

Both of these types of liabilities can lead to a lawsuit. That's where general liability insurance and professional liability insurance come into play.

Professional Liability Insurance Definition and Risks Covered

Professional liability insurance, also known as errors and omissions insurance, helps protect your business if your client claims financial damages from the professional service that you provide.

Professional liability insurance can help cover business' legal defense costs:

If a bookkeeper makes a clerical error that costs their client thousands of dollars.

If a web developer makes a mistake on a client's e-commerce site, resulting in missed sales opportunities.

If an accountant files an incorrect tax return for their client, resulting in a penalty fee.

Who Should Take Out Professional Liability Insurance?

Some states may require certain businesses to have professional liability insurance. For instance, healthcare professionals need medical malpractice insurance, which is a type of professional liability.

You might have to carry professional liability coverage if your clients require it when you sign a contract. Regardless of whether you're required to have it by law, it's important to get the protection you need with professional liability insurance, especially if you work with clients or customers.



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Some examples of businesses that should carry professional liability insurance include:

Lawyers or law firms

Consultants or professionals

Accountants or tax preparers

Home inspectors

Technology professionals



PROFESSIONAL LIABILITY

More Examples of Professional Liability Claims:

\$70,000 A computer consultant was hired to create a new computer system for a client. The client alleged the new system was not functional and corrupted their current system.

\$225,000 A mortgage broker failed to process a loan application on a timely basis which resulted in the borrower losing an agreed upon rate. Rates increased and the borrower was unable to secure a comparable rate resulting in significant excess interest paid.

\$1,150,000 A safety consultant professional liability claim resulted when the claimant alleged the Insured's critical inspection report was not comprehensive enough to have prompted the client to take precautionary measures to avoid an explosion that resulted in one fatality and one severe injury.

\$105,000 A medical billing company received a lawsuit from a client for failing to submit and collect medical billings for patient care to insurance companies on a timely basis.

\$1,725,000 A computer consultant was assisting a client with their credit card processing from one vendor to another. It was alleged that the Insured failed to follow their own guidelines and procedures during the process and mishandled sensitive account information.

\$205,000 A property manager professional liability claim was filed involving a class action lawsuit alleging the Insured reviewed the applicant's eviction reports without their consent.

\$240,000 A private school hired a management consultant to assist them with employee recruitment activities. The suit alleges the Insured performed an inadequate background check and failed to identify the employee's criminal history which included a sexual assault on a minor.



EMPLOYMENT PRACTICES LIABILITY

What is Employment Practices Liability?

Employment Practices means any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, unfair contracts, harassment or discrimination (sexual or otherwise) in respect of employment by the Insured, American Disability Act.

- In such cases, your employment practices insurance **will provide funds to cover your:**

Attorney's fees

Settlement costs

Legal judgments

Administrative and other court costs

- Employment practices liability insurance does **not** cover:

Civil and criminal fines

Punitive damages

Wages you should have paid

Instances of intentional employer wrongdoing

Damage you caused to employee property

Alleged injuries to employees

Litigation regarding unemployment benefits

Disputes surrounding workers' compensation claims



EMPLOYMENT PRACTICES LIABILITY

Examples of Employment Practices Liability Claims:

Age Discrimination An age discrimination lawsuit was brought by a highly paid 62 year old sales representative who was employed by the Insured. He was terminated for not meeting his sales quotas. Despite layoffs and cutbacks at the company, there was no documentation that showed the plaintiff was a poor performer. A settlement of \$540,000 was reached.

Sexual Harassment and Wrongful Termination Several female employees at a company complained that the CEO was sexually harassing them. As required by law, the President proceeded to investigate the complaints. Within one month of the start of the investigation and without apparent backing of the board of directors, the President was terminated by the CEO under the pretext of performance issues. This was despite the fact that he was given a raise a few months earlier. The President filed a separate wrongful termination suit due to the conflict between the Board of Directors and the CEO. The settlement and Defense Cost exceeded the policy's Limit of Liability.

Racial Discrimination A group of Indian descent applicants sued a private retail store for ethnic and racial discrimination after learning they had all been denied employment strictly based on their race and ethnic background. The Defense Cost and settlement was over \$200,000.

Retaliation The Executive Assistant to the Chief Financial Officer was terminated for divulging confidential information to staff regarding impending company layoffs. A suit was brought by the assistant for retaliation and sexual harassment as she claimed the CFO always made suggestive comments and improperly touched her. Defending the CFO cost over \$150,000.

Religious Discrimination A claim was brought by a former employee for religious discrimination. She alleged the hiring practices of the Insured were unlawful because they stated they would only hire Christian workers. Once it was learned that the plaintiff was not a Christian, she was passed up for a promotion. A settlement of \$52,000 was reached.

Disability Discrimination An employee went out on medical leave for treatment of an illness. When he was ready to return to work the Insured told him his position had been filled by someone else and his job was no longer available. He filed suit for lost wages, emotional distress, and violation of disability discrimination statutes. The Defense Cost and settlement was greater than \$100,000.



CYBER LIABILITY

What Does Cyber Liability Cover?

Cyber liability insurance can cover costs associated with data breaches and cyber attacks on your business. Those costs can include such things as lost income due to a cyber event, costs associated with notifying customers affected by a breach, costs for recovering compromised data, costs for repairing damaged computer systems and more.

Cyber coverage can be a crucial safeguard against the devastating financial consequences of a cyber attack. Many Insurer's offer customized insurance solutions depending on your business' level of risk, with coverage options available to address:

- forensic investigations – How deep did the hackers get into the computer system, how much information did they obtain?
- litigation expenses – cost of legal fees incurred.
- regulatory defense expenses/fines – Federal, State & Local governments will impose fees, fines & other expenses like identity monitoring if you are hacked.
- crisis management expenses - Crisis Event Management Expenses means reasonable fees, costs and expenses incurred by the Named Entity and approved by the Insurer for consulting services provided by a public relations firm or law firm to the Named Entity in response to a Crisis Event.
- business interruption – This coverage will help cover the lost revenue of your business in the event of a Cyber attack.
- cyber extortion – Ransome Claims
- Betterment - an insuring agreement that provides coverage for costs to improve a computer system after a cyber security breach, when the improvements are recommended to eliminate vulnerabilities that could lead to a similar breach.



CYBER LIABILITY

Cyber Liability Claim Examples:

Unauthorized Access An international computer hacking group gained access electronically to the computerized cash registers of a restaurant chain and stole credit card information of 5,000 customers, starting a flood of fraudulent purchases around the world.

Theft of Digital Assets A regional retailer contracted with a third party service provider. A burglar stole two laptops from the service provider containing the data of over 800,000 clients of the retailer. Under applicable notification laws, the retailer - not the service provider - was required to notify affected individuals. Total expenses incurred for notification and crisis management to customers was nearly \$5M.

Privacy Breach An employee of a rehabilitation center improperly disposed of 4,000 client records in violation of the center's privacy policy. The records contained social security numbers, credit and debit card account numbers, names, addresses, telephone numbers, as well as sensitive medical information. The center settled the claim with the state of Massachusetts and agreed to pay fines and penalties imposed by the state as well as extend \$890,000 in customer redress funds for credit monitoring on behalf of the victims.

Theft of Digital Assets A home healthcare organization had back-up tapes, laptops, and disks containing social security numbers, clinical and demographic information, and in a small number of cases, patient financial data that was stolen. In total, over 365,000 patient records were exposed. The organization settled with the state attorney general, providing patients with free credit monitoring, credit restoration to patients that were victims of identity fraud, and reimbursement to patients for direct losses that resulted from the data breach. The organization was also required to revamp its security policies, implement technical safeguards, and conduct random compliance audits.

Human Error A non-profit community action corporation printed two 1099 forms on one piece of paper. An employee was supposed to separate the forms and send each to its rightful owner. Instead, one person received both copies. The mistake sent tax forms and social security numbers to strangers. Approximately 50% of the landlords who work with the community action corporation received their forms in addition to the private information of the others.

Cyber Extortion Threat A U.S. based information technology company contracted with an overseas software vendor. The contracted vendor left universal "administrator" defaults installed on the company's server and a "Hacker for Hire" was paid \$20,000 to exploit such vulnerability. The hacker advised if the requested payment was not made he would post the records of millions of registered users on a blog available for all to see. The extortion expenses and extortion monies are expected to exceed \$2M.



CYBER LIABILITY

Cyber Liability Claim Examples:

Human Error An employee of a private high school mistakenly distributed via e-mail the names, social security numbers, birthdates, and medical information of students and faculty, creating a privacy breach. Overall, 1,250 individuals' information was compromised.

Malicious Code A juvenile released a computer worm directing infected computers to launch a denial of service attack against a regional computer consulting & application outsourcing firm. The infection caused an 18 hour shutdown of the entity's computer systems. The computer consulting & application outsourcing firm incurred extensive costs and expenses to repair and restore their system as well as business interruption expenses which totaled approximately \$875,000.



CLOSING

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Price is always important in any transaction but “cheap” insurance by no means is the “best” insurance.

"The bitterness of poor quality remains long after the sweetness of low price is forgotten." Benjamin Franklin