

# Chiefs of Ontario Forum on Child Welfare

*Respecting First Nations, Inuit, and Metis children,  
youth, and families.*



Aboriginal Insurance Services



# There is nothing more precious to human beings than their offspring...

Whether you are a childcare provider or a daycare owner or a counsellor, social worker, when parents entrust you to look after their children, they expect you to do so in the same dedicated way that you would after your own children.

Any failure on your part to provide this duty of care to the letter – accidentally or through genuine negligence – can result in parents understandably coming down on you as hard as they possibly can.

If they cannot pursue you criminally, they will seek to pursue you financially in order to hit you where it hurts most.

Anyone who has experience of working with children can testify that the ability to expect the unexpected should never be undervalued.

# How do childcare workers evaluate their liability insurance needs?

Individuals, who work with children, on a permanent, regular or intermittent basis, rank very highly amongst the hierarchy of those most likely to encounter liability claims.

While a commercial general liability policy will insure staff and volunteers against financial responsibility caused by successful liability claims against them, it does not and cannot prevent accidents from happening.

In order to understand exactly what sort of liability policy offers you the most cover to fit the nature of your activities, and it's as good a starting point as any to think about the environments in which you operate, as danger zones.

# Considerations for people who work with children

You operate in a risky sector and are entrusted with the care of other people's children. If you haven't yet experienced an insurance claim against you for accidents or damages, there are no guarantees it won't be your turn next week, next month, or next year.

The culture of placing blame and making claims for accidents and damages that can be attributed to your businesses – by employees, by customers, by members of the public, by literally anyone who cross paths with you– has never been as dominant as it is today.

If your business or job includes the everyday care of children, such as looking after them at their premises or yours, accompanying them in the public domain, providing them with refreshments, and generally taking on the role of guardian, you need a liability policy that protects you against anything from a minor mishap to a major disaster. Therefore, it makes perfect sense that comprehensive liability cover for all the threats that potentially face your business offers you maximum financial protection.

# Conducting a thorough Risk Assessment is important

## **Accidents & Injuries**

If you provide childcare services, chances are that you carry out your work at their place or yours. If you are the owner of a nursery, parents entrust the care of their youngsters to you at your business premises.

Now, carefully consider the variety and volume of accidents that a child or children in your care might suffer in each of these environments. It can be difficult to know where to start. At 'entry level' you might be thinking about the very minor end of the scale, such as trips over lamp wires, bumps and knocks against sharp table corners, or slips down small sets of stairs or steps.

At the opposite end of the scale, you may be progressing to the realms of a child being the victim of a serious accident on a busy main road outside a party venue or breaking their neck when stumbling off a bouncy castle on to a concrete surface.

# Conducting a 3 Step liability Risk Assessment

## **Illnesses**

Many childcare workers generally perceive the risk of potential claims for accidents, injuries, and damages to be greater than illnesses, but a major source of liability claims is food, and should a child suffer from upset stomachs, sickness, diarrhea, or food poisoning that can be traced directly back to food provided by you or prescription and non-prescription medication represent further serious causes for concern. If you are required by parents to administer prescription medication to their children, you need to be 100% confident of the correct dosages, at the right times.

## **Tools of the trade**

What apparatus and equipment do you use to do your job, and what materials are they made of? Could they provoke allergic reactions in children? Face paints, for example, might cause children's skin to react adversely, causing severe irritation, even permanent disfigurement.

# A risk assessment should include liability exposures for childcare workers – Step 1

Childcare workers know better than anyone else that the list of potential mishaps that can occur when working with children is impossible to exhaust. As children lack adult sensibilities, every aspect of their care, health and safety lies firmly and solely in the hands of the people working with them. The unpredictability of children dictates that the extent and volume of potential accidents and injuries that can befall them is infinite.

Exposures to consider with children in your care:

- Slips-and-falls
- Hitting, biting, slapping, and more by other children
- Falling objects
- Faulty toys or defective equipment
- Tainted food
- Ingestion of toxic substances
- Damage to the property and possessions of the people looking after them

# The risk assessment should also include other liability exposures – Step 2

The safety of children is ultimately of primary concern, but there are further liability exposures for employees and volunteers:

- Negligent acts committed by staff members
  - Alleged abuse or molestation
- Failure to provide the level of service parents expect
  - Damage to foster parents (child burns down the house)
  - Death and accidents in foster care
  - Childcare Risks
- First Nations added exposures
  - Traditional healing and training beyond provincial rules
  - Remote location i.e. Emergency Life Services, Police etc.



# What specific types of liability cover is available for childcare workers?

**Professional Liability for employees, counselors, volunteers or Errors and Omissions Liability** – Childcare providers may be sued for injuries they allegedly caused by failing to provide the level of service the plaintiff expected. For instance, let's say a provider promises in its sales brochure that all children will learn their ABCs within their first year at the facility. A parent sues the provider because her child hasn't learned the alphabet after 18 months in the provider's care and the child wasn't accepted to a prestigious preschool.

**Physical Abuse or Molestation** – Childcare providers may be sued based on allegations that a child was physically abused or sexually molested. Claims may arise from acts allegedly committed by the operator or their employees, volunteers, visitors, or family members. In many cases, the plaintiff claims the provider failed to adequately supervise an employee or volunteer or hired someone without a proper background check.

# The risk assessment should also include other liability exposures – Step 2

**Commercial General Liability** policies generally provide the insured business or service provider (childcare) and their employees, volunteers with protection against claims resulting from injuries and damage to other people or property arising from your childcare operations and activities. Liability insurance policies will cover the legal costs and payouts of the business their employees or volunteers as the insured party who is responsible if they are found legally liable.

## **Additional childcare specific liability coverages to be considered.**

**Holistic Healers** offer a different type of treatment. These professionals offer more of an old world, all natural type of treatment and are dedicated to serving and providing holistic nutrition and holistic health therapies

**Criminal Defense Coverage applies** If your business faces criminal charges, a police investigation, or an occupational health and safety investigation. This also includes responding to Canadian Anti-Spam Law notice of production and/ or violation, issued by the Canadian Radio-television Telecommunications Commission.

# The risk assessment should also include other liability exposures – Step 2

**Children’s Accidental Death and Dismemberment (AD&D) Coverage** provides coverage in the event of a fatal accident or an accident that results in a child losing their eyesight, speech, hearing or a limb, AD&D will pay you or your beneficiaries a specified amount.

**Medical Malpractice** provides coverage for claims brought against you for professional negligence which is the failure to exercise due care, knowledge, and skill when working with children, and includes claims in which the client alleges that your treatment has caused them sickness, disease, or bodily injury.

**Directors and Officers (D&O) Liability Insurance** protects the personal assets of corporate directors and officers, and their spouses, employees, volunteers in the event they are personally sued by parents, employees, vendors, competitors, investors, customers, or other parties, for actual or alleged wrongful acts in managing a company.

# Adjusters/Insurance Brokers/Legal Counsel

**It is important to ensure that the vendors that you are hiring or engaging to provide input and advice are knowledgeable in the Concerns & Recommendations on Bill C-92 as the final draft will have to be considered for insurance and risk management purposes as many traditional non Indigenous childcare insurance programs follow the provincial government and regulator guidelines**

- 1. Operational including Pre-Program and In-Program protocols**
- 2. Licensing Requirements**
- 3. Health and Safety Requirements**
- 4. Any other Indigenous related amendments**

# Presenters

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