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Risk Review

Keeping you informed on **Business Insurance** issues

Volume 11, No. 4

The ABCs of an EPLI Policy

More frequently than ever, businesses seem to be experiencing a host of employment-related lawsuits, including claims of discrimination, sexual harassment, and wrongful termination. Also adding to the mix: Invasion of privacy claims stemming from employer monitoring of voicemail, email, office computer systems, and the Internet. The increase in these liability claims has fueled the need for an evolving type of insurance coverage—**employment practices liability insurance (EPLI)**. An EPLI policy tailored to a company's needs, *combined* with a proactive employment practices program, will provide the best roadmap to guide a business safely through employee claims.

Business owners who purchase EPLI policies should focus particular attention on policy language that will provide the appropriate coverage for their businesses. Policy terms that may cause confusion, and therefore require clear understanding, include:

- **Defined vs. undefined.** The use of specific definitions of coverage may provide a threshold for claims to be tested, i.e., coverage will be granted only for a claim if it meets the express definition contained in the policy. Conversely, undefined terms written more ambiguously in the policy may cover *all* claims, unless specifically excluded.
- **"Consent" vs. "confer."** When choosing legal representation, the right of

"consent" grants an insured business the veto power or authority to influence the insurance carrier's selection of counsel. Likewise, the right to "confer" allows a business owner to participate in the selection process *without* authority to make decisions.

EPLI coverage may also exclude suits involving employees hired under nontraditional employment arrangements, such as independent contractors, consultants, and volunteers, as well as certain claims involving employment-related defamation, misrepresentation or fraud, occupational health- and safety-related issues, and unfair labor practices.

Some EPLI coverage is offered only in certain states. Therefore, companies with operating facilities in several states should ensure their policy provides coverage for *all* facilities.

Because the risk of potential EPLI claims is often thought to be directly associated with the size of a company, smaller, or family-owned companies employing few non-related workers, may mistakenly believe they face minimal exposure to liability. Before deciding whether your company may be immune to the risks of employment-related lawsuits, consider speaking with one of our qualified insurance service professionals who will be able to help you evaluate your employment practices liability insurance needs.

Assessing Business Risks

Everything and everyone in your place of business is subject to risk, so look around and take stock of any potentially risky situations. In addition to your own detective work, enlist the help of your employees.

Once you have assessed your business risks, ask yourself:

- Could my business survive if it shuts down? For how long?
- What coverage does my insurance program provide and is it sufficient to get my company back into operation?
- Could I pay my expenses during a prolonged shutdown?

Who Can Help?

Your local police and fire marshal, as well as government agencies (e.g., the Occupational Safety and Health Administration (OSHA) and the Small Business Administration (SBA)) may be able to provide assistance. A little time and money spent *today* could help prevent or minimize your financial loss from an accident *tomorrow*. Of course, our staff is pleased to help you identify and manage your business's risks.

Get “Up and Running” Quickly After a Computer Disaster

Suppose you open your doors for business one morning only to discover that water damage from heavy rains the night before has shorted out your computer equipment, leaving your automated systems inoperative. Or, perhaps, an overnight power failure has wiped out a large portion of your critical electronic records. Without warning, your entire business operation could be in jeopardy. Fortunately, this type of disaster needn't be a major setback for your company. By taking the right steps *now*, you can get yourself “up and running” with minimal delay.

1. Insure yourself against electronic data processing losses. Standard commercial insurance packages don't cover some losses relating to computers and other electronic equipment. **Electronic data processing (EDP) insurance** is specifically designed to fill this gap. An EDP policy generally covers your data processing equipment, the costs to recreate your computer data, and the disks or tapes on which it is stored. It may also cover additional costs necessary to continue normal business operations after a disaster. It also covers any lost business income due to the disaster. EDP insurance may include protection against a wide range of threats including damage from water or other liquids, rust, corrosion, mechanical breakdowns, changes in temperature and humidity, power fluctuations, sewer backups, theft, vandalism, and earthquakes.

2. Back up your systems regularly. From customer records to accounts receivable and payable, your company undoubtedly relies on a vast store of electronic data. If this information were lost, it could be expensive and time-consuming—and, in some cases, impossible—to recreate. Make it a practice to back up your critical data nightly and to store the backup data in a safe, offsite location. It's also a good idea to keep a second backup copy from the previous day.

3. Practice recovery drills. Even if you have the foresight and commitment to back up your systems on a regular basis, how quickly could you get your computers up and running if disaster strikes? Do you know exactly how to restore the data? Are you sure the tape drive you use for backups is still compatible with your system and is not outdated? The best way to answer these questions is to run a practice drill occasionally. This will confirm your backup tapes are free of defects, and that you could indeed respond quickly in a true emergency.

In today's competitive business environment you can't afford to lose a day to a computer shutdown. If you are unable to service your customers' needs, your competition will be happy to do so. Businesses that plan ahead are in the best position to keep disruption to a minimum. Following these steps can help get your company “up and running” quickly if disaster strikes. Stop by, or give us a call today, for more information on an EDP policy.

Ergonomic Considerations

To start tackling ergonomic concerns, appoint a committee representing management, as well as relevant departments such as human relations, engineering, and health and safety. Be sure to include employees from various work areas that perform repetitive or hazardous tasks. One of the committee's main tasks should be to draft a policy outlining the program's objectives. They should also require progress reports for ergonomics projects, and review them once the projects are underway.

Records of injuries, accidents, absenteeism, and workers compensation claims can shed light on problem areas. Also, solicit input from employees—a lot can be learned from workers' comments. Another approach is simply to observe employees at work. Many workplace conditions that lead to musculoskeletal disorders are easily spotted. For instance, check that workstations have proper height, depth, and clearances. In addition, note jobs that involve repetitive operations, or require excessive force or awkward body positions.

Did You Know?

Management Tips

Business owners and entrepreneurs may often feel they are going it alone. In addition to information on how to start a company, the Small Business Administration (SBA) also offers many skill- and growth-oriented guidelines to help your business flourish. Learn what type of business manager you are and how to structure an effective business meeting, as well as understand the science of delegating and more at: www.sba.gov/managing/growth/skills.html.

Business Ethics

Every business owner knows that if a customer has a complaint it could be filed with the Better Business Bureau (BBB). But, did you know that the BBB is also a valuable resource in measuring the standards and ethics of your company? For example, the BBB provides a list of standards that all advertising should comply with, including: be easy to read and avoid fine print; avoid misleading statements; and, as a whole, present the truth. For other tips on advertising and ethics, visit www.bbb.org/BizEthics.

E-Commerce

Has your company joined the Internet revolution? According to the U.S. Census Bureau (2003), e-commerce accounted for the following percentage of sales for 2001: 18.3% of manufacturing (\$725 billion); 10% of merchant wholesalers (\$270 billion); and 1.1% of retail (\$34 billion). In 2001, manufacturers experienced a 4% drop in e-sales from 2000; merchant wholesalers experienced a 12% increase; and retailers experienced a 22% increase. For an in-depth look at the e-stats, log on to <http://www.census.gov/eos/www/ebusiness614.htm>.