



**WORKERS COMPENSATION**  
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Nevada Revised Statutes only require an organization to obtain and maintain Employers Liability Insurance if that organization pays wages or compensation greater than \$600 in a 12-month period. The majority of, common interest communities have no employees and pay no wages. So why would I advise the board to purchase Employers Liability Insurance commonly referred to as worker's compensation?

The purpose of purchasing insurance is to transfer the financial risk from the association to a deep pockets insurance company. Commercial general liability insurance excludes all employee liability issues that are contained within the Nevada Workers Compensation Act. Workers Compensation insurance provides for both defense and indemnity. Therefore, if an individual would make a claim against the association for an injury that falls within the worker's compensation rules the insurance company would first defend the association against the claim. If the defense was successful, the matter would end. If the defense was not successful, then the insurance company would make all payments as required by state law. If the association did not have insurance, the cost of first, defense and second, possible indemnity would fall to the Association's General Funds and Assessments.

We have no employees and pay no wages. How can we be drawn into a claim? A member of the board is unemployed, self employed or retired. He is without health insurance. He now suffers an injury that requires payment of medical and rehabilitation costs. Magically, he claims he was performing association business when the injury occurred. Workers Compensation provides coverage not only for lost wages, but for medical and rehabilitation expenses. So, now our hurt board member files a claim for those medical and rehab benefits, noting he has no lost wages. If the association does not have Employers Liability, then the association must defend this claim. Next, volunteers are providing services during an official function. One of those volunteers is injured. Again General Liability requires negligence and Medicinal Payments do not apply to employee related activities. The case can be made either way as to whether a volunteer is in the scope of employment or not. To argue that point will cost defense fees and if you lose medical and rehabilitation expenses. This case is costlier and more dangerous than a member not on association business. To make matters worst, there is a California case (Heiman vs. Workers Compensation Appeals Board; info at Davis-Stirling.com) that not only held the association liable but also the Community Management Firm.

Nevada uses what is referred to as, the General Contractors Rule. That rule makes the general contractor responsible for the worker's compensation coverage of all subcontractors hired. Associations hire many licensed subcontractors for services such as landscape, gate, pool, lighting and fire suppression. Employer liability insurance

companies do not issue Additional Insured Endorsements. To be covered by an individual policy you must be a Named Insured. So, when you obtain a Certificate of Insurance from a subcontractor, that certificate is only valid to the date issued. Coverage could lapse without the associations' knowledge. If the subcontractor's coverage lapses and his employee is hurt on your premises, you could be required to pay. An employee who dies on the job is entitled to an automatic \$100,000 settlement payable to his estate. The annual cost of worker's compensation is \$500 annually for an association with zero employees and zero payroll. Would the prudent man's rule suggest the association transfer the employer liability risk to an insurance company?

The board has agreed the purchase the worker's compensation coverage. They now need to decide which program and the amount/limits of coverage. Traditional Workers Compensation without an endorsement for volunteers is offered at the State minimums (\$100,000/\$500,000/\$100,000) or at increased limits of \$1,000,000. The increased limits are mainly used when the association has an excess liability policy (umbrella). The next step is to determine if the worker's compensation policy requires audit. No audit means just that no audit at the expiration of the policy. If the policy does contain an audit clause then the insurance company will send out forms that need to be completed about payroll and subcontractors. If you have subs without insurance, you must claim the amounts paid as payroll and the insurance company will charge you the cost for that coverage. When received the association must complete the forms and return with all required supporting documentation. Again, the risk here is subcontractors, so the supporting documents will be proof the subcontractor has his own worker's compensation insurance. All associations should be obtaining Evidence of Liability insurance from all subcontractors at least on an annual basis. And again if the insurance company thinks the subcontractor is uninsured they will bill you.

Now, there is another program that was designed specifically for community associations that do not have employees or payroll. This program waives audit and has a limit of \$1,000,000/\$1,000,000/\$1,000,000 and includes the endorsement for volunteers. (WC 00 03 11 A 08 91). That endorsement provides medical and rehabilitation expenses for officers and directors and members while participating in official association activities. PMI Insurance Group is offering this endorsement for common interest communities. The annual cost of this program in Nevada is \$495.00. This is the program that we are recommending.

Workers compensation is a very valuable coverage that all associations should maintain as part of the overall insurance program.