LEADERS' CHOICE INSURANCE

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NEWSALERT

Cal/OSHA Rule Change

Masks for Vaccinated Staff No Longer Required

THE CAL/OSHA Standards Board has approved changes to the COVID-19 Emergency Temporary Standard that greatly loosen workplace restrictions that were implemented last year to protect California workers.

The biggest news in the changes is that workers who have been fully vaccinated are no longer required to wear face masks as protection or physically distance, regardless of the vaccination status of co-workers.

After the decision, Gov. Gavin Newsom issued an executive order enabling the revisions to take effect without the normal 10-day approval period by the state Office of Administrative Law. They came into effect when the office received the changes.

The main changes

Here are the main changes affecting employers in California:

Physical distancing and barrier requirements – These are eliminated regardless of an employee's vaccination status, except where an employer determines there is a hazard and for certain employees during major outbreaks.

Testing – Fully vaccinated employees do not need to be offered testing or be excluded from work after close contact with someone who has COVID-19, unless they have symptoms. Employees who are not fully vaccinated and exhibit COVID-19 symptoms must be offered testing by their employer.

Masks – Vaccinated workers are not required to wear face masks generally. For unvaccinated workers, masks will be required indoors or when in vehicles, with limited exceptions.

Employees are not required to wear face coverings when outdoors regardless of vaccination status, except for certain employees during outbreaks.

I CAN SMELL THE COFFEE AGAIN: *Under the new rule, most vaccinated employees are not required to wear masks or physically distance at work.*

Document vaccination status – Employers must document the vaccination status of fully vaccinated employees if they do not wear face coverings indoors.

No mask retaliation – Employees that choose to, are explicitly allowed to wear a face covering without fear of retaliation from employers.

Respirator availability – Employees who are not fully vaccinated may request respirators for voluntary use from their employers at no cost and without fear of retaliation from their employers.

Businesses that need help in securing N95 respirators for unvaccinated employees can find distribution locations for state-provided N95 respirators here.

Review guidance – Review the Interim Guidance for Ventilation, Filtration, and Air Quality in Indoor Environments.

Ventilation – Employers must evaluate ventilation systems to maximize outdoor air and increase filtration efficiency, and must evaluate the use of additional air cleaning systems.

See 'Employers' on page 2

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Make Sure Driving Staff Have Proper Car Insurance

WHEN YOU pay your workers the IRS-set mileage rate of 57.5 cents per mile, you are not only reimbursing them for the gas they use, and the wear and tear on their car, but also for their insurance.

If you have employees that drive as part of their job, or even those that run errands for you, you need to make sure they are insured.

If you anticipate that any of your staff will drive on the job, even if it's infrequently, you should set insurance requirements for them so that your firm is not held liable in case of an accident.

Workers' Comp Applies

If your worker is hurt in a collision while carrying out duties for you, your workers' comp policy will cover their injury.

California requires drivers to carry the minimum amount of coverage (15/30/5):

- $15,000 for injury/death to one person.
- $30,000 for injury/death to more than one person (if more than one passenger is in the car).
- $5,000 for damage to property (such as another vehicle).

Those are the maximums that the insurance will cover. But they are not enough to cover most accidents today (imagine if your employee rams into a late-model Mercedes).

Worse, if one of your employees is in a car accident while on the job and hospital costs or damage costs to the other person's vehicle exceed the maximums, your company will be responsible for covering the rest. ❖

Minimum Coverage You Should Require

To protect your firm financially, you should require any driving staff to carry at least 100/300/50:

- $100,000 for injury/death to one person.
- $300,000 for injury/death to more than one person (if more than one passenger is in the car).
- $50,000 for damage to property (such as another car).

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Employers Must Maintain COVID-19 Prevention Program

What remains

Parts of the Emergency Standard still in effect include:

- Employers must maintain an effective written COVID-19 Prevention Program that includes:
  - » Identifying and evaluating your employees' exposures to COVID-19 health hazards.
  - » Implementing effective policies and procedures to correct unsafe and unhealthy conditions.
  - » Allowing adequate time for handwashing and cleaning frequently touched surfaces and objects.
- Employers must provide training to employees on how COVID-19 is spread, infection-prevention techniques, and information regarding COVID-19-related benefits that affected employees may be entitled to under state or federal laws.
- Employers must bar from coming to work employees who have COVID-19 symptoms and/or are not fully vaccinated and have had a close contact from the workplace, if that close contact is work-related. ❖

As Risks Rise Business Continuity Plans Are Vital

THE LAST five years have seen the rise of new and unforeseen risks, like the COVID-19 pandemic, the rapid increase of natural catastrophes and supply chain upheavals of unprecedented proportions.

In today's business climate, the key to success and survival will be your ability to navigate during times of uncertainty and new challenges that can threaten your operations and even the viability of your organization. Many don't make it: 25% of small businesses that are hit by disaster never reopen.

The smart players will have business continuity plans in place to help navigate a crisis, be that on a micro scale such as a fire at your business, or a macro-scale incident like a natural disaster or global supply chain disruption (such as the recent microchip shortage that's disrupted the operations of thousands of companies worldwide).

Developing a plan does not have to be a major undertaking. If you use the right resources and approach it in a methodical manner, you can identify what you need to do to be prepared.

Creating the plan

A plan typically includes five sections:

Plan governance – A business continuity plan is usually managed by a committee that will define senior management roles and responsibilities. The committee is responsible for the oversight, initiation, planning, approval, testing and audit of the plan. It also implements, monitors and updates the plan.

Business impact analysis – Conduct an analysis that:

- Identifies your firm's mandate and critical services or products.
- Ranks the order of priority of services or products for continuous delivery or rapid recovery.
- Identifies internal and external impacts of potential disruptions (like how long your company can function without a certain service or product and how long clients would accept its unavailability).
- Identifies areas of potential revenue loss and insurance requirements.

Plans, measures and arrangements – The committee should develop response and recovery plans that ensure continued operations for your enterprise. These plans should detail how your firm would ensure that critical services and products are delivered at minimum service levels within tolerable downtimes.

Continuity plans should be made for each critical service or product. Your plan should include the following five elements for each of them:

1. Mitigating threats and risks: Ways you can reduce the risks that you are currently able to identify.
2. Analyzing current recovery capabilities: Look at what plans you currently have in place and match them up against your risks.
3. Creating continuity plans: Put together plans for how you would respond in case of a disaster or other threat to your business's operations.
4. Response preparation: This looks at what you should have in place now so that if a threat arises, you can execute your continuity plans.
5. Planning for alternate facilities: Your team should identify facilities at which you could ramp up operations if your current worksite is unusable.

Readiness procedures – Once you have a plan, brief all staff on it and inform them of their individual responsibilities should you be faced with an event.

You will also need to train employees with direct responsibilities for tasks they will be required to perform, and be aware of other teams' functions.

Quality assurance techniques (exercises, maintenance and auditing) – The plan should be reviewed regularly and amended as necessary (such as the identification of new risks). The review should uncover which aspects of the plan need improvement. Review the plan regularly to keep it robust.

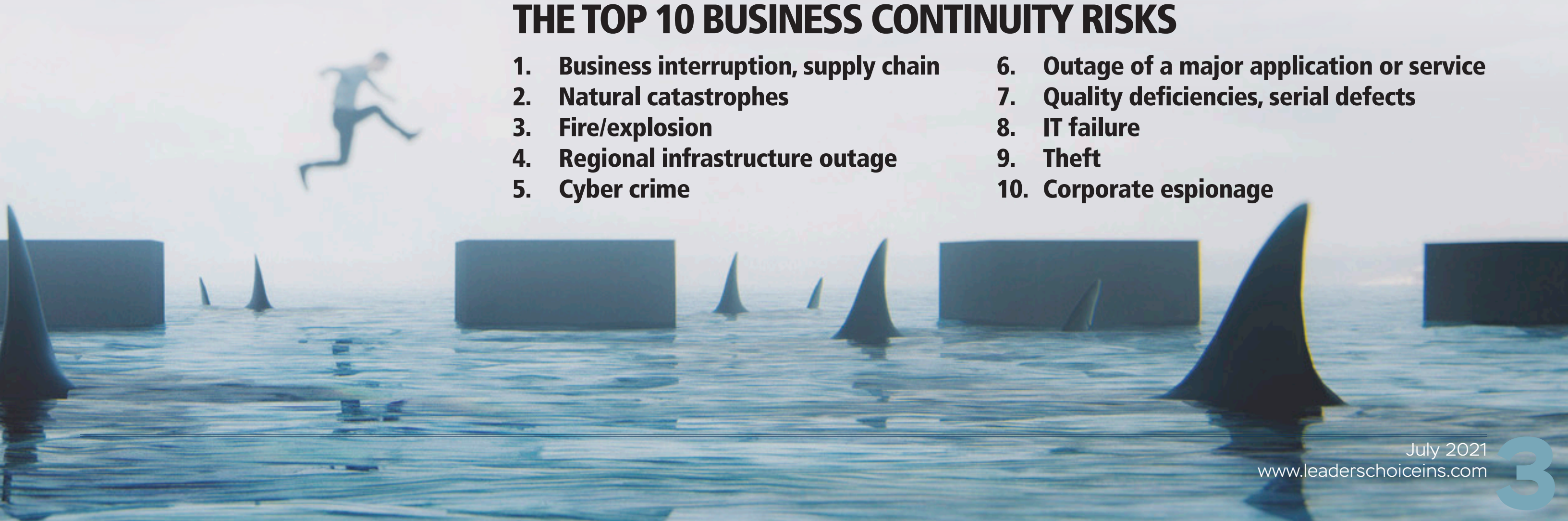
Combine planning with insurance

While a continuity plan is essential, it should be combined with insurance. Typical coverages include business interruption, extra expense and contingent business interruption coverage.

You can use the business impact analysis to help decide which insurance coverage you may need, and the corresponding level of coverage. Some aspects of your company may be overinsured, or underinsured. Call us. We can ensure that you aren't overlooking a risk, as well as that you have coverage for most of the risks you identified. ❖

THE TOP 10 BUSINESS CONTINUITY RISKS

1. **Business interruption, supply chain**
2. **Natural catastrophes**
3. **Fire/explosion**
4. **Regional infrastructure outage**
5. **Cyber crime**
6. **Outage of a major application or service**
7. **Quality deficiencies, serial defects**
8. **IT failure**
9. **Theft**
10. **Corporate espionage**



Non-Admitted Carriers

The Option When No Insurers Will Cover You

SOME BUSINESSES are finding fewer insurers willing to write their policies for certain types of coverage that are seeing rapidly rising claims costs, particularly in liability lines as well as property insurance in areas with exposure to natural catastrophes.

When no insurers that are licensed in California are willing to write a policy, we as your agent have to go to another market made up of insurance companies that are not licensed or regulated by the state.

It's called the surplus lines (or "non-admitted") market, and it can be a valuable alternative for insurance buyers.

As insurers get more selective writing some risks, it's important for you as an insurance buyer to understand this market.

Why use a non-admitted carrier?

The most well-known non-admitted insurer is Lloyd's of London, famous for insuring insurance companies and celebrities' or sports figures' body parts and global sporting events. Often non-admitted insurance companies are located in other states or domiciled abroad, like Bermuda or another tax-haven country.

Unlike licensed insurance companies, non-admitted companies do not have to obtain approval from state regulators for the policy forms they use or the rates they charge.

Filling a void

Non-admitted companies insure businesses that licensed insurers may avoid or restrict underwring for, such as:

- Businesses in sectors where the cost of claims is suddenly rising, resulting in fewer licensed insurers willing to write policies.
- Firms and sectors with histories of frequent or large claims.
- Businesses with the potential for severe losses, such as amusement parks or manufacturers of power tools.
- New companies.
- Homes and commercial properties that are vulnerable to extreme events such as hurricanes and wildfires.
- Properties that require very large amounts of insurance.

Since they are not regulated by the state, non-admitted insurers can offer creative coverage options and they can quickly and easily introduce new types of insurance that businesses need.

Some types of policies that are standard today, such as cyber insurance and employment practices liability insurance, got their start in the non-admitted market.

State laws typically permit a broker to obtain coverage from a non-admitted insurer only if at least a few standard insurance companies refuse to offer coverage. However, most also have coverage options that are not available in the standard market.

When someone needs one of the latter coverages, no rejections from licensed companies are required. An example might be liability insurance for contractors who demolish buildings.

Risks

There are risks to purchasing insurance in the non-admitted market. Policies may provide less coverage than do standard policies, or there may be restrictions on when coverage applies.

Policies should be reviewed carefully. Also, because the insurers can charge whatever they feel is appropriate, premiums can be higher than you may expect. The policies may also be exempt from state laws regarding notices of cancellation and non-renewal.

Also, in every state but one (New Jersey), non-admitted policies are not backed by a guaranty fund. Guaranty funds cover claims left unpaid when an insurer is unable to pay for them. If a non-admitted company becomes insolvent, the policyholder has no recourse.

The takeaway

Despite the risks, the non-admitted market serves an important function, giving buyers a place to get needed coverage that would be otherwise unavailable.

Those who think they may need to tap this market should consult with us to find the right coverage at an acceptable price. ❖

TO THE ENDS OF THE EARTH: *Sometimes we have to bind insurance with overseas insurers that are willing to accept unusual risk and high claims-cost sectors.*