Workers’ Compensation: Who Is and Isn’t Covered?

A look at how churches should weigh costs and coverages.

By Bob Smietana

Ministry can be a surprisingly hazardous profession.


Back in 2010, Trouten, a youth pastor at Northwood Church in Maple Grove, Minnesota, was on a missions trip with junior high students when they decided to cool off at a local park.

Things went well till Trouten fell off a ledge and busted his leg.

“I ended up with some rods and screws and all kinds of things,” he said. “Didn’t walk for almost a year.”

Fortunately for Trouten, workers’ compensation covered all of his medical bills—including a couple of surgeries and a long hospital stay.

The process, at least as far as paperwork went, was fairly simple. The church’s office manager took care of contacting the insurance company. Once the company determined Trouten was working when he was injured, his bills were covered.

Accidents like Trouten’s aren’t that uncommon.

Staff and volunteers get hurt at church all the time, said Bill Mech, assistant vice president for health services and workers’ compensation at GuideOne Insurance, a company that specializes in insuring churches.

That’s in part because churches do a lot—from youth-group trips and kids programs to church work days and community concerts. And church staff can throw out their backs while picking up a box or volunteers can trip and fall, just like they do at any other workplace.

Then there’s the tendency for church staff and volunteers to do things themselves because finances are tight. So they may take a few more risks.

“There are a lot of times when a pastor gets up on a ladder and bad things happen,” Mech said.

Know your state’s rules

Workers’ compensation rules are set by each state. In many states—such as Illinois, Colorado, and Michigan—any organization with more than one staff person has to have workers’ compensation insurance. For the most part, churches are required to purchase it for their employees. A few states, like Texas, allow churches and other organizations to opt out of workers’ compensation. Also, most states draw a clear line between employees and volunteers, but a few, such as California, allow volunteers to be covered by workers’ compensation—more on this later. (To find workers’ compensation rules in each state, go to dol.gov/owep/regs/statutes/stwclaw/stwclaw.htm.)

Still, there are advantages to having workers’ compensation insurance, even if it is not required, said Ryan Inzena, an underwriting specialist for GuideOne.

“The injured worker can have their medical bills paid,” he said, “and the employer doesn’t have to worry about being sued.”

In general, the state laws that govern workers’ compensation prohibit employees from suing their employer if they are injured on the job, said Frank Sommerville, an attorney who specializes in legal issues facing churches and serves as an editorial advisor for Church Finance Today.

And churches are still responsible when an employee is injured, even if they don’t have workers’ compensation insurance.

“Even if a state allows churches to opt out, it’s
probably not a good idea to do so," said John A. Anthony, an attorney with Church Law Group. "Churches think if they do that, they are off the hook. But they are still responsible for what happens on their property and to their employees."

**Classify employees correctly**

There are more than 600 classifications for employees. Not all position classifications are treated the same, either—roofers, for example, are more expensive to cover under workers' compensation than office workers.

Sommerville said churches can run into trouble by misclassifying workers in order to save money on premiums. He knows of churches that classified maintenance staff as office workers, since it's less expensive to insure them—only to be hit with thousands of dollars in penalties.

"That should not have happened in the first place," he said.

**Handling volunteers**

Some states allow insurance companies to add an endorsement in their policies that includes volunteers.

GuideOne's Inzenga and Mech are skeptical about that approach.

For one, volunteers aren't really employees, they pointed out, and so trying to cover them through workers' compensation is complicated.

Unlike employees, volunteers are not restricted to making workers' compensation claims if they are injured, Sommerville said. So they may still sue a church, even if an endorsement is in place.

Further, if churches use an endorsement, said Inzenga and Mech, they would likely have to keep track of every volunteer, including logging each volunteer's hours and duties performed. That's because the price of workers' compensation insurance is tied to the size of an organization's payroll. And since volunteers aren't paid, insurance carriers need to estimate the value of the labor done by volunteers.

"In some cases, the church could be facing a 50 percent increase in the cost of their coverage," Mech said.

One alternative is to add an accident policy for volunteers, which would cover volunteers injured while working at the church, suggested the representatives of GuideOne.

Jeffrey Szalacinski, vice president of claims for Church Mutual Insurance Company, said a church's general liability policy can cover volunteers, and churches can also purchase policies that specifically cover injuries to volunteers.

**What about volunteer waivers?**

Ron Smedley of California-based Employers Resource Associates believes that many churches have volunteers sign a waiver, agreeing to hold a church harmless if they get injured.

That approach may appear to be cost effective, he said, and some churches may feel they need to take that approach. But waivers can be challenged if someone is actually injured. And a waiver can create the perception that the church does not see their employees or volunteers as valuable.

In addition, as attorney Richard R. Hammar has reported in *Church Law & Tax Report*, waivers and releases often are viewed with disfavor by courts, and will not hold up when a situation involves gross negligence.

**Pursuing prevention**

Rather than leaning on some sort of waiver, Smedley believes churches should strive to
provide some form of insurance for injured volunteers. Churches should also be proactive about preventing injuries in the first place.

Churches should designate someone to serve as volunteer coordinator and put together a volunteer handbook that includes safety rules and procedures. The handbook should also outline a plan for responding when an accident or injury happens. It’s a way to practice good stewardship, Smedley said, and to show care and concern for the well-being of volunteers.

The goal should be to prevent injuries—and to help people recover if they are injured, he said.

Having the right safety policies and insurance coverage helps create an environment that demonstrates the church’s messages that God loves and cares for his people, Smedley said.

Szalacinski also stressed that churches should be proactive with preventing injuries. An approaching big event or mission trip is a good time to go over a safety plan, he said. And insurance companies that work with churches publish guides for how churches can avoid or reduce risk.

**Work closely with your agent**

While churches need to be proactive about creating a safe environment for workers and volunteers, it’s very important that they also have the right insurance—just in case, Somerville said.

“You are trying to keep your volunteers and your workers safe—but you also need the insurance in case bad things happen,” he stressed. “Because bad things can happen.”

In order to purchase the kind of insurance that’s best for your church, Somerville said it’s crucial for a church to work closely with its insurance agent to audit its coverage. The more homework churches do, he said, the better price they’ll get.

Szalacinski recommended the same approach when exploring liability coverage for volunteers. And be sure to explain to your insurance agent all the different kinds of work that volunteers do at your church. The more your insurance agent understands about your church, the easier it will be to tailor a plan to meet your church’s needs and budget, he said.

Mech said most insurance companies have a minimum annual premium they charge, which can be as low as $500 to $1,000 for a smaller church. For a megachurch with many programs—such as a daycare, school, or camp—the premiums can reach six figures, he said.

If a church does have a workers’ compensation claim, their insurance may cost more. Mech said a claim in the vicinity of $5,000 can qualify for what’s known as an “eligibility rating,” and could cause rates to go up. It depends, in part, on the size of the church and how many claims are expected in a year.

**Respond immediately to accidents**

If an employee or a volunteer gets hurt, it’s important to respond immediately and also take the injury seriously, Anthony said.

“You’d be shocked at how often someone says they’re fine when an accident happens at church,” Anthony said. “And then it turns out they were injured and need to file a workers compensation or liability claim.”

If someone gets hurt at church, make sure they get immediate assistance, Szalacinski stressed, then report any injuries to your insurance company as soon as possible.

“The earlier those claims are reported, the quicker a claims representative can provide guidance to the church and to the injured worker or volunteer,” he said.

**A tool for ministry**

Insurance is a tool for ministry—helping a church or an injured worker or volunteer get back to where they were before an accident occurred.

Northwood Church’s Trouten is grateful his church had the right workers’ compensation insurance.

Four years after he broke his leg, he got hurt again, this time during a church clean-up day. He and other church staff and volunteers had piled up some brush to burn. Trouten went inside to get a lighter to set it on fire.

While he was gone, one of the other workers dumped gasoline on the brush but didn’t tell him. When he leaned over to light the fire, there was a huge fireball—landing Trouten back in the hospital with burns over 20 percent of his body.

Fortunately the burns weren’t too severe and workers’ compensation insurance paid his medical bills.

He still helps out during the annual work day at church—though he steers clear of fire.

“I do have a great anecdote to use when I preach about hell,” he said.

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**In Depth**

For more help understanding workers’ compensation and your other insurance and risk-management needs, see these resources—available on ChurchLawAndTaxStore.com:

- Understanding Workers’ Compensation
- Understanding Church Insurance
- Safeguard Your Building Projects

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### How Important Is Generosity to Christians?

*Four generations of believers reveal how important it is to practice some form of generosity.*

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<thead>
<tr>
<th>Group</th>
<th>Extremely Important</th>
<th>Very Important</th>
<th>Somewhat Important</th>
<th>Not Very Important</th>
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<tr>
<td><strong>Elders/Older Seniors</strong></td>
<td>25%</td>
<td>45%</td>
<td>26%</td>
<td>4%</td>
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<tr>
<td><strong>Boomers</strong></td>
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<td>41%</td>
<td>32%</td>
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<tr>
<td><strong>Gen-Xers</strong></td>
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<td>40%</td>
<td>25%</td>
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<tr>
<td><strong>Millennials</strong></td>
<td>34%</td>
<td>40%</td>
<td>18%</td>
<td>2%</td>
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*Source: The Generosity Gap, a Barna resource based on research conducted in partnership with Thrivent Financial. The study was conducted in July 2016 with 1,556 self-identified Christians who have attended church at some point in the past year.*
A Must for Mobile-Giving Apps

Whether your church is looking for a mobile-giving app or evaluating the effectiveness of your current app, ChurchTechToday.com offers this tip:

Your mobile giving app must work on iOS (iPhone) and Android (Google Play) operating systems. Of the 432 million smartphones sold in the last quarter of 2016, 352 million ran Android and 77 million ran iOS. The point: make sure your church mobile giving app works for iPhone and Android devices.

3 Tips for Protecting Your Church’s Data

MultiBriefs: Exclusive offers three tips to help reduce costly data breaches:

1. **Back up electronic files.** What would happen if someone steals an employee’s computer, the building floods, or a server crashes? Would you lose all of that data or would you have a backup ready to use right away? Maintain a backup of all electronic files offsite that you can use to restore data should the worst happen.

2. **Secure personally identifiable information.** This may include data such as credit/debit card numbers and bank account numbers. If you collect information for the church database such as names, addresses, phone numbers, email addresses, and birthdays, that information could be used for fraudulent purposes. Most churches use a third-party vendor to process credit card, debit card and ACH transactions. Make sure whichever vendor you choose is payment card industry (PCI) compliant. Require strong passwords for access to the church database or ChMS, restrict who can access various types of information within the database, and train your team on data security.

3. **Guard against viruses.** Malware and ransomware are often delivered via email attachments. Educate your team to not open attachments from someone they don’t know or from companies when they weren’t expecting an email. Consider installing a firewall to protect your network along with antivirus software.

For detailed help to guard your electronic data, see “Six Ways Churches Can Thwart New Email Threat” and the sidebar “More Insights for Preventing Cybercrime,” in the March 2017 issue of Church Finance Today—available on ChurchLawAndTax.com.

Donating Credit Card Cash-Back Bonuses to Churches

Credit card reward points sound like a great idea, right? You use your card and get cash back—or some other type of benefit—for doing so. Yet many cardholders simply don’t take advantage of reward points. While estimates vary, billions of dollars in reward points go unredeemed each year. But through Charity Charge, a public benefit corporation, nonprofits can now take advantage of those ignored points given out by MasterCard.

By signing up at CharityCharge.com, MasterCard users can donate the cash-back bonus to up to three nonprofits of their choosing—and that can include your church, CFO Stephen Garten told Church Finance Today.

“Every purchase made with the Charity Charge card generates a 1 percent cash-back, and there are no processing fees when you send the money on (the charity gets the whole amount),” reported FastCompany.com.

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**Notes & Numbers**

**Key Tax Deadline**

**October 31, 2017**

 Churches having nonminister employees (or one or more ministers who report their federal income taxes as employees and who have elected voluntary withholding) must file an employer’s quarterly federal tax return (Form 941) by this date. Enclose a check in the total amount of all withheld taxes (withheld income taxes, withheld FICA taxes paid by the employee, and the employer’s share of FICA taxes; if less than $2,500 on September 30, 2017.

The free Tax Calendar—available on ChurchLawAndTax.com/tc—provides reminders about regular, semiweekly, and monthly withholding requirements, plus other upcoming dates and deadlines related to church taxes.

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