



B.O.P. Memo #6

## Workers' Compensation Laws and the Local Church

This memo is written as a help guide for the Church of God

### Workers' Compensation Laws and Benefits

Workers' Compensation laws exist in all states and Canada. They are designed so that benefits (both medical and disability income) for the work-related accident, injury, or illness can be paid promptly without the need for expensive legal fees to determine fault. Medical benefits have no dollar or time limits and cash benefits are paid for lost wages due to impairment or disability. In severe cases medical and vocational rehabilitation benefits may be provided.

A few states exempt churches from Workers' Compensation coverage and several exempt all nonprofit employers. A few others exempt any employer, including churches, having fewer than two or three employees. However, **the majority of states have compulsory participation laws** which do not exempt churches.

### What if the Church Does Not Have Insurance?

Unless specifically exempted by law, church employers are subject to Workers' Compensation laws. Unfortunately, some churches *assume* they are exempt and do not secure the insurance. However, such an assumption will not protect a church from full liability in the event of a claim for benefits.

Work-related injuries or illnesses among church employees are not as rare as some think. In fact, in one state, Workers' Compensation coverage was extended to include volunteers working under the supervision of a church employee. In this specific situation, a volunteer was donating labor during a building project and was injured. Expenses for medical treatment and lost wages made it necessary for the individual to seek help through a Workers' Compensation claim. The church's general liability coverage limits were exceeded and the church was held liable for the balance of the benefits.

In some cases, general liability coverage may prevent the need for the injured person or family members to bring court action. However, too often it is not reviewed and updated to adequate levels.

### Churches and the View of the Courts

The prevailing view of the courts can be seen in one court's ruling:

"The fact that (a religious organization) is a purely charitable enterprise does not of itself release it from the obligations of our Workers' Compensation Act, which unlike the acts of some states, does not exempt charitable or religious institutions, as such, from its operation, nor exclude their employees from its benefits. Where the relationship of employer and employee actually exists between a charitable institution and an injured workman, the latter is entitled to the benefits of our act, otherwise not." (Schneider v. Salvation Army, 14 N.W.2d 467,468 (MINN 1944)).

## **Should the Church Purchase Workers' Compensation Insurance?**

The answer must be the result of careful research into the applicable state laws. If legal exemption does not exist, compliance with the law may require insurance that is purchased or it may allow self-insurance. Under the latter option, professional assistance is a must to determine the appropriateness and the risks of self-insuring Workers' Compensation coverage.

If legal exemption does exist, the church should still determine what would happen if an employee were to be injured on the job. It should decide if the limits under general liability coverage are high enough to cover large losses or if the church should voluntarily purchase Workers' Compensation coverage. Furthermore, it should be noted that some states impose certain "legal disabilities" upon employers that choose not to be covered by Workers' Compensation insurance.

These concerns should not be ignored. Unfortunately, too often they are asked in an emotional setting *after* an injury has occurred. Some churches have discovered too late that it is more expensive to pay the continuing salary of a "recovering" employee than it would have been to pay for adequate insurance.

The following is an example of what can happen. This was shared by a church denomination.

"We (a local church) are going through some very turbulent waters in the very matters of which you speak. The church hired a janitorial service. The persons owning the service were members of the church and it was agreed that they would do the cleaning services.

The wife of the manager of the cleaning service fell, and since that time, we have been in constant turmoil in trying to sort out the details of the hiring and services to be rendered.

Board minutes and other important documents were not filed properly, and so the investigation goes on without any real direction because the basis on which they were hired was not recorded.

I say all of this to stress the point that we must be diligent both in preaching and administrative leadership. It is not enough anymore to operate with verbal agreements and unwritten contracts. Our church has suffered much through this experience and it has been a tremendous burden on my heart and ministry. I have pastored most successfully for 36 years and never faced this kind of storm before. I sure hope pastors will take heed and know where they are going."

### ***Disclaimer***

The information contained in this MEMO series is of a general nature. It is not offered as specific legal or tax "advice." Each person and local church board should evaluate their own unique situation in consultation with their local legal and tax advisors.

Last Updated 5-14-2010