

OCIPs: Project-Specific Liability for Condos

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Introduction

Owner-Controlled Insurance Programs (OCIPs) or “wrap-ups” as they are commonly known, are project-specific insurance policies designed to cover the job site risks and completed operations exposures of the owner and contractors on a construction project. The program sponsor (the entity that buys the insurance) procures certain coverages on behalf of some or all of the parties working at the job site rather than having each firm supply its own insurance. Wrap-ups can include general liability, workers’ compensation, builders risk and pollution liability. Some insurance companies may also include a limited form of professional liability for the design team, however, the coverage is not a substitute for a design professional’s practice policy and coverage should be reviewed carefully.

Historically, wrap-ups were designed for projects with construction values of \$100 million or more. The main reason to implement an OCIP on larger projects is to create a profit center for the program sponsor and to allow for better coordination of loss prevention and safety. Wrap-ups are also used nearly exclusively on condominium projects of any size and are also commonly used on other types of residential projects (tract homes, apartments).

This is due to the fact that these types of projects have been fraught with litigation. Most subcontractors are apprehensive about becoming involved in these types of projects, and in most cases their general liability policies specifically exclude this type of work. A wrap-up policy enables a developer or owner to attract these subcontractors, who would otherwise not bid these projects. Additionally, the OCIP provides a centralized controlled defense for the insured parties.



How Does An OCIP Work?

An OCIP policy must be placed prior to the start of construction. It usually continues through substantial completion of the project plus a number of years thereafter. This period is known as the ‘extended reporting period’ (ERP) or ‘tail.’ Ideally, the tail extends through the applicable statute of limitations, which, in California, is 10 years.

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The sponsor of the program is usually the Owner (Owner Controlled Insurance Program or OCIP) or the Contractor (Contractor Controlled Insurance Program or CCIP). The “Named Insured” also includes all enrolled contractors.

The limit of coverage applies for the policy term. In other words, the limit is not reinstated annually. There is usually a deductible or self-insured retention (minimum retentions typically start at \$25,000 but are often higher). Minimum premiums for attached residential projects begin at about \$50,000. It is recommended that the liability limit be equal to 50% of the hard construction costs at a minimum. The ultimate premium will vary but it is not uncommon for a fully layered (primary and excess coverages) OCIP policy to cost 1-2% of sales costs. Ideally, the cost of defense is included in addition to the limit, but this is not always the case.

As mentioned above, occasionally underwriters are willing to include the design team under an OCIP. Recognize that this is not a substitute for a design professional’s professional liability policy. An OCIP is a general liability product that only covers damages that result in bodily injury (BI) or tangible property damage (PD). Professional liability, on the other hand, extends to legal liability that includes economic damages as well as BI and PD.

Where Does Builders Risk Factor In?

Nearly all wrap-ups written on residential projects will exclude damage to the project itself while under construction. This makes it imperative to place a *builders risk* policy on the project that includes the interests of all the parties working on the job. Builders Risk, or Course of Construction Insurance as it is also called, provides first party property cover-

age for damage to the project during construction caused by an insured peril. Coverage should be written on a special peril form (all-risk) and the perils of earthquake and flood should be considered.

Administering A Wrap Program

Enrolling the various contractors into the program, obtaining premium credits from each contractor and managing a wrap program is complex. The enrollment process starts with the bid documents. These



need to clearly spell out that a wrap policy will be provided on the project and how it will work. It should explain the coverage, the limits and the deductible obligations. Participants will also be asked to provide an “insurance credit” as an offset in their bid. This credit reflects the money the contractor will save on their practice policy since this project is being insured under an OCIP. The insurance section of the Sub-Contract Agreement must also address the wrap-up program including the enrollment process, how the policy will be administered and any other relevant provisions.

If you are a subcontractor participating in a wrap-up program, you need to understand the coverage being provided, the insurance credit you will be asked to provide and your deductible obligation. You should also know whether your general liability

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policy will dovetail with the wrap-up and provide excess coverage in the event the wrap-up limits are exhausted. Note that most general liability policies available to subcontractors will specifically exclude condominium work and any work done on a project covered by a wrap-up policy.

As previously discussed, managing an OCIP program is complicated, and because of this, it is recommended that the services of a wrap-up administrator be utilized.



Final Comments

Any new condominiums built today will be insured by a wrap-up insurance policy. If you are going to develop, design or build this type of project, it is imperative that you understand the insurance coverage and your obligations under the contract. The benefit of an experienced insurance broker and attorney that understand this type of project (residential) and coverage type (project-specific general liability) are critical components in your risk management efforts.

The OCIP marketplace is changing rapidly. This coverage summary is not an affirmation of coverage, and any proposed program or policy should be read for actual terms and conditions.

Risk Management Seminar Series

Sexual Harassment Prevention Training

Friday, March 6, 2015

7:30am Registration

8:00am - 10:00am Program

Contractual Risk Transfer

Friday, March 13, 2015

7:30am Registration

8:00am - 10:00am Program

Cyber Liability - Risks & Rewards of Social Media in the Workplace and How to Manage and Insure It

Friday, April 10, 2015

7:30am Registration

8:00am - 10:00am Program

Risk Management Boot Camp: The Triangulation of Safety, Claims and Human Resources

Friday, May 8, 2015

7:30am Registration

8:00am - 10:00am Program

Reserve Early, Seating is Limited!

To register, click on the 'register now' button in the announcement email, or contact Bethany Mongold at mongold@cavignac.com or call 619-744-0540.

NOTE: Due to the popularity of our seminars and limited space available, we regret we cannot provide refunds or credits with less than 72 hours advance notice of cancellation.

LIVE WELL



WORK WELL

March 2015

March is National Nutrition Month

National Nutrition Month is designed to promote nutrition education and information. Created by the Academy of

Nutrition and Dietetics, the campaign focuses attention on the importance of making informed food choices and developing sound eating habits. For 2015, the theme is "Bite into a Healthy Lifestyle," which encourages everyone to adopt eating and physical activity plans that are focused on consuming fewer calories, making informed food choices and getting daily exercise.

You can participate in National Nutrition Month by preparing nutritious meals for dinner and keeping healthful snacks on hand. You can also work on making every month a nutrition month by creating a nutrition plan at choosemyplate.gov.

How Much Exercise Do You Need?

When it comes to physical activity, any exercise is better than none, and a lot is better than a little. Physical activity is anything that gets your body moving, but messages promoting exercise often lack a strict definition of the amount of exercise needed to attain health benefits. In the 2008 Physical Activity Guidelines for Americans, the Department of Health and Human Services (HHS) concluded that adults need two types of physical activity each week to improve overall health: aerobics and strength training. HHS recommends:

- Two and a half hours of moderate-intensity aerobic activity each week and two or more days a week of muscle-strengthening activities that work all major muscle groups;
- One hour and 15 minutes of vigorous-intensity aerobic activity each week and two or more days a week of muscle-strengthening activities that work all major muscle groups; or
- Two or more days a week of an equivalent mix of moderate- and vigorous-intensity aerobic activity and muscle-strengthening activities that work all major muscle groups.

Moderate-intensity aerobic activities include brisk walking, water aerobics, bicycling slower than 10 mph, ballroom dancing or gardening. Vigorous-intensity aerobic exercise includes jogging, running, swimming and bicycling faster than 10 mph. Major muscle groups include legs, hips, back, abdomen, chest, shoulders and arms.

Exercises can be completed in as little as 10-minute intervals, while still providing health benefits.

However, keep in mind that these numbers are just the minimum recommendations. Older adults are advised to perform additional physical activity. Moreover, all adults will gain greater health benefits for performing any physical activity above the minimum recommendations.

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Acid Reflux

Many people have experienced heartburn at some point in their lives, but what happens when it becomes a frequent or even daily occurrence?

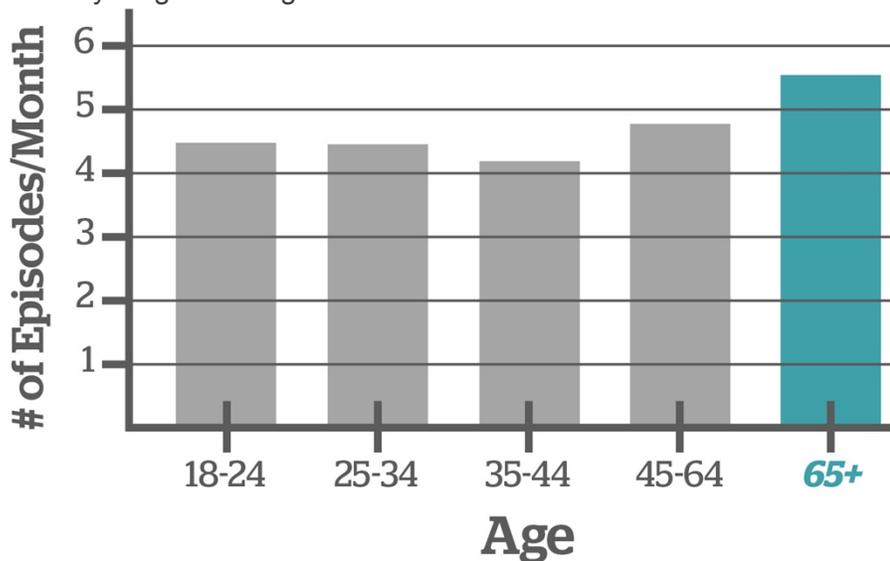
Problems associated with chronic acid reflux, or gastroesophageal reflux disease (GERD), can lead to the erosion of tooth enamel—requiring costly dental restoration—and may even increase the risk of developing cancer of the esophagus.

Most people can prevent severe tissue damage and manage GERD through diet and lifestyle changes. First, they should try to identify and eliminate foods that cause acid reflux. Though individual triggers may vary, common foods that cause acid reflux include alcohol, caffeine, citrus, chocolate, spicy or fried foods, garlic, onions, peppermint and tomatoes. After eliminating their triggers, individuals should try to limit portion sizes as well.

When you eat is just as important as what you eat. It is recommended that acid reflux sufferers wait at least three hours after dinner before going to bed. For many, this means eating dinner earlier.

Re-evaluating Binge Drinking

The Centers for Disease Control and Prevention (CDC) released the findings from its latest study about binge drinking, which it defined as four or more drinks for women and five or more drinks for men on a single occasion. Commonly seen as risky behavior that is limited to young adults, the survey showed that the oldest respondents were actually binge drinking the most often.



Beef Stroganoff

Originally a Russian dish, beef stroganoff has become a hearty staple meal in many American kitchens. This healthy version substitutes yogurt for the higher-calorie sour cream.

- 1 lb. lean beef
- 2 tsp. vegetable oil
- ¾ Tbsp. onion, finely chopped
- 1 lb. mushrooms, sliced
- ¼ tsp. salt
- ¼ tsp. nutmeg
- ½ tsp. dried basil
- ¼ cup white wine
- 1 cup plain, low-fat yogurt
- 6 cups macaroni, cooked in unsalted water
- Black pepper to taste

Cut the beef into 1-inch cubes. Heat 1 teaspoon of oil in a nonstick skillet. Saute onion for two minutes. Add beef and saute an additional five minutes, turning often to brown evenly. Remove from pan and keep covered. Add remaining oil to pan and saute mushrooms. Return beef and onion to pan and add the seasonings. Gently stir in wine and yogurt. Heat, but do not boil. Serve over the cooked macaroni.

Yield: 5 servings. Each serving provides 440 calories, 7 g of fat, 2 g of saturated fat, 250 mg of sodium, 32 g of protein and 4 g of fiber.

Source: USDA



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Spotlight On



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Mission

Fresh Start Surgical Gifts is one of the most dedicated charities for children. They transform the lives of disadvantaged infants, children, and teens suffering from physical deformities caused by birth defects, accidents, abuse, or disease through the gift of reconstructive surgery and related healthcare services.

Vision

Fresh Start's vision is to build a community of volunteers committed to seeing that every child with a physical deformity is given the opportunity to have a positive self-image, thereby enriching the lives of both the receiver and giver.

For more information about Fresh Start Surgical Gifts, go to www.freshstart.org