



# ***RISK NOTE***

## **SUBJECT: Risk Management Considerations for Vehicles Owned by Members, Including Loaning to Outside Agencies**

A Member is any health care agency covered for liability and property coverage under the Health Care Protection Program Agreement (HCPP). In the case of a motor vehicle accident involving a vehicle registered or licensed to a Member, the Member's coverage under the HCPP will respond subject to the terms and conditions of the Health Care Protection Program Liability and Property Agreements and in excess of any other available coverage (e.g. ICBC basic coverage). In order to minimize the risk associated with use of member owned/licensed vehicles, we have the following advice:

### **General Risk Management Considerations for the use of Member Owned/Licensed Vehicles (whether for own use or while loaned to outside agencies)**

1. Develop and comply with an appropriate policy for vehicle use;
2. Use a vehicle "log" to track driver identity, employer identity, date and time of use, purpose of vehicle use, mileage, gas use etc. in accordance with any internal procedures;
3. Ensure that only those patients/clients who are generally in good health and who are unlikely to require emergent medical attention are driven in the vehicle;
4. Ensure that all drivers have a valid driver's license in accordance with the type of vehicle;
5. Make certain that the driver is familiar with the particular vehicle. It is important to ensure that the driver is adequately trained to drive the vehicle and oriented to the operation of the vehicle, including any attached equipment such as lifts, as well as its safety features.

6. Monitor the driver's driving conduct by assessing his/her driving history and by requiring that all infractions, charges, accidents, etc. are promptly reported to the Member's administration (include any incidents, whether driving personally or on Member business). Consider obtaining, from the driver, a driver's abstract. We understand a driver's abstract can be obtained by the driver from ICBC;
7. Ensure that all accidents or damage to Member owned/licensed automobiles are promptly reported to both ICBC and HCPP; and
8. Develop written policies and procedures to cover-off the above noted risk management concerns and any other conditions under which a volunteer/employee/outside agency will be permitted to drive the vehicle(s) (e.g. carrying non-client individuals, picking up hitchhikers, vehicle maintenance issues, payment of traffic fines, etc.).

### **Specific Risk Management Concerns Regarding the Loan of Member Owned/Licensed Vehicles to Outside Agencies**

There are some serious risk management considerations to be taken into account before loaning owned/licensed vehicles. In the case of a motor vehicle accident, coverage will follow the registered owner/licensee of the vehicle and, subsequently would fall to the Member's coverage to respond. Accordingly, from a risk management perspective, the practice of loaning vehicles is generally discouraged. In the event, however, that the Member determines it is appropriate to consider the loan of a vehicle, it is important to develop policies and procedures for the necessary administrative approval of the various ways in which the vehicle(s) may be used. When loaning a Member owned/licensed vehicle to an outside agency, we recommend attention be given to the following risk controls in addition to those noted above:

1. Obtain evidence of general liability coverage from the borrower, including coverage for Non-Owned Automobile Liability;
2. Ensure the Member is added as an additional insured on the borrower's general liability insurance policy;
3. Enter into an agreement with the borrower with respect to any obligations, including, but not necessarily limited to, who will pay any deductibles [note coverage in place for physical damage to Members' vehicles, subject to a \$10,000 deductible] as well as any fines or penalties incurred while the vehicle is being used by the borrower;
4. Obtain an indemnification from the borrower (see attached sample wording in Appendix 1);

5. Ensure that the vehicle is not needed by the Member for its own use and that the borrower will return the vehicle promptly should the Member subsequently require it for its own use; and
6. Ensure that the contemplated use of the vehicle is consistent with Member policy in terms of appropriate vehicle use (i.e. the proposed vehicle use is for health-care related purposes).

Please feel free to contact HCPP at (250) 356-1794 should you have any further questions.

*Updated: April 21, 2004*

*\$10,000 deductible update: September 27, 2010*

## **APPENDIX 1 - SAMPLE CLAUSES**

### **Indemnification and Hold Harmless Clause**

The \_\_\_\_\_ (User Group) shall indemnify and hold harmless the \_\_\_\_\_ (Health Care Agency) and any of its directors, officers, employees, servants, agents and contractors from any and all loss, liability, claims or expense arising out of the use of \_\_\_\_\_ (vehicle description) by the \_\_\_\_\_ (User Group) and any of its officers, employees, servants, agents, contractors and volunteers, except to the extent that such loss arises from the independent negligence of the \_\_\_\_\_ (Health Care Agency).

### **Liability Insurance Clause**

The \_\_\_\_\_ (User Group) shall, without limiting its obligations or liabilities herein and at its own expense, provide and maintain the following insurance with insurers licensed in British Columbia and in forms and amounts acceptable to the \_\_\_\_\_ (Health Care Agency):

Comprehensive General Liability Insurance with a limit of not less than \$2,000,000 (or such other amount as the Health Region may choose), inclusive per occurrence for Bodily Injury and Property Damage including loss of use thereof and Non-Owned Automobile. Such insurance shall extend to cover the (User Group), its officers, employees, servants, agents, contractors, and volunteers and shall include the \_\_\_\_\_ (Health Care Agency) as Additional Insureds.

Such Comprehensive General Liability Insurance shall contain coverage for Premises and Operations, Products and Completed Operations, Blanket Contractual Liability, Cross Liability, Occurrence Property Damage, Employees and/or Volunteers as Additional Insureds, Use of Attached Machinery, Broad Form Property Damage, and Non-Owned Automobile Liability.

### **Certificates of Insurance Clause**

The \_\_\_\_\_ (User Group) shall provide the Health Region with evidence of all required insurance prior to the effective date of the (contract, licence agreement or permit). Such evidence of insurance shall be in the form of a Certificate of Insurance signed by an authorized representative of the insurer. When requested by the \_\_\_\_\_ (Health Care Agency), the \_\_\_\_\_ (User Group) shall provide certified copies of required insurance policies.

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It should be clearly understood that this document and the information contained within is not legal advice and is provided for guidance from a risk management perspective only. It is not intended as a comprehensive or exhaustive review of the law and readers are advised to seek independent legal advice where appropriate. If you have any questions about the content of this Risk Note please contact your organization's risk manager or chief risk officer to discuss.