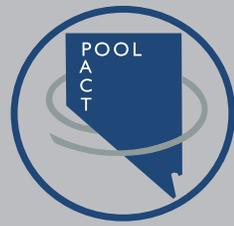




UPDATE: SB4



Understandably, we have received several inquiries regarding SB4, which provides limited liability protection to some entities and businesses which substantially comply with controlling health standards relating to COVID-19. *However, such limitations do not apply to health care facilities and K-12 schools.*

COVERAGE FOR COVID-19 CLAIMS:

Many of our members have asked if there is liability coverage should they receive a complaint alleging that a person contracted COVID-19 because of something that the Member did or failed to do. Questions as to whether liability coverage would apply for such a situation are sometimes difficult to answer because each claim/suit is fact specific and the coverage analysis considers those facts to determine how coverage may or may not apply. It is important to note that there is an exclusion for claims caused by the transmission of communicable diseases. This exclusion has been reinforced throughout insurance and reinsurance policies in nearly all jurisdictions. In addition, intentional acts may preclude coverage depending upon a Member's actions or inaction and the allegations of the suit. This is why it is important to remain in alignment with the Governor's directives to reduce or limit your liability risks. *It is important to note that if an employee makes such a claim, that claim will be considered either through your health insurance or workers compensation carrier.*

IMPORTANCE OF APPROPRIATE POLICIES AND PROCEDURES:

This is also why it is critical to have appropriate COVID-19 plans and policies in place. However, it is just as important that Members provide training to staff and that such training is documented. A Member's ability to prove that such policies and practices were in place can provide a significant defense to such claims. Even under the protections of SB4, non-exempted entities must still show that they acted in substantial compliance with required health standards.

Members have a duty to assure safe operations at public facilities. Employees must be protected in accordance with OSHA requirements including PPE such as masks, hand sanitizers, sanitizing procedures, proper signage, and similar required precautions. Similar protections are required for members of the public utilizing public facilities. Clear physical distancing standards, limiting occupancy concentration, hand washing/sanitizing stations, disinfection protocols, face coverings, gloves, appropriate signage, and similar precautions are advisable for any facility or program.

Based upon substantial evidence from pandemic disease specialists, it is entirely possible that the current situation may be part of a series of waves of increasing and waning virus infections over the next year or more. Careful consideration of the long-term precautions due to this potential should be made.

We at POOL/PACT know that your highest concern is protecting the health and safety of the public you serve, your employees, and volunteers. It is also an essential part of defending against liability claims. We are standing by ready to assist you in any way we can. *Please do not hesitate to contact POOL/PACT or your agent for any additional questions you may have.*