

Must Family Child Care Providers Purchase Workers' Compensation Insurance?

By Tom Copeland

The short answer is: Only if you have an employee who is not a family member.

There is some confusion surrounding this question because of new language in the Minnesota Department of Human Services (DHS) family child care Licensing Application.

In Section 10 of the Licensing Application ("Workers compensation insurance verification") it says that DHS is "prohibited from issuing a license until the applicant presents acceptable evidence of compliance with the workers' compensation insurance requirement of Minnesota Statutes, Chapter 176." In the same Section it requires providers to "complete and submit the Certificate of Compliance Minnesota Workers' Compensation Law (MN LIC 04) form with your license application."

Does this mean all family child care providers are required to purchase workers' compensation insurance? No!

The language in the Licensing Application means that you must comply with the state workers' compensation laws, not that you purchase the insurance. You must show your compliance by filling out the Certificate of Compliance form (<http://www.dli.mn.gov/wc/PDF/mnlic04.pdf>). This form says that you must either show proof that you have workers' compensation insurance or that you are exempt from getting the insurance. The reason you can be exempt from purchasing insurance is if you do not have any employees.

So, if you don't have employees you don't need workers' compensation insurance.

When do you have an employee?

It's easier to say when you don't have an employee under the workers' compensation law:

If you hire your spouse or your own children.

If you hire someone who is self-employed and in the business of providing substitute care for child care providers. This person must work for more than one provider, have a business name, register their name with the state, and use their own contract.

If you hire someone who only provides an activity for your daycare children (music lesson, dance lesson, swimming lesson, puppet show, etc.).

If you hire someone who provides a service for you, but doesn't care for children: house cleaning, lawn mowing, gardening, house re-pairs, etc.

If someone helps you care for children as a volunteer. If you don't pay the person, you don't have an employee. If you buy clothing or other items for the volunteer in exchange for her work, this would be considered compensation and the person would then be considered an employee.

Everyone else that you pay to help you care for children is your employee and you must purchase workers' compensation insurance to cover them.

This is true regardless of how little you pay the person or how few hours they work for you.

You hire a substitute to care for the children while you go to the dentist for 3 hours: employee.

You hire a high school student to help you care for children for eight weeks in the summer: employee.

You hire someone to help you care for children for two days a week: employee.

You hire someone to help you care for children full-time: employee.

Unfortunately, many providers make the mistake of thinking they aren't required to get workers' compensation insurance because they only use part-time helpers. Not true! The Minnesota workers' compensation law has been around for many years.

Workers' compensation insurance provides benefits to employees who are injured while working. If your worker gets injured while working for you, and you don't have this insurance, you will be forced to pay the worker's entire medical bill, plus a large fine. This can be a significant expense to you!

In addition, there are payroll taxes that you must pay when you hire an employee. These include: Social Security/Medicare tax as well as federal and state unemployment taxes. These payroll tax rules and the federal and state tax forms you must fill out are complicated. You may want to consult a tax professional for help.

I know that many providers are either unaware of these laws or choose to ignore them, thinking that they don't apply to them. But they do!

I am happy to answer your questions about the workers' compensation law and the consequences of hiring an employee. My blog has many articles about hiring employees (<http://www.tomcopelandblog.com/employees.html>) or contact me at 651-280-5991; tomcopeland@live.com.

Minnesota Department of Labor and Industry
Construction Codes and Licensing Division
Licensing and Certification Services
443 Lafayette Road North
St. Paul, MN 55155



CC0515

Mailing Address:
PO Box 64217
St. Paul, MN 55164-0217

Certificate of Compliance Minnesota Workers' Compensation Law

**THIS FORM MUST BE COMPLETED AND SIGNED
BY ALL BUSINESS TYPES**

E-mail: dli.license@state.mn.us
Web Site: www.dli.mn.gov/ccld.asp
Directions: <http://www.dli.mn.gov/Direct.asp>
Phone: (651) 284-5034

PRINT IN INK or TYPE.

Minnesota Statutes, Section 176.182 requires every state and local licensing agency to withhold the issuance or renewal of a license or permit to operate a business in Minnesota until the applicant presents acceptable evidence of compliance with the workers' compensation insurance coverage requirement of Minnesota Statutes, Chapter 176. If the required information is not provided or is falsely stated, it shall result in a \$2,000 penalty assessed against the applicant by the commissioner of the Department of Labor and Industry.

A valid workers' compensation policy must be kept in effect at all times by employers as required by law.

CONTRACTOR'S LICENSE or REGISTRATION NO (if applicable)	BUSINESS TELEPHONE NO.	FAX TELEPHONE NO.
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BUSINESS NAME (Use the person(s) name if business structure is sole proprietor or partnership (i.e., John Doe, or John Doe and Jane Doe), otherwise it is the legal name of the business entity.)

DBA NAME (Doing business as name / assumed name – if applicable)

BUSINESS ADDRESS (must be physical street address, no PO boxes)	CITY	STATE	ZIP
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COUNTY	E-MAIL ADDRESS
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**YOUR LICENSE OR REGISTRATION WILL NOT BE ISSUED WITHOUT THE FOLLOWING
INFORMATION. You must complete number 1 or 2 below.**

NUMBER 1 – Workers' compensation insurance policy information

INSURANCE COMPANY NAME (not the insurance agent)	NAIC Number	
POLICY NO.	EFFECTIVE DATE	EXPIRATION DATE

NUMBER 2 – Reason for exemption from workers' compensation insurance

If you have questions regarding the need to obtain workers' compensation coverage, including exemptions, contact 651.284.5032:

- I have no employees. (See Minn. Stat. § 176.011, subd. 9 for the definition of an employee)
- I am self-insured for workers' compensation (include a copy of authorization to self-insure from the Minnesota Department of Commerce).
- I have employees but they are not covered by the workers' compensation law. (See Minn. Stat. § 176.041 for a list of excluded employees) Explain why your employees are not covered:

Other:

I certify that the information provided on this form is accurate and complete.

APPLICANT SIGNATURE (mandatory)	TITLE	DATE
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NOTE: You must notify us if there is any change to your Workers' Compensation Insurance Information or Employee Status Change by resubmitting this form. This material can be made available in different forms, such as large print, Braille or on a tape. To request, call 1-800-342-5354 (DIAL-DLI) Voice or TDD (651) 297-4198.

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