PARTNERING TO CREATE THE SAFEST HEALTHCARE SYSTEM

West Elgin Community Health Centre

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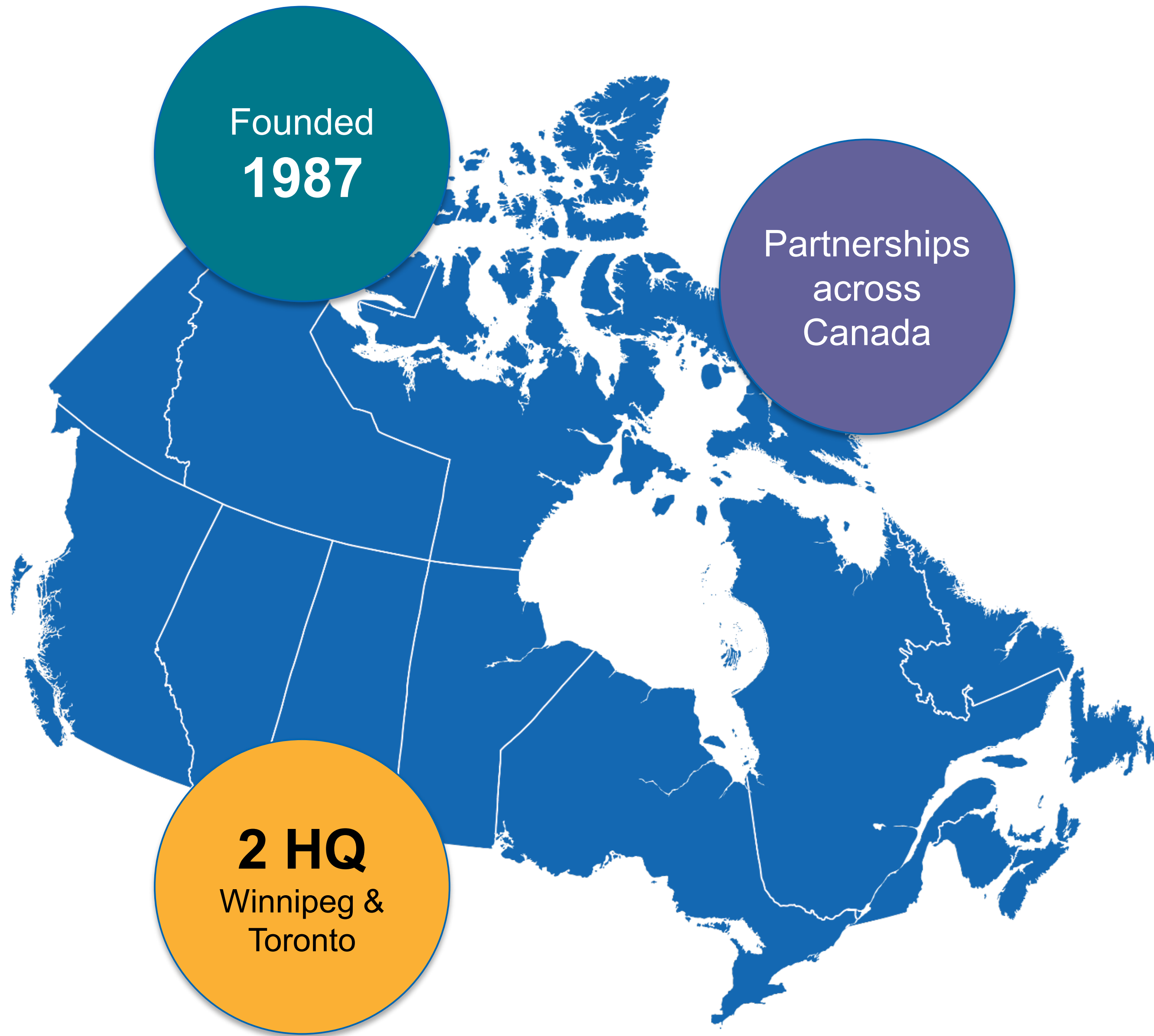
PARTNERING TO CREATE THE SAFEST HEALTHCARE SYSTEM

AGENDA

HIROC

- About HIROC
- The HIROC Policy including:
  - List of Coverages
  - Policy Highlights
  - Cyber Insurance
- Directors’ and Officers’ Liability Insurance
- HIROC Brokerage Policies
- Additional Resources

About HIROC



HIROC

- Canada's leading provider of healthcare liability insurance
- Not-for-profit
- Insure over 700 Subscribers
- Subscribers include CHCs, FHTs, Hospitals, Long-Term Care and others

HIROC supports healthcare

- Governed by our Subscribers
- Comprehensive one-stop shopping (Reciprocal and Brokerage)
- Focus on customer service and patient safety
- An ethical approach to claims management that is effective and cost-efficient
- Complimentary access to healthcare risk management advisory services and tools, including IRM and Risk Register software
- Over $200 million surplus distributed

THE HIROC POLICY

WHAT HIROC COVERS

"To pay on behalf of the Insured all sums which the Insured shall become legally obligated to pay as damages…"

The HIROC Policy Includes:

- A Bodily Injury (incl. Personal Injury)
- A1 Advertising Injury Liability
- B Third Party Property Damage
- B1 Tenant's Legal Liability
- C Healthcare Professional Liability
- C1 Blood Transfusion Legal Liability
- D Contingent Employers' Liability
- E Employee Benefits Liability
- F Errors & Omissions/Directors' & Officers' Liability
- G Environmental Impairment Liability
- H Non-Owned Automobile Insurance
- I Crime Insurance
- J Property Insurance (optional)

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Who is Insured?

- Named Insured
- Associated and affiliated foundations
- Employees and volunteers, while working for and on behalf of the Insured
- Boards and committees (including their members)
- Students, while under the instruction, supervision, or direction of the Insured
- Physicians, dentists, interns, residents, and midwives who perform administrative duties for the Insured

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Highlights of the Policy

- $10 million limit any one occurrence for liability coverages
- No annual aggregates (except for audit fees and cyber expenses)
- No deductibles on the liability and crime policy
- Unlimited legal and defence costs (in addition to the limits)

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Highlights of the Policy - Cyber

HIROC

- Protects you for liability due to the misappropriation or loss of data

- Will pay for the following expenses:

    - ➢ Legal and associated costs to notify patients and others of PHI breaches

    - ➢ Legal fees incurred to appear before commissions, hearings or tribunals

    - ➢ Coverage for the costs of regulatory fines and penalties

    - ➢ Reimbursement for cyber extortion demands (i.e.ransomware)

Sub-Limits apply to the above

Major Policy Exclusions - Liability

- Intentional acts
- Fraudulent, dishonest, criminal or malicious acts (except if an insured had no knowledge or were not a party to such act)
- Penalties and fines imposed by law (except fines by the privacy commissioner)
- Costs to attend inquests or hearings

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Directors’ and Officers’ Liability Insurance

Coverage F – Directors' and Officers' Liability

- Insurance coverage judgments, settlements arising from allegations as well as costs of defending such allegations, whether groundless or not.
- Coverage is meant to protect the personal assets of the individual, as well as the organization.
- Simpler, more comprehensive wording

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Who is Insured under Coverage F

- Directors
- Officers
- Trustees
- Members of boards and committees
- Officers and board members of volunteer and auxiliary organizations
- Employees

All while they are acting within the scope of their duties

Other D&O Policies

- More restrictive terms (i.e. restricts who the policy insures, more exclusions);
- Generally require a "priority of payments" as legal costs erode the limits of insurance (i.e. less money available to pay for claims);
- Generally better suited to for-profit or share capital entities.

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Possible Grounds for D&O Claims

- Wrongful dismissals
- Discrimination issues
- Enforcement of government regulations
- Breach of fiduciary duties
- Providing improper advice
- Uncollected withholding taxes

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Brokerage Policies

- Travel Accident/Occupational Accident Insurance (with AIG)
- The HIROC Brokerage can also provide insurance for the following:
  - Property
  - Boiler & Machinery
  - Automobile

QUESTIONS?

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Additional Resources

HIROC Tools and Resources

- Risk Reference Sheets
- IRM Risk Register
- Risk Profiles
- Risk Notes
- Risk Resource Guides
- Risk Watch
- HIROC Webinars

https://www.hiroc.com/Risk-Management.aspx

Risk Governance – 21 Questions

HIROC

21 Questions

HIROC

Guidance for healthcare boards on what they should ask senior leaders about risk.

Drawing on strong ethical and evidence-based principles, HIROC, in collaboration with subscribers, has developed guiding questions to help boards of healthcare organizations carry out a critical governance function - the oversight of key organizational risks.

Strategic context

1 What are the organization's vision and strategic objectives and do they reflect the core mandate of delivering high quality, safe care?

Board education

2 How does the board get the knowledge and experience necessary to oversee risk management in a healthcare organization?

Risk culture

3 What is the board doing to encourage speaking up across the organization about potential risks and unsafe practices?

Risk management program

4 What is the organization's policy/ plan/framework for identifying, assessing and managing key risks?

5 How do senior leaders demonstrate ownership for key risks?

Key risks (patients & staff)

6 What are the most significant risks related to care?

7 What are the themes/trends arising from patient complaints?

8 What are the most significant risks related to human resources?

Key risks (other)

9 What are the most significant risks related to finances?

10 What are the most significant risks related to leadership?

11 What are the most significant risks related to external relations?

12 What are the most significant risks related to information management/ technology?

13 What are the most significant risks related to facilities/infrastructure?

14 What are the most significant risks related to regulatory compliance?

15 What are other significant risks (e.g. research, education)?

Risk management

16 How are decisions made on additional controls or actions required to manage key risks?

Risk prioritization

17 How do senior leaders determine top organizational risks and which risks to report to the board?

Risk reporting

18 What records are kept for key risks and how do these roll-up into regular, effective reports for management and the board?

Crisis response

19 How does the organization plan for, respond to and learn from crises?

Assurance and evaluation

20 How is the board assured that controls for key risks are working?

21 How is the organization's risk management program evaluated?

A simplified risk management framework

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- The governing body (Board/Committee) has ***oversight accountability*** for the organization's risk management program
- Questions posed in the document align with healthcare organizations' strategic objectives, and mandates

https://www.hiroc.com/getmedia/7f314095-555a-4822-abe3-4e715e6e9288/21-Questions.pdf.aspx?ext=.pdf

Non-Owned Automobile Liability

- Risk Note on the Non-Owned Automobile coverage under your HIROC policy
- Provides information on employees or volunteers that use their own vehicle for hospital business
- Found on the HIROC website (www.hiroc.com)

RISK NOTE

HIROC

Non-Owned Automobile Coverage

OVERVIEW OF COVERAGE

Many healthcare organizations permit "Additional Insured" to use personal and rented vehicles for business or work-related activities. Utilizing this option, while very convenient, may create exposures to the healthcare organization that could result in claims being brought against the organization's HIROC liability policy.

Additional Insured covered under the Non-Owned Automobile coverage are defined as:
a) Employees b) Board members c) Officers d) Trustees e) Volunteers

The HIROC policy defines a Non-Owned Automobile as:

a) A vehicle not owned/leased in the name of the NAMED INSURED (Subscriber), but used for purposes related to the business of the Subscriber
Example: Employees' personal vehicle used for Subscriber purposes

b) Any automobile hired or rented in the name of an Additional Insured for purposes related to the business of the Subscriber for a period less than 30 days.
Example: Renting a vehicle for Subscriber purposes

KEY POINTS

- *Additional Insured* must be working for and on behalf of the organization **at the time** of a loss or damage for coverage to apply under HIROC's Non-Owned Automobile Coverage.

HIROC'S Non-Owned Automobile Coverage – Liability and Physical Damage

Liability Coverage:

- HIROC's Non-Owned Automobile Coverage (Coverage H) provides **excess coverage**. This means that the HIROC policy will only respond **after** the underlying liability limits of a policy (ie: employee's/volunteer's personal automobile policy) have been exhausted.

Physical Damage Coverage:

- Additional Insured who rent/lease a vehicle for purposes related to the Subscribers' business or work-related activities - for a period of less than 30 days in duration - **may decline** the Physical Damage Coverage offered by the car rental company as the HIROC policy provides this protection.
- The limit of insurance for physical damage coverage is $100,000 for any one occurrence without the application of any deductible. While HIROC does offer this coverage, purchasing it from the car rental company results in the transfer of any physical damage loss from HIROC to the rental company.

Who pays when an accident occurs?

Case Example:

A volunteer of the Subscriber uses their own vehicle for purposes related to their volunteer activity at Subscriber. The volunteer gets into an accident while driving to attend a meeting on behalf the Subscriber.

The order of "who pays first" from a liability perspective would be as follows:

1. Lesser or renter whose name is in the contract with the rental company (applicable if renting)
2. Automobile policy where the *Additional Insured* is listed as a Driver
3. The insurance of the owner of the vehicle – i.e. rental company or *Additional Insured*
4. The healthcare organization's Non-Owned Automobile policy

In any accident, there could be other vehicles or people involved who have their own automobile insurance, or a situation

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