




The Business of Family Child Care: Legal and Insurance Issues with Tom Copeland

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The Business of Family Child Care: Legal and Insurance Issues

Presented by Tom Copeland, JD

For the Office of Child Care's National Center on Early
Childhood Quality Assurance

Instructor

- Tom Copeland, JD
- Contact me with questions:
- tomcopeland@live.com
- No fee to answer questions
- www.tomcopelandblog.com
- www.facebook.com/tomcopelandblog



Welcome!

This class will enable you to manage the risks of running your business:

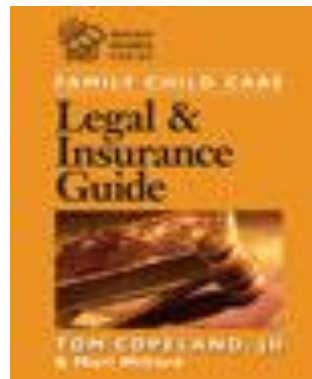
- Self-protection check list
- Insurance: homeowners, business property, vehicle, business liability
- Custody disputes
- Privacy

Disclaimer

“I am not rendering legal, tax, or other professional advice. If you require this type of assistance, please consult a professional to represent you.”

Business Resources

- Family Child Care Legal and Insurance Guide
- www.tomcopelandblog.com





COVID-19 Issues



Can You Refuse a Child Because of COVID-19?

- You can deny care to a child if the child is able to be vaccinated and is not vaccinated
- The law is not clear about whether you can decline care because a parent is not vaccinated
- You can refuse care if a parent or child doesn't quarantine or doesn't follow CDC or state health department guidelines, or your own rules

Liability Waivers

- “Parent promises to hold harmless the ABC Child Care Program if their child contracts the COVID-19 while enrolled in our program”
- Asking parents to sign a liability waiver won’t protect you
- Judges will likely throw out liability waivers because a parent can’t give up their right to sue in this situation



Manage Risks

The Risks of Family Child Care

- Injuries to children
 - 18 month old scratched by cat: \$5,000
- Damage to property
 - Tornado destroys all household property: only \$2,000 covered
- Lawsuits
 - Court awards \$800,000 in SIDS death
- Car accidents
 - Two children killed in van fire

Can't Eliminate Risks

- Providers who care for children in their home cannot eliminate all business risks
- These risks can be managed
- Manage small risks – establish and follow common sense policies
- Manage large risks - insurance

Self- Protection Checklist

- Maintain a safe home
- Follow your own policies
- Screen parents before enrollment
- Communicate clearly with parents
- Communicate clearly with licenser
- Screen and monitor employees

Screen and Monitor Employees

- Understand risks of having employees
 - Provider is liable for acts of employees
- Follow federal and state withholding tax rules
- Purchase workers' compensation insurance
- Include coverage for employee in business liability insurance policy
- Hiring, training and monitoring

Child Abuse

- All providers are mandated reporters of child abuse or neglect
- Providers should understand scope of their responsibilities
 - Must report all children at risk
 - When in doubt, report it
 - Ask questions ahead of time to get clarification



Insurance

Homeowners Insurance

Policy covers –

- House
 - Repair and replacement
- Property
 - Contents (furniture, clothing, all personal items)
- Limited personal liability
 - Medical expenses when neighbor falls off deck

What's Not Covered

- Many homeowners policies restrict (or deny) coverage for providers
- Policy may no longer cover
 - House
 - Contents (usually above \$2,000 of business property)
 - Will not cover if children fall off deck
- Many providers not aware of these restrictions!

How to Ensure Coverage

- Ask insurance agent to verify coverage in writing!
 - Agents sometimes don't know of policy restrictions
- May need business property insurance to insure contents
 - Cost is relatively inexpensive
- Renters will need renter's insurance that covers their furniture and appliances, etc.

Business Liability Insurance

- You should not operate without adequate business liability insurance!
- The risks are real
- Notifying parents that you do not have insurance will not protect you later

What Should It Cover?

Policy should cover

- Professional liability (failure to supervise)
- Legal defense in excess of policy limits
- Child abuse – covers all family members
- Accidental medical
- Accidents away from home

How Much Insurance Should I Get?

- As much as you can afford – some is better than none
- \$1 million per occurrence
 - Coverage for each incident
- \$2 million aggregate
 - Total coverage for the life of the policy (1 year)
- More insurance is inexpensive
 - \$300,000 aggregate vs \$2 million aggregate
 - Probably less than \$100 extra cost

Vehicle Insurance

- Transporting children is a major financial risk
- Tell insurance agent how you use car for business
 - Transport day care children
 - Use car for business errands
 - Bank, training, grocery store, etc.

Are You Covered?

- Use car occasionally for business use
 - May not need more insurance
- Use car regularly for business use
 - May need commercial insurance
 - Can be expensive
 - Insurance company may cancel policy

Verify Coverage

- Get coverage for all business use in writing
- Some providers no longer transport children
- Never get in car with children without adequate car insurance!

Other Vehicle Insurance Issues

- Never charge parents to transport children
 - Include in regular fee
- If parent is transporting children in her car
 - Her insurance will cover children
 - Get parent permission
 - Make sure parent has insurance
- If your employee transports children
 - Get “hired and non-owned liability” coverage

Excuses for Not Buying Insurance

- I don't have any money so there is nothing to sue me for
- I've never had an accident
- I can't be sued for more than my coverage, so why buy more than bare minimum?
- My parents have signed a liability waiver

Finding Insurance

- Insurance directory:
tomcopelandblog.com
- Talk to independent insurance agent
- Talk to other providers, tax professionals, CCR&R agencies, current insurance agents

Working with Your Insurance Agent

- Be completely open about your circumstances
- Report all accidents and incidents
- Meet with agent after major life changes
 - Marriage, divorce, birth, new home
- Ask questions/agent is on your side

Deducting Insurance Costs

- Homeowners/Renters Insurance
 - Time-Space percentage deductible
- Business Property and Business Liability Insurance
 - 100% deductible
- Car Insurance
 - Only partly deductible if using actual expenses method rather than the standard mileage method



Custody

Custody Disputes

- Biological parents have equal rights to child until court takes away their rights
- One parent cannot limit the rights of the other
- Mother asks provider not to allow father to pick up child
- Father not on pick-up list can still pick-up child

Parent Rights

- Legal custody
 - Who has power to make decisions about child's health/welfare, including right to enroll child in care
- Physical custody
 - Who lives with child and is responsible for food, clothing, shelter
- Joint custody
 - Sharing of legal and or physical custody

Single or Divorced Parents

- Ask parent at enrollment who has legal/physical custody
- Get copy of court order
- If parent will not give copy of court order
 - Provider should tell parent that other parent will be allowed to take child
- Unmarried parents
 - Local laws may automatically give rights to mother

Handling Custody Disputes

- Divorce decree gives father rights to pick up child on Tuesdays and Fridays
 - He arrives on Wednesday
 - Ask him to leave
 - Call 911
 - Mother says it is ok for father to pick up on Wednesday
 - Get in writing

Difficult Situation

- Man shows up to pick up child and says he is the father (child recognizes man)
- Provider does not know him. What to do?
 - Call mother. Ask man to wait
 - Follow instructions of mother
 - Man will not wait and starts to take child
 - Call 911



Privacy

Privacy

- Parents expect you to hold confidential all info about their family unless they give specific permission otherwise
- You should keep family information confidential
 - Professional, good business practice
 - Can reduce risk of parent lawsuit

Privacy Situations

- You post child's photos around home/album
- School counselor asks about child's behavior
- You overhear info about private family matter
- Parent wants to know who bit her child
- Parent wants addresses of other parents to invite to church bazaar

Internet Privacy

- Facebook
 - Get written permission before posting photos of children
- Craigslist
- Google Maps

Price Fixing

- It is illegal for competitors to discuss rates
- All of the following activities are illegal!
 - You ask another provider in class about her rates
 - You call another provider and ask if she is raising her rates this year
- If one party does not know the other is a competitor, it is not illegal

Contact Tom

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- Facebook:
www.facebook.com/tomcopelandblog
- Good Luck!

Evaluation



Improving Business Practices for Family Child Care Providers

Business of Family Child Care: Money Management/Retirement With Tom Copeland
May 4, 2022, from 8:00 to 9:30 p.m. (EDT)

**National Center on
Early Childhood Quality Assurance**

9300 Lee Highway

Fairfax, VA 22031

Phone: 877-296-2250

Email: QualityAssuranceCenter@ecetta.info

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