



Insurance Program: Questions & Answers

Please refer to the current Insurance Program document, provided by A.J Gallagher (Hike Ontario's insurance broker) for general information about Hike Ontario's insurance programs, which include:

- Commercial General Liability Insurance (CGL) - \$ 5 million with \$1000 deductible
- Errors and Omissions (E&O) – included with CGL coverage
- Directors & Officers (D&O) - \$2 million with \$1000 deductible

This Q&A document has been compiled based on questions Hike Ontario has received from participating member organizations.



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SANCTIONED ACTIVITIES

What are Sanctioned and non-sanctioned activities?

ANSWER - *“Sanctioned Activities” shall mean activities which are approved by Hike Ontario. Sanctioning is the mechanism that confirms an activity is part of the association’s scope and thus covered by the insurance program.*

Activities Covered

- *Hiking Activities*
- *Member Training Events*
- *Sanctioned Non-Hiking Activities* (i.e. cross country skiing, snowshoeing, kayaking, canoeing, camping)
- *Trail Maintenance/Trail Building*
- *Open Houses*
- *Membership Meetings*
- *Fundraisers*
- *Certification Programs*
- *Promotion of Sport*
- *Publication of Newsletters*
- *Annual Awards Ceremonies/Wind up Banquets*

*The underwriter is however concerned about the amount of non-hiking activities and the types of activities. They have thus put an **excluded activities endorsement** in place. Any activities on the excluded activities list **will not be covered by the insurance.***

Activities not covered

- *Horseback riding*
- *Dog-sledding*
- *Any activity involving the use of a motorized vehicle*
- *Off road mountain biking through wooded trails*
- *Kayaking – Class III rapids or higher*
- *Rock climbing*
- *Fireworks demonstrations*
- *Zip-lining*
- *Water skiing*
- *Alpine skiing*



Are e-bikes, multi-use backpacking trips and biking through wooded area on recreational trails considered sanctioned activities?

Insurance broker to confirm!

Frequency of biking, cross country skiing, snowshoeing, canoeing and kayaking

Some member organizations organize infrequent bike trips, canoe and kayak outings for their members. If these activities were to become more regular such as multiple weekly bike trips, or canoe/kayak outings would they be covered?

ANSWER – Yes, biking is covered under our policy as well as cross country skiing, snowshoeing, kayaking, canoeing, camping, etc. and the same warranties for hiking apply to biking, kayaking and canoeing. The main focus of the club however has to be “hiking and trail maintenance”, ie we can’t be a biking club, kayaking, canoe club.

Are clubs carrying out trail maintenance on city trails or trails that are not part of the club system covered by member insurance?

ANSWER – Coverage is provided under Hike Ontario General Liability as long as the activity is an official club event and the event is sanctioned through Hike Ontario.

SPECIAL EVENT INSURANCE

When do events require Special Events Insurance?

ANSWER - The insurance broker confirmed that events can be considered for coverage under Hike Ontario’s current CGL Insurance Policy, if they are **approved by Hike Ontario** and underwritten by the broker on a “case by case” basis.

Special events, however, which require an additional premium, are defined as:

- *being an event where a significant number of people other than association members are present*
- *it is a competition versus a non-competitive activity*
- *hiking is not a component.*



To determine if Special Event Insurance is required, please provide information as follows:

- A full description of the special event
- Is it a competition/race versus a passive activity
- Anticipated number of participants
- What % of the anticipated participants would not be members
- What safety & first aid precautions would be in place

Examples: Special Event coverage has been provided by the insurance broker for the Oak Ridges Trail Association's Adventure Relay which is competitive in nature. The Maitland Trail's Camino and their Jane's Walk are however covered under the regular CGL insurance.

Certificates of Insurance for Special Events

Some of Hike Ontario's member organizations host or organize special events, for which they may need Special Event Insurance as part of the Hike Ontario Program. In the past it has been difficult to get timely insurance certificates if the event falls very close to Hike Ontario's annual insurance renewal timeframe.

ANSWER – Member organizations need to request certificates in a timely manner. However, the insurance broker confirmed they can provide a certificate within two business days once they have received the information required. If necessary, urgent Certificates can be issued same business day, again, as long as the insurance broker has received the necessary information to issue the certificate.

Please send your request for an Additional Insured Certificate to info@hikeontario.com.

MEMBERSHIP AND INSURANCE FEES

Can we confirm that the insurance rates for 2022-23 will be the same as 2022 rates?

ANSWER – No, we cannot confirm this as yet. Typically, the insurer will only confirm the rate about 2 weeks prior to renewal.

Family memberships

Where a member organization provides family memberships at a single rate, what membership numbers should be reported, the total number of members or the total number of families?

ANSWER – The insurance broker would like to collect information on the actual number of people that they are providing coverage for. Hike Ontario is therefore asking member organizations to collect this information on their membership forms, if they have a family membership category.



WAIVERS

Are waivers and certified hike leaders required?

ANSWER – Hike Ontario’s insurance broker confirmed that waivers for hikes are not required under the policy, neither is the use of certified hike leaders.

However, Hike Ontario recommends the use of certified hike leaders as well as the completion of waivers as a best practice.

However, the insurance broker does require waivers for trail maintenance events.

Should Hike Ontario be named on Waivers of Liability?

ANSWER – Yes, Hike Ontario should be listed in the liability statement.

Can we use Electronic Waiver documents, i.e. as hike participant waivers?

ANSWER - The key for insurance purposes is to be able to prove that the person read and agreed to the waiver if he/she suffers an accident later. If there is no “trail” then it’s useless. The insurance broker suggests that if you are using electronic waivers that there is a way to demonstrate that in order to complete the registration, the member must have “read” the waiver. i.e. the member cannot complete the form without ticking the “I agree” box.

Completion of the electronic waiver document once a year is acceptable. The annual waiver needs to be broad enough in the way it is written to cover all possible activities that members could be doing with Hike Ontario and its clubs.

The original hard copy waiver can be destroyed as long as an electronic version is available.

It is recommended that waivers be kept at least for 7 years, but if possible “forever”. A person who has been injured has the ability to sue you for 2 years from the date of “the injury first becomes known” if they are an adult. If is a minor then then to the age of the majority plus 2 years. If the injured is a disabled person, then the waiver has to be kept “forever”.



VOLUNTEERS

Could you please provide examples of what would be considered formal training for trail workers?

ANSWER – *Oral instructions given to a person is considered training. Instructions during a work party with trail volunteers, teaching correct ways to cut brush, trail standards, proper use of tools, correct placement of blazes, etc. can all be considered formal training. Providing manuals on trail maintenance to all members is also considered formal training.*

Use of power tools, such as chainsaws and weed whackers, require special safety equipment, and in the case of chainsaws also formal certification. Chainsaw training is considered to be the two day course recognized by the Ministry of Labour.

LANDOWNERS

Are landowners protected under our CGL insurance?

ANSWER - *a blanket endorsement for ALL landowners will be in effect for the annual insurance term of May 1, 2022 to May 1, 2023 and onward. This means that all landowners on whose land member organizations have a trail on are protected under the CGL insurance. This coverage obviously only applies to any "trail related" accidents or property damage.*

Landowners are also protected under the Trespass to Property Act and the Occupiers' Liability Act of Ontario.

When do we need Additional Insured's Certificates for landowners?

ANSWER – *Landowners, with whom member organizations have a handshake or written agreement, may be required to submit proof of insurance to the landowner. In most cases, it will be sufficient to show them the organization's insurance certificate, and/or the blanket landowner endorsement.*

Some landowners, such as municipalities, conservation authorities, Trans Canada Trail, the Government of Ontario, etc. may, however, specifically ask to be "named" as an additional insured on the insurance policy. In that case, please let Hike Ontario at info@hikeontario.com know the full name & address of the additional insured, as well as the reason for the Additional Insured certificate.



POLICY

What does cross liability mean?

ANSWER - Cross liability means that the CGL policy will respond if one insured (member) under the policy is sued by another insured (member).

What does the term host liquor liability mean?

ANSWER - Host liquor liability covers the alcohol aspect of an insured event. This is intended to cover activities such as a year-end banquet. This is no longer covered under the Hike Ontario CGL policy

LAWSUITS

What do we do if we get sued?

ANSWER - There are a couple of documents that you may receive from a lawyer.

1. The first is a letter of intent, simply stating that the lawyer has been retained by someone and that they may be suing you.
2. The second is a Statement of Claim, which is a legal document that informs you that you are being sued.

It is very important that you take immediate action if you receive these types of documents. The insurance company only has a limited number of days in which they must respond to the statement of claim on your behalf.

Please send the entire document immediately to Hike Ontario at info@hikeontario.com and to our Insurance Broker at Jason_jansson@ajg.com.

PROPERTY INSURANCE

Is the equipment owned by the member organization covered under Hike Ontario's Insurance Program?

ANSWER - No, this insurance program does not include property coverage at this time.

- If you currently have property insurance coverage in place, you should retain this coverage.
- Alternately, you can contact Gallagher Canada at Jason_jansson@ajg.com, for a property quote.



INSURANCE COVERAGE

How does having this insurance coverage protect the member organization and its members?

ANSWER - *If you did not have insurance and you were sued you would have to hire a lawyer to handle the allegations for you. This could result in substantial legal bills. You would also be responsible for any settlement or judgment reached. For serious injury this could be millions of dollars. If you have the proper insurance coverage, the insurance will defend you in a court of law.*

If a Hike Ontario member organization or member volunteered to participate in events run by others, would the member organization or its members be covered under Hike Ontario's Insurance Policy?

ANSWER – *Hike Ontario's Liability Policy would respond as long as the activity the volunteer is participating in is approved by Hike Ontario, providing it is not one of the excluded activities endorsed to the policy. The insurance broker recommends using a waiver signed by the volunteers in this example.*

INCIDENT REPORTING

When do I report an incident that happened on a trail?

ANSWER - *Submit an incident report:*

*If medical attention is required or a concussion is expected
If the hiker does not complete the hike in the normal manner and timeframe.
If there is damage to property.
If the EMS is activated.*

Submit the report to your Risk Management Committee or chairperson as well as to Hike Ontario at info@hikeontario.com. Hike Ontario will pass the report to the insurance broker.

NAMED INSUREDS vs ADDITIONAL INSUREDS vs CERTIFICATE HOLDERS

Who are the named insured, additional insured, certificate holders?

ANSWER - In relation to a Commercial General Liability Policy, a "certificate holder" is not a "named insured" – it is an entity (such as a municipality, a landowner, etc.) that is requesting to obtain evidence of liability



insurance from a person or entity that is doing business with the “named insured”. The “named insured” is Hike Ontario and its participating member clubs.

An “additional insured” is not a “named insured”. An additional insured is generally a person or entity that is doing business with the “named insured” and are asking to be added as “additional insured” under the said liability policy. Examples of additional insured are our landowners, Trans Canada Trail, etc.

A named insured has the greatest responsibilities & rights under the policy.

An additional insured’s have fewer responsibilities & rights under the policy. If an additional insured (example: landowners) is sued as a result of the negligent acts of the named insured’s operations, then the named insured’s liability policy would respond on behalf of the additional insured.

CARPOOLING

Does accepting money from other hikers affect car insurance coverage when we “carpool”?

ANSWER - When a client is car-pooling/paying for rides, they would have to contact their insurance broker and request an endorsement – OPCF 6A – Permission to carrying passengers for compensation. Cost is around \$50 annually.

If they are taking turns driving; occasional trips where passenger shares cost the 6A is not required – no change required on their auto policy - automatic coverage.

Our recommendation is that the drivers involved in the car-pooling contact their own insurance broker & disclose the information about car-pooling so they can determine if additional coverage is required.

MOTORIZED VEHICLES

A hiking club is hosting an event that will require All Terrain Vehicle (ATV) support for some of the hiking activities and events. What is the insurance coverage status for ATV usage?

ANSWER - The insurer advises - “all hiking activities are fine with the insurer – any use of motorized vehicles, including ATV’s, is excluded.”

The insurer “recommends that Hike Ontario & the clubs hosting the event be added as additional insured to the owner of the ATV’s Liability Insurance Policy as there would be no Liability coverage under Hike Ontario’s Insurance Program to protect Hike Ontario or the clubs hosting the event if the use of ATV’s were used.”



Our insurer indicated that they are not comfortable with extending coverage for the use of motorized vehicles or heavy equipment usage on the trail by club members for trail maintenance. Clubs have further requested suggestions on how the usage of this equipment could be covered by insurance?

ANSWER- The insurer advises that they have made enquiries through their Commercial Department and that clubs may be able to obtain coverage through another insurance carrier on an “individual club basis”. The cost would be \$1000+++. It is suggested that clubs seeking this type of equipment coverage consult with Hike Ontario to facilitate the communications with our insurer.

OUT OF COUNTRY TRAVEL

Coverage for activities outside of Ontario &/or Canada

If our member organization organizes hikes in other provinces or outside of Canada, would the hikes be covered under the Hike Ontario CGL insurance? Example, a club in the Ottawa area may want to organize events in the Gatineau, QC, or a club in SW Ontario may want to hike in the USA.

ANSWER–*The liability policy covers activities as disclosed by the member organization. It covers activities in Canada. It also covers activities elsewhere in the world as long as*

- A) the members are normally residents of Canada but temporarily engaged in Hike Ontario sanctioned activities outside of Canada,*
- B) the policy will only respond to suits in Canada.*

For example: a club goes hiking (as disclosed to the insurer and sanctioned by HO) in Maine and there is an injury. The injured person sues the club upon return to Canada through the Canadian courts. This would be covered by the insurance.

Do you recommend our club's out-of-country waiver use 'trip' in a similar manner as in the below example?

In waivers for international travel, the participant is sometimes asked to agree to accept responsibility for all risks not only for the activity (e.g. hiking) they will be undertaking, but for the trip as whole. Here's a paste from one of them:

"TO ASSUME AND ACCEPT ALL RESPONSIBILITY FOR ANY RISKS, including bodily injury, death or property damage, arising out of, associated with or related to my participation in this Trip and all related activities".

ANSWER – The waiver used for out of country trips should identify that the waiver is for the entire trip, not just the hiking portion.



Does Hike Ontario believe the out-of-country waiver is an appropriate document to stipulate all participants must buy out-of-country medical insurance?

ANSWER – Our broker recommends a separate document for sign-off of excess travel medical coverage as it is a separate topic. *You can contact Gallagher Canada at Jason_jansson@ajq.com for a quote.*

INCORPORATION

Does a hiking organization have to be incorporated to participate in the insurance program of Hike Ontario?

ANSWER – No.

COVERAGE ON PUBLIC ROADS INVOLVING CAR

Does Hike Ontario insurance cover any incident that involves a car on a public road, including if the trail is located on a public road?

ANSWER – If there is a car accident during an activity the car insurance is going to be the one to respond.

TRAIL MAINTENANCE

What is the definition of a "qualified" team leader who is to supervise volunteers working on the trail?

Typically, for trail building/maintenance work parties, no power equipment is used, just loppers, pruners, hand saws, hammers, nails, paint, etc. However, a club may undertake the building of a small pedestrian bridge, boardwalk, or put up signs. Can you clarify what qualified means in this case?

ANSWER – The insurance policy does not have a definition of 'qualified team leader'. The insurance company is wanting to make sure that these activities are not led by a well-intended but inexperienced person. A qualified team leader would be one with experience in leading, organizing, and planning trail building and / or maintenance.

According to the warranties, the use of power equipment requires "experienced personnel" which makes sense for the use of chain saws, which we assume involves a certification. On the other hand, power equipment such as weed whackers, power drills, etc. do not typically have certification courses. What is your definition in this case of "experienced personnel"?



ANSWER – In the case of power equipment items such as chain saws the person should be certified. For other power equipment you should be making sure that the person has experience in using the equipment. If they have not, then an overview training session should be given and the person closely supervised. The insurer does not want inexperienced people trying to operate power equipment which could result in serious injury.

Is our trail association covered for club members operating a compactor for trail maintenance?

See picture below.

ANSWER- Our insurer advises that this machine should be insured separately and the work should be done by an experienced operator.



TRAINING COURSES

Are Hike Ontario courses held at a local residence covered under Hike Ontario's liability insurance?

ANSWER - Yes, the Homeowner can be added as additional insured for courses to be held at a private residence. They would be added as additional insured but only with respect to the Liability which arises out of the activities of Hike Ontario. If for example someone was attending the Hike Ontario course at the private residence and they tripped and fell on a computer cord that a presenter was using to teach the Hike Ontario course, this would be as a result of a negligent act of Hike Ontario. Hike Ontario's Liability Policy would protect the Homeowner and Hike Ontario if they were sued by a participant who attended the course.



COVERAGE FOR HIKE LEADERS

Are Certified Hike Leaders who were certified by Hike Ontario automatically insured on hikes that are not sanctioned by one of the hiking clubs that take the liability insurance?

ANSWER - These students would not be covered under Hike Ontario's Liability Policy. Just because an individual took a Hike Ontario course, does not automatically include them under the Hike Ontario policy.

As per Hike Ontario's risk management policies, for Hike Leaders to be covered by the Hike Ontario liability insurance program, they need to be registered as a Certified Hike Leader in good standing with Hike Ontario, and only leading a hike that they are certified to lead. The hike must also be published in a member association newsletter or web-site, or Hike Ontario must be informed, prior to the hike taking place. (The Insurance Company confirms this should be in writing but an e-mail is good enough).

Also, the insurance coverage is only valid for non-profit hikes when they are not receiving any payment.(H.O. decision). If they were leading hikes on their own account, for profit, they would need to arrange their own liability insurance coverage.

Are Hike Ontario Instructors covered under the Hike Ontario Insurance Policy while they are instructing a hiking course?

ANSWER – Yes as long as the course is one that is sanctioned by Hike Ontario.

WHAT IF AN ORGANIZATION CEASES OPERATIONS?

If a hiking club were to cease its operations, for how many years should that club keep its insurance policy in effect just in case past injured hikers may potentially try to sue?

ANSWER – The liability policy that is in place for Hike Ontario and its clubs is on an occurrence basis. Thus, if someone were to sue for a past injury that occurred during a Hike Ontario sanctioned event then the policy term in place at the time of the injury would be the one to respond to a law suit. Clubs do not need to extend out coverage.

The D&O policy is on a claim made basis so if a club has that coverage, then it is recommended a 1-2-year tail (cover for after they dissolve).



ADDITIONAL INFORMATION

Who should we contact for insurance-related questions/issues?

ANSWER - Please send your enquiry to info@hikeontario.com. Your enquiry will be sent to either the Hike Ontario president, or to the chair of the Planning & Development Committee, which handles the Hike Ontario insurance portfolio. They will decide whether to consult with the insurance broker with respect to your enquiry.

GENERAL NOTES

Prepared for Hike Ontario member organizations

Updated April 5, 2022 (Frieda Baldwin)