



Church Executive

HELPING LEADERS BECOME BETTER STEWARDS.

MY INSURANCE HAS BEEN NON-RENEWED — NOW WHAT?

Navigating new challenges related to
abuse and insurance coverage

Presented by:

 **MinistrySafe**

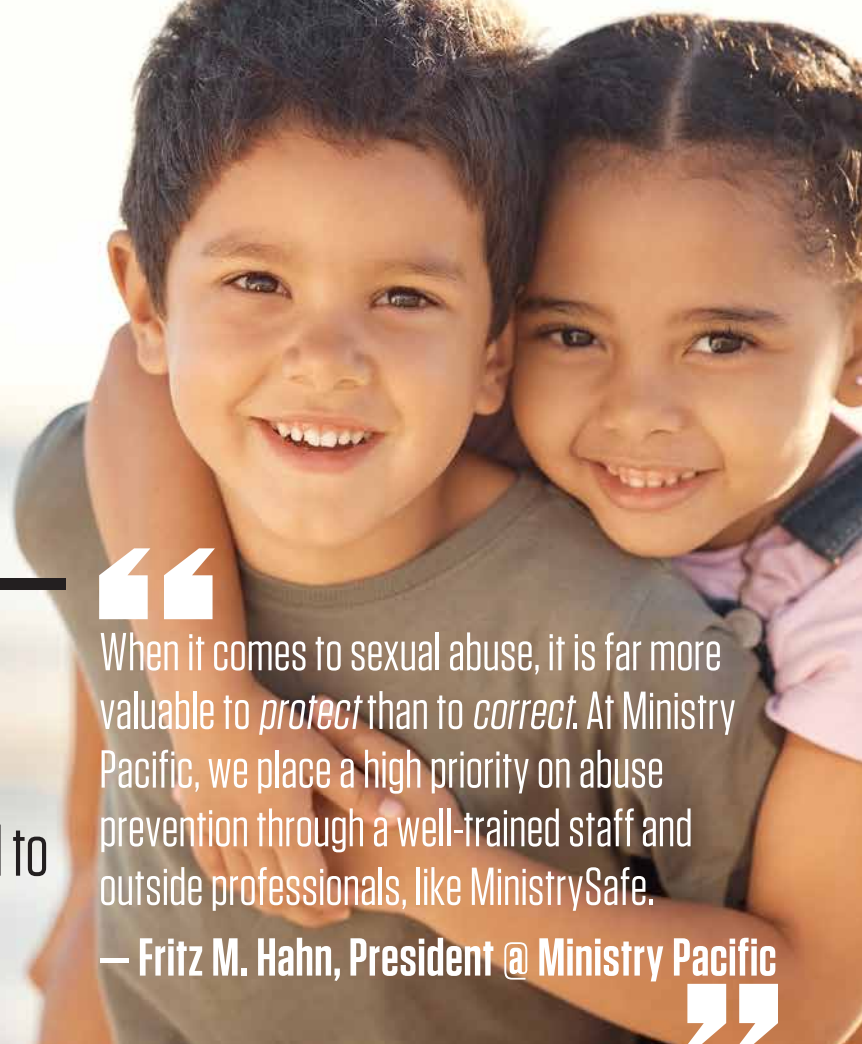


DON'T RISK NON-RENEWAL:
Insights from the Experts

MY INSURANCE HAS BEEN NON-RENEWED — NOW WHAT?

Navigating new challenges related to
abuse and insurance coverage

By Gregory Love & Kimberlee Norris,
Church Executive Guest Editors



When it comes to sexual abuse, it is far more valuable to *protect* than to *correct*. At Ministry Pacific, we place a high priority on abuse prevention through a well-trained staff and outside professionals, like MinistrySafe.

— Fritz M. Hahn, President @ Ministry Pacific



The limits and availability of insurance coverage for churches is growing more and more difficult to access as insurance underwriters become more disciplined, deductibles get higher, and premiums grow. Child sexual abuse coverage has become particularly difficult, as claims and settlement costs continue to rise. More than ever before, ministries are experiencing the downstream impacts, including non-renewal.

Ministry leaders need guidance, and insurance brokers and agents are stepping up to provide that guidance.

This article provides a brief overview of the current challenges from the perspective of ministry leaders and insurance carriers, focusing on how insurance brokers *and* agents are stepping into a leadership role.

CHURCH PERSPECTIVE

There used to be options. In the past, price increases for insurance were small and manageable. Procuring insurance was simple and straightforward: *have my agent renew last year's policy*. In past years, churches enjoyed the luxury of simply renewing coverage with the same carrier or shopping for coverage between a handful of insurance carriers competing for the church's business. This is no longer true — particularly for coverage related to Sexual Abuse and Molestation (SAM Coverage).

Issues for ministry leaders

- *What's happening in the marketplace?*
- *As a ministry leader, how should I respond?*

Church Executive survey

Church Executive recently launched a broad-based survey related to insurance issues completed by church administrators, board members and pastors. The results were revealing, but not unexpected. Survey highlights from ministry leaders reveal:

- 92.75% reported that insurance is either critical (71.01%) or very important (21.74%);
- 75% reported experiencing challenges securing or maintaining insurance coverage;
- 50% of the challenges are connected to claims history; and
- 47% reported that coverage *required* child abuse prevention measures.

Abuse prevention measures

Every church leader should be able to navigate the following questions:

- *Does my church have an effective Child Safety System in place?*
- *Where can my church access information and resources to prevent child abuse?*

Ministry leaders are not without guidance. In addition to MinistrySafe, insurance carriers and brokers provide an excellent source for instruction and resources. Not surprisingly, the majority of ministry leaders responding to the above-referenced survey identified insurance carriers, brokers and agents as a trusted resource for information concerning sexual abuse risk.

CARRIER PERSPECTIVE

The insurance carrier's goal is NOT to simply deny coverage; instead, it is the insurance carrier's goal to create business relationships with organizations that correctly identify *foreseeable risks* and then implement effective strategies to address those risks. If a ministry is 'less than prepared', the carrier will often direct the ministry to loss control resources or trusted partners to aid the ministry in raising the bar. In short, if a ministry is not prepared — the goal is to help get them prepared. ➤

CASE STUDY

A large church in Texas was notified by its long-standing insurance carrier that it would not be renewing coverage, and the carrier offered no substantive explanation. Because the church was in the process of transitioning to a new broker, the church's business administrator filled out an insurance application with an alternative carrier *without* broker oversight or participation. Unlike prior applications with the previous carrier, the new coverage application asked for specific acknowledgments related to child sexual abuse prevention and reporting, including:

- The existence of a Safety System
- Screening of all paid staff members
- Screening of all child-serving volunteers
- Screening includes an application
- Screening includes reference checks
- Screening includes an interview
- Background checks of paid staff members are performed
- Background checks of child-serving volunteers are performed
- Training occurs for all paid staff members
- Training occurs for all child-serving volunteers
- Training content includes the abuser's 'grooming process'
- Training content includes peer-to-peer sexual abuse
- Training content includes child abuse reporting requirements
- Training is periodically refreshed
- Policies are provided to and acknowledged by all paid staff members
- Policies are provided to and acknowledged by all child-serving volunteers
- Ministry has an internal reporting process
- Ministry has an external reporting process (to appropriate authorities)
- Reporting processes are communicated to all paid staff members
- Reporting processes are communicated to all child-serving volunteers

In the process of completing the application, the business administrator simply checked *all of the boxes* related to sexual abuse prevention. Notwithstanding the checked boxes, background checks were the *only* Safety System element in place at the church at the time the application was completed. The business administrator then signed the application and submitted it online.

The carrier responded by requesting all documents supporting the information supplied on the application related to sexual abuse risk. When the business administrator failed to reply, the carrier sent a letter declining coverage.

When the new broker learned of the new coverage and how it was secured, the broker was alarmed and immediately instructed church leaders to implement *all* the Safety System elements claimed by the administrator to be in place, warning of significant consequences in the event of any claim, including denial of coverage and possible fines and penalties for the business administrator.

Takeaway No. 1:

Sexual Abuse and Molestation Coverage is no longer bundled into the general liabilities segment of an insurance policy listed as a *covered claim*. Given the stakes, insurance carriers are now *asking questions* and *requiring proof* of child protection protocols.

Takeaway No. 2:

Coverage applications cannot be completed casually, providing answers the church applicant feels the carrier *wants to hear*.



“We are committed to serving those who serve others. We fulfill that commitment by (1) training our internal team to understand sexual abuse risk; (2) identifying excellent abuse prevention resources; and (3) assisting our clients in the implementation of resources. When a church or child-serving organization has an effective abuse prevention strategy in place, better coverage options are available AND children are safer. Our goal is to help our clients achieve both.”

**— Becky Moyer, Agent/Church Specialist
@ Moyer & DesCombes Insurance Agency**

Kurt Hetherington, President of James Greene & Associates: Insurance Agency, emphasizes:

“Churches must pay close attention to the questions on the application related to safety system elements. Coverage depends on it; more importantly, the well-being of our children depends on it.”

In fact, when a representative of the ministry submits the application, the ministry is ‘signing and certifying’ that the representative has first-hand knowledge of the submitted information or investigated the matters *before* signing. Beyond denial of coverage in the event of a claim, penalties exist for any representative who signs and certifies the existence of Safety System elements that don’t exist, as the certification is either *knowingly false* or false due to failure to undertake the required investigation.

Takeaway No. 3:

Insurance applications are increasingly detailed with respect to *evidence* of sexual abuse prevention efforts. A skilled insurance broker or agent can ensure the correct completion of the application AND the identification and implementation of the necessary Safety System elements to (1) protect children; and (2) satisfy underwriting requirements.

At James Greene, we know that navigating the challenges related to sexual abuse coverage starts with an excellent understanding of sexual abuse risk. To ensure our team is equipped to lead ministry leaders through these challenges, we recently dedicated a full day for our entire team to receive instruction from sexual abuse experts. This area of risk has no shortcuts.

— Kurt Hetherington, President @ James Greene & Associates



Child sexual abuse is a foreseeable risk, with enormous human and financial costs; the margins for error are very low. Insurance carriers have had a front row seat concerning this growing challenge. Since 2010, the cost to resolve a child sexual abuse claim has skyrocketed. For the past 10 years, child sexual abuse claims constitute the No. 1 reason churches and Christian ministries have ended up in the courtroom. A 2022 industry report calculated the average cost to resolve a sexual abuse claim, whether settled out of court or as a result of a verdict wherein the organization was found at fault, yielding these figures:

- *Average payout related to cases settled out of court: \$2.5 million
- *Average payout related to cases with jury verdicts: \$10.3 million

Insurance professionals (and carriers in particular) see these extraordinary amounts, ongoing year-by-year increases, and expansion of statutes of limitations, with no reason to believe this trend will slow. These amounts cannot be absorbed by simply increasing premiums. The church *must* implement Safety System elements designed to prevent child sexual abuse in programs serving minors.

As described in the Case Study (See Sidebar) insurance carriers are requiring specific Safety System elements as part of standard underwriting criteria. The application and underwriting process will continue to focus on Safety System protocols, and the church *must* get its house in order.

Eric Spacek, AVP of Risk Control for Church Mutual Insurance Company, S.I., expresses the sentiment of carriers serving churches and child-serving organizations:

“At a minimum, our recommendation is to create an Abuse Prevention Program that involves training all employees and volunteers on a yearly basis. The training should address the grooming process, grooming behaviors and peer sexual abuse. The program also should include policies that outline abuse prevention measures, as well as procedures for reporting suspected sexual abuse, and steps to take when an allegation comes to light. In this area, MinistrySafe is one of our primary partners.

“If a policyholder has lost coverage due to a sexual misconduct or molestation claim, the board of directors or other governing body should take time to perform some self-critical analysis after the loss or allegation. What led to the claim? Could it have been prevented? Was an effective Abuse Prevention Program in place? Were all procedures being followed appropriately? What procedures were missing?”

The board should take the opportunity to review and update procedures, reinforce guidelines, and bolster preventative measures. Be prepared to provide evidence of this review to the next insurance carrier, as well as documentation of changes or improvements made to prevent future claims.”

Brian Gleason, Senior Risk Manager for GuideOne Insurance, goes on to explain:

“Because insurance carriers are involved in the resolution of abuse claims, carriers are intimately familiar with what necessary safety efforts were not in place to prevent abuse.

“The risk of sexual abuse is foreseeable, but also preventable. Churches and other child-serving organizations must implement necessary child safety elements, including effective screening, policies and training of employees and volunteers. Effective training includes identification of grooming behavior, clear reporting requirements, and effective operational safeguards as a minimum standard in protecting children. Given the unique front-row seat in sexual abuse claims, many carriers can help identify and provide resources. The relationship between a carrier and a ministry should be cooperative; the goal is to work together to develop strategies to protect children in the ministry’s care.”

The message from insurance carriers is clear: *get your house in order and be prepared to describe and document Safety System elements.*

AGENT/BROKER PERSPECTIVE

The day of the ‘brother-in-law broker’ has passed. Ministry leaders must identify and rely on risk management professionals who understand ministry risks beyond the roof and the deductible. Insurance professionals must understand the unique risks faced by ministries, and coverages related to those risks — particularly child sexual abuse risk.

The *Church Executive* survey clearly reveals that ministry leaders rely heavily on insurance agents and brokers for guidance related to sexual abuse risk and related coverage. Many agents and brokers are taking meaningful steps to lead churches and ministries through these unique challenges:



For more than 35 years, the Lockton Group has provided creative insurance programs for a variety of Christian organizations, including camps, mission organizations and youth programs. As the challenges grow, so does our commitment to help ministries correctly and creatively navigate these challenges.

— David Jones, Executive Director @ Lockton Ministries





ALTERNATIVE RISK FINANCING

Many of the above-mentioned challenges are forcing ministries to evaluate alternatives. Whether the challenges are caused by a prior claim or a location considered high-risk for natural disaster, mainstream avenues to insurance are sometimes blocked. This does not change the need and priority of securing coverage. As the Survey results reported above:

- 92.75% reported that insurance is either critical (71.01%) or very important (21.74%); and
- 75% reported experiencing challenges securing or maintaining insurance coverage.

Some insurance professionals are creating alternatives through ‘pooling’. John Murphy, an Executive Program Director for Risk Program Administrators, a subsidiary of Gallagher, explains:

Sometimes the marketplace simply doesn’t offer attractive options to meet the insurance needs of a group of churches or nonprofits. Maybe there’s no willing insurer, the premiums are excessive, the coverage is inadequate, or the service is poor. In cases like this, churches can come together to form and fund a shared risk pool — essentially their own insurance company.

The pool can stabilize long-term costs, reduce risks, and increase safety for participants. In short, the pool can provide a high-quality, holistic risk management solution for the group of churches — not just insurance as a commodity.

Captives and pooling strategies provide opportunities worthy of consideration when mainstream solutions are elusive.

FINDING GOOD RESOURCES

Every ministry must implement and maintain an effective Safety System addressing the *known risk* of child sexual abuse. The complexities and challenges of sexual abuse risk are significant and will continue to grow. Help is available through insurance professionals who have committed to understand:

- Child sexual abuse risk;
- How sexual abuse risk is likely to manifest in the church;
- How to identify and introduce prevention resources;
- Reporting requirements and communication strategies;
- Navigating insurance application questions;
- Understanding *sexual misconduct* policy terms;
- Creating an insurance plan that secures appropriate coverages and limits;
- Exploring alternative risk financing, where appropriate; and
- Navigating the initial steps of an allegation response.



The CCIA team is committed to providing instruction to our clients related to sexual abuse and other risks common to churches and ministries. We provide guidance through well-trained staff and outside experts. Given the climate in California, it is critical that our team be prepared to navigate challenges related to sexual abuse risk, as well as state legislative changes.

— Travis Tjepkema, President @ Church & Casualty Insurance Agency



Not every insurance professional has invested the time and effort to provide these services: *choose your insurance relationships wisely!*

SUMMARY

The attorneys at MinistrySafe have worked for decades equipping churches and Christian ministries to understand, prevent and navigate sexual abuse risk. Sadly, churches lacking good instruction and guidance become case studies for the next sexual abuse crisis. Excellent preventative resources (see www.MinistrySafe.com) are the place to start, but ongoing relationships with informed insurance agents, brokers and carriers are imperative for churches navigating the changing landscape of sexual misconduct in ministry contexts.

Kimberlee Norris and Gregory Love are partners in the Fort Worth, Texas law firm of **Love & Norris** [www.LoveNorris.com] and founders of **MinistrySafe** [www.MinistrySafe.com], providing child sexual abuse expertise to ministries worldwide. After representing victims of child sexual abuse for more than two decades, Love and Norris saw recurring, predictable patterns in predatory behavior. MinistrySafe grew out of their desire to place proactive tools into the hands of ministry professionals.

Love and Norris teach the only graduate-level course on Preventing Sexual Abuse in Ministry Contexts as Visiting Faculty at Dallas Theological Seminary. **CE**