



DEPARTMENT OF

Professional &  
Financial Regulation

STATE OF MAINE

- OFFICE OF SECURITIES
- BUREAU OF INSURANCE
- CONSUMER CREDIT PROTECTION
- BUREAU OF FINANCIAL INSTITUTIONS
- OFFICE OF PROF. AND OCC. REGULATION

## *Opting Out:*

### **A Workers' Compensation Insurance Summary for Executive Officers of Corporations**

#### ***Background***

The Bureau of Insurance has received some complaints from employers who were previously sole proprietors or partnerships and who are now incorporated. Under Maine Workers' Compensation law, sole proprietors, and partners are not required to have coverage but can opt into coverage by purchasing an insurance policy and electing to be covered by the policy. The individuals filing the complaints did not previously have coverage on themselves and did not intend to after incorporating. After final premium audit, following the conclusion of the policy period, the individuals were surprised to find that their payroll appropriately was included in rather than exempted from premium calculations.

Statutory reference for coverage in this situation is found in Title 39-A, Section 102(11)(A) of the Maine Workers' Compensation Act of 1992 as amended on April 9, 1998. A bona fide owner of at least 20 percent of the outstanding voting stock of a corporation may file a written waiver with the Workers' Compensation Board to waive all the benefits and privileges provided under Workers' Compensation laws, if the waiver is not a pre-requisite condition to employment. Without an approved waiver, payroll of the owner-which may be an executive officer-must be included in premium calculation.

Executive officers (i.e., president, vice-president, secretary, and treasurer) of any charitable, religious, educational, or other nonprofit corporation may come under the Workers' Compensation law if the corporation specifically includes them in the insurance policy.

#### ***What is the proper way to waive coverage?***

An Application for Waiver form is available on the Workers' Compensation Board's website at <http://www.maine.gov/wcb/departments/Coverage/waivers.html> To request a waiver, complete the form and return it to:

*Attn:* Insurance Coverage Unit  
Maine Workers' Compensation Board  
27 State House Station  
Augusta, Maine 04333-0027

Staff at the Board will review the waiver form and approve or deny it. This form should also be filed with the insurance carrier to make certain they have it on record.

With assistance from the Maine Workers' Compensation Board and the Secretary of State's office, the Bureau of Insurance has put together the table on the following page regarding specific business designations and workers' compensation insurance coverage requirements. If you have specific questions concerning requirements for workers' compensation insurance coverage, please contact the Maine Workers' Compensation Board at (207)-287-3751.

How Different Types of Businesses are Treated for the Purposes of Workers' Compensation Insurance Coverage	
Type of Business	Coverage Requirements
Sole Proprietors	Sole proprietors are not required to cover themselves but may opt <b>into</b> coverage by purchasing a policy.
Partnerships	Partners are not required to cover themselves but may opt <b>into</b> coverage by purchasing a policy.
Corporations	Owners of 20% or more of the outstanding voting stock of a corporation may opt <b>out</b> of coverage by filing a waiver form with the Workers' Compensation Board. This waiver must be approved or coverage is required.
Limited Liability Companies (LLC)	Treated Like a Partnership
Limited Liability Partnerships (LLP)	Treated Like a Partnership
Professional Associations (PA)	Treated Like a Corporation
Professional Corporations (PC)	Treated Like a Corporation
Propria Persona (PP)	Treated Like a Sole Proprietor
Service Corporations (SC)	Treated Like a Corporation