



May 15, 2020

Covid-19 Response to reopening:

We have received numerous inquiries as to how our policies would respond in the event an insured re-opens their business in alleged violation of state, county and/or local level executive orders. We maintain that each claim will be considered based the facts and circumstances of that claim. We purposefully avoid making broad statements regarding the applicability, or non-applicability of any hypothetical claim scenarios. Policy language always controls. At this time, given the status of the world as we know it now, there are some important policy considerations that should be considered:

**General Liability & BOP liability:**

If a local health department, or any other governmental body with the authority over the health and safety of the general public has authorized business establishments under their control to resume operations within certain parameters designed to protect the health and safety of its patrons, as long as the insured adheres to those rules, we will not be invoking any type of "intentional act" exclusion for any actual or alleged violation of a state, county, or local level executive order. If a business willfully and knowingly acts, or fails to act not in accordance with the parameters established by the local authority, then a coverage question could arise. Further consideration should be given to the fact that most all general liability policies contain a communicable disease exclusion which excludes bodily injury, property damage, personal injury, or advertising injury that arises out of the actual or alleged transmission of a communicable disease. The insurance industry, and SPRISKA always views the duty to defend in a much broader context than the duty to indemnify. Again, every claim will be considered based on its own facts and circumstances. Until a COVID-19 federal tort immunity law is passed, we recommend that the insured implement a liability waiver process for all of their patrons. There are several websites available that offer COVID-19 specific liability waivers for a fee. Additionally, we strongly suggest that all of our insured's seek legal guidance from their own counsel.

**Liquor Liability:**

As long as the insured is operating under a valid liquor liability license, our liquor liability policy will respond.

**Commercial Property and BOP Property:**

Other than the applicability of any exclusions related to Virus or Bacteria or Civil Authority for first party claims, we do not see any potential coverage issues arising on property policies for insured's opening their business to the public in accordance with local rules.

Sincerely,

Spriska (Specialty Risk of America)