

# Child Care Insurance (C) Working Group

October 22, 2026

# **#1 Hear a Presentation from the New Hampshire Public Risk Management Exchange on Addressing Liability Risks with a Shared Risk Pool**

*Mike Ricker (Primex)*

# ***SAM Liability Insurance: Pooled Coverage Considerations***

NAIC Child Care Insurance  
Working Group Meeting  
October 22, 2026

Mike Ricker, Esq.  
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Primex

# What/Who is Primex?

- Risk pool operating in NH under RSA 5-B
- Offers members Public Entity Liability Coverage among other coverages (WC, UC, Property, Cyber)
- Members are a mix of approx. 540 local gov't entities
- Liability Limits: State tort cap when applicable or \$2 million per occurrence/\$10 million aggregate. Current NH tort cap for local gov't is \$325k per occurrence/\$1m aggregate
- Risk management: loss prevention, education, training
- Promote good management, safety and HR practices

# Primex SAM Coverage

- Built into the general liability coverage package
- Excludes offender/perp
- Aggregates interrelated occurrences to a single policy period and a single policy limit
- Reasonable liability policy limits
- Backed by pool resources (reserves and assets) and conforming reinsurance
- Skilled and experienced case management
- State law negligence claims against local gov't are capped at \$325k/\$1m; no punitives; some immunities
- Occurrence based coverage

# Commercial Market Reality

- SAM coverage difficult to obtain
- Increasingly excluded from occurrence-based GL policies
- Specialty stand alone products limited and expensive
- Small market with low competition (carriers have more leverage)
- Claims made policies– exclusions, underwriting, higher retentions
- Claims experience will be viewed very unfavorably
- Risk management of insureds is critical: Employee/volunteer screening; mandatory reporting; child protective policies/procedures; supervision; training; incident response; sound hiring, retention, promotion and termination decisions.
- Detailed underwriting questionnaires; supervision ratios; conditions
- Entities with risky supervision scenarios deemed “high risk”

These factors are largely due to Legal Environment Risk, which varies across U.S. jurisdictions.

# Legal Risks for Entities

**Perpetrators should face criminal and civil responsibility within the bounds of applicable constitutional and statutory requirements.**

**Entities that may have a material connection to perpetrators face growing legal risk when the law includes them on an equivalent basis in the remedial structure. Risk examples:**

- **Removal of limitations periods**
- **Removal of, or substantial increase to, damages caps**
- **Removal/reduction of immunities**
- **Expanded vicarious, fiduciary and supervisory liability theories**
- **Punitive damages, fee-shifting, “nuclear verdicts,” “social inflation,” and related coverage rulings favoring broad recovery**

# How Does Primex Cover SAM

- Muni tort cap on negligence w/no fee shifting
- No punitive damages against munis
- Certain immunities for non-reckless gov't acts/omissions
- Credible rating experience of large member base
- Diversification of insured liability exposures
- Large premium base
- Actuarially determined reserves
- Reinsurance
- Highly skilled case management. Early resolution strategies.

**SAM claims are low frequency but very high severity**

# Lawmaker Policy Challenges

- **Balancing the important goal of providing remedies for victims with the goal of providing legal environments in which entities providing critical services can operate and insure claims**
- **Determining the appropriate scope of recourse against perpetrators vs. appropriate scope of recourse against entities – should they be equivalent or different?**
- **Identifying and weighing unintended impacts of policy changes**

**These are very complicated policy issues which may involve competing interests and perspectives.**

# Improving Insurability

- **Balanced legal environment:**

- ▶ What are the appropriate limitations periods for liability against an entity given the need for victims to effectively access the courts?
- ▶ What damages caps/immunities make sense in order to provide an adequate remedy that avoids unintended consequences on provider entities?

- **Pool composition, reserves, net assets, coverage, reinsurance:**

- ▶ Critical mass: adequate premium base, diversification of risk, credibility?
- ▶ Are there available resources that enable a pool to fund reserves and net assets?
- ▶ Will pool reserves and assets be properly managed and invested?
- ▶ Do the pool coverage document and pool staff effectively manage the liability?
- ▶ Can the pool establish effective reinsurance relationships?
- ▶ Do the covered entities have good risk controls and claims experience?

# Thank You!



Mike Ricker

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# #2 Hear a Presentation on Indemnification Legislation in Hawaii

*Matt Tsujimura (HI)*

# #3 Hear an Update on Industry Recommendations

*David Snyder and Eric Goldberg (APCIA)  
Erica Weyhenmeyer and Paul Martin  
(NAMIC)*



# Child Care Liability and Liability Insurance—Challenges and Responses

NAIC Child Care Insurance Working Group  
October 22, 2026

Eric Goldberg, APCIA  
Dave Snyder, APCIA



## Previous NAIC Engagement

- We much appreciate the work of the NAIC and how you are going about tackling this issue
- We fully realize the social and economic importance of child care and want to be part of the solution not part of the problem
- However, we are focused on liability coverage which is largely determined by the rules of the liability system
- Liability risk exposure dramatically increases with long revivers, and other legal system developments, thereby challenging insurers
- APCIA gave initial observations and we promised to return after our Board of Directors gave some guidance, which we do today



# APCIA Board Child-Serving Entity Liability Policy Recommendations

## Child Care Specific Reforms

- Liability Safe Harbors for Substantial Compliance
- Foreseeability- Based Duties of Care
- Time-Limit Demand Reform
- Limitations on Excessive Damages

## General Reforms

- Extend State Sovereign/Charitable Immunity Protections, and Tort Caps
- Noneconomic Damages Caps
- Exemptions to Reviver Statutes for Child-Serving Nonprofits
- TPLF – Prohibit/Limit Use; Require Disclosure
- Victim Compensation Funds/Mediation Programs



# A Possible Model for Moving Forward

- Texas law based on Senate Bill 1558 offers a potential model for consideration
- The entity is not vicariously liable if it engages in the enumerated risk mitigation efforts
- The entity is not liable for losses outside of its control or influence
- The entity is not shielded from gross negligence or if it is not in substantial compliance as defined in the law



# Conclusion

- The importance of the issue is shared by regulators and the industry
- Reform or at least modification of liability is essential to providing a better risk landscape
- A Texas law offers an example of modest and balanced reforms with a focus on risk mitigation