

Legal Malpractice Insurance for BIA Recognized Agencies With Only BIA Accredited Representatives

All programs, new and existing, large and small, rural and urban, need some form of insurance to protect against legal malpractice. *This guide focuses on helping Board of Immigration Appeals (BIA) recognized agencies that only have BIA accredited representatives identify insurance providers who cater to the needs of these agencies.* (Agencies with staff attorneys, who also supervise BIA accredited representatives, can get information on obtaining legal malpractice insurance from the American Bar Association (ABA) Professional Liability Insurance Directory: [http://www.abanet.org/legalservices/lpl/directory/.](http://www.abanet.org/legalservices/lpl/directory/))

Why get legal malpractice insurance? BIA accredited representatives do the same legal work as attorneys and are subject to the same liability. Malpractice insurance protects the agency from liability when the agency staff makes unintentional errors that harm a client. If your agency's BIA accredited representative misses a filing deadline, which results in your client being placed in removal proceedings, your agency will very likely be found to have committed legal malpractice. If, however, your client is deported because the judge after hearing all the evidence and arguments did not agree that she deserved relief from removal in a case, that is not necessarily legal malpractice. Due to the complexities and deadline-rich environment of immigration legal practice, there are plenty of opportunities to commit malpractice. Protect your organization. One lawsuit can bankrupt a program.

Required documents for a price quote vary from one provider to another; however, here is a list of common documents legal insurance providers may need to assess your application:

- History of past coverage and/or claims, if any
- A thorough explanation of offered services, your expertise, and description of your client base
- A breakdown of sources of revenue since the coverage fee is based on the income
- A sample retainer agreement (contract between clients and agency)
- A professional services organizational chart
- Biographies of all BIA representatives including accreditation date and planned renewal date
- The most recent current financials
- Printed materials about the agency and/or its legal immigration program
- Other documents as applied to individual providers

What if you do not have the documents in place? If your immigration program is new and not all the program policies are in place yet, you should still submit the application and try to work out a schedule with your insurance provider to submit the required documents. The insurance coverage applies retroactively to the date the application was submitted. Although the insurance application may look overwhelming and most are catered to lawyers, do not let this stop you from getting this very necessary and valuable protection for the program. The insurance providers mentioned at the end of this article are knowledgeable about the BIA recognition and accreditation process. In addition, most insurance providers are also willing to walk you through the insurance application process.

Cover Highlights and Cost

Each provider has a different policy in evaluating an application, but in general every application is individually reviewed. The coverage and cost depend on your agency's staff, claimed expertise, client base, amount of deductible, and source of revenues and fees. Since purchasing liability insurance individually is a lot more expensive than buying group insurance, you should also consider buying insurance coverage through a parent or national organization.

If your agency needs to buy coverage for a few BIA accredited representatives, negotiate for a discount or to pay the premium in installments. Here are some questions you should ask your insurance providers:

- What is the scope of coverage? Who can be insured under their legal insurance coverage (i.e. full- and part-time employees, contract lawyers, volunteer lawyers, paralegals, board members)? What claims are covered and not covered?
- What factors do they use to determine your rate? What is the highest available limit of liability? What is the range of deductibles? How does your deductible affect your premium?
- Can you pay in installments?

Insurance Providers

We did some research for you and have a list of insurance providers that offer coverage for BIA recognized agencies and their accredited staff. **This is not a comprehensive list nor is it an endorsement from CLINIC of any mentioned providers.** If you have the time to do your own research, locate a legal malpractice insurance provider through the ABA website and contact them directly. Be prepared to answer questions about the BIA recognition and accreditation process and to reference the [8 CFR Section 292.2](#) and the [Board of Immigration Appeals](#) website.

Arthur J. Gallagher Risk Management Services, Inc., www.ajg.com

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