

M&G|exposure

MESSAGE FROM THE CEO: M&G FROM A NEW ANGLE

Over the last few months, we have been working on a project that we are so excited to now share with you!

I've talked so much in the past about who we are at Morris & Garritano - the services we provide, the culture we nurture, and the commitment we have to our clients' satisfaction. And I could tell you so many more things, but I think it means so much more coming from the people that live our core values every day - our employees!

Together with 20|20 Creative Group, we have created two videos to showcase what it's like to work *with* Morris & Garritano and what it's like to work *for* Morris & Garritano. Both videos are available on our website, but I wanted to provide you a sneak peek right here!

I hope you enjoy learning more about our company and our family.

Blenda

Trust is Earned.



The M&G Culture



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SPECIAL POINTS OF INTEREST

- ACA Individual Mandate Repealed by Congress
- Upcoming Labor Laws Seminars
- California Minimum Wage Increase
- Navigating Auto Claims: The Total Loss Process
- Pay Your Bill Online!



ACA PENALTIES ON EMPLOYERS – GOOD NEWS/BAD NEWS

Contributed by: Keith Dunlop, Director of Compliance

In the December 2017 edition of M&G Exposure, we discussed how the Internal Revenue Service has begun active enforcement of penalties on large employers with the issuance of Letter 226J, Proposed Calculation of Employer Shared Responsibility Payment (ESRP). The IRS has recently informed the Treasury Department that they now have the systems in place to fully enforce the Obamacare employer mandate and the agency intends to collect at least \$38 billion in penalties through 2018. We have seen penalty notices with proposed fines in excess of \$100,000 on local employers with less than 100 full-time employees.

In the weeks since the first penalty assessment letters were issued in early November, we have benefited from seeing how the IRS is handling employer responses to the proposed penalties, and what actions are still to come.

Review of the Large Employer Mandate

Applicable Large Employers (those with 50 or more full-time and full-time equivalent employees in the prior calendar year) are required to offer medical coverage to their eligible full-time employees and their dependents that meets minimal essential coverage (MEC) and minimal value (MV) requirements. The offer of coverage must also be affordable – meaning the employee's share of the monthly premium does not exceed 9.69% (in 2017) of the employee's household income. Large employers that fail to offer affordable health coverage to at least 95% of their full-time employees face penalties under Sections 4980H(a) and (b).

The GOOD News on Penalty Assessment Letters

The majority of the penalty letters we have seen were generated due to inaccurate completion of Form 1094-C – this is the transmittal form that employers send to the IRS with their Forms 1095-C. Fortunately, the IRS seems to be receptive to employers correcting their inaccurate filings and quickly eliminating any penalty as a result. We have even heard of employers being able to obtain this result with a phone call to the IRS representative assigned to the case. We are encouraged that the IRS is taking a reasonable approach with employers who make good faith efforts to be in compliance with the law.

The BAD News on Penalty Assessment Letters

The initial round of penalty assessment letters issued by the IRS have focused on the penalties under Section 4980H(a) – failure to offer minimal essential coverage (MEC) to eligible full-time employees. This penalty is commonly referred to as the “A” penalty. Although employers have been successful in having the penalty removed with correction of their Form 1094-C, unfortunately it may not end there. We are being told that after resolution of the “A” penalty, the IRS is pivoting to the “B” penalty – this is the penalty for failure to offer affordable coverage. Therefore, an employer may think they have resolved a penalty issue only to face a secondary assessment.

Going Forward

Employers are encouraged to review the ESRP penalty letter process as detailed in last month's newsletter, and to remember that the ACA employer mandate remains in place and requires full compliance.

ACA INDIVIDUAL MANDATE REPEALED BY CONGRESS

Contributed by: Keith Dunlop, Director of Compliance

On December 22, 2017, President Donald Trump signed into law the tax reform bill, called the Tax Cuts and Jobs Act, after it passed both the U.S. Senate and the U.S. House of Representatives.

This tax reform bill makes significant changes to the federal tax code. The bill does not impact the majority of the Affordable Care Act (ACA) tax provisions. However, it does **reduce the ACA's individual shared responsibility (or individual mandate) penalty to zero, effective beginning in 2019.**

As a result, beginning in 2019, individuals will no longer be penalized for failing to obtain acceptable health insurance coverage.

The Affordable Care Act (ACA) regulations as they apply to large employers remain unchanged.

Review of the Individual Mandate

The ACA's individual mandate, which took effect in 2014, requires most individuals to obtain acceptable health insurance coverage for themselves and their family members or pay a penalty. The mandate is enforced each year on individual federal tax returns. Starting in 2015, individuals filing a tax return for the previous tax year indicate, by checking a box on their returns, which members of their family (including themselves) had health insurance coverage for the year (or qualified for an exemption from the individual mandate). Based on this information, the IRS then assesses a penalty for each nonexempt family member without coverage.

Effect of the Tax Bill on Individuals

Although the tax reform bill eliminates the ACA's individual mandate penalty, this repeal does not take effect until 2019. As a result, **individuals continue to be required to comply with the mandate (or pay a penalty) for 2017 and 2018.** A failure to obtain acceptable health insurance coverage for these years may still result in a penalty for the individual. Therefore, nonexempt individuals should continue to maintain acceptable health coverage in 2017 and 2018, and should indicate on their 2017 and 2018 tax returns whether they (and everyone in their family):

- Had health coverage for the year;
- Qualified for an exemption from the individual mandate; or
- Will pay an individual mandate penalty.

Effect of the Tax Bill on Employers

As it relates to the repeal of the ACA individual mandate and ACA compliance, **the tax bill has no effect on Applicable Large Employers (ALEs).** All other provisions of the ACA remain in place, and ALEs must continue to comply with the employer shared responsibility rules concerning offering health coverage to employees. In addition, the rules related to Section 6055 and Section 6056 informational reporting requirements are still in place. This means that large employers must continue to offer affordable health coverage to at least 95% of their full-time employees, submit Forms 1094-C and 1095-C to the IRS annually, and respond to proposed penalty assessment letters in a timely manner. For large employers, nothing about the ACA has changed.



SEXUAL HARASSMENT SUPERVISOR TRAINING WEBINAR

Contributed by: Louise Matheny, Human Resources Consultant

California State Law requires all supervisors in businesses with more than 50 employees be trained with regulation compliant training every 2 years. Requirements changed in 2016 invalidating older courses. YPP's training is compliant with the 2016 changes, and is conducted by an experienced HR professional with years of experience in employee training and managing employee harassment issues.

Wednesday, January 17, 2018

10:00am - 12:00pm

Webinar presented by [Your People's Professionals](#)

Presenters: Cindy McKellar and Sandra Dickerson

Registration: [Click here to register](#)

Fees: \$49 per supervisor—includes training certification



2018 OPTIONAL STANDARD MILEAGE RATES

Contributed by: Louise Matheny, Human Resources Consultant

The Internal Revenue Service (IRS) has issued the 2018 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, medical, or moving purposes. This year, the business rate increased one cent per mile.

Beginning January 1, 2018, the standard mileage rates for the use of a car (also vans, pickups, or panel trucks) will be:

- 54.5 cents for every mile of business travel driven.
- 18 cents per mile driven for medical or moving purposes.
- 14 cents per mile driven in service of charitable organizations.

The standard mileage rate for business is based on an annual study of the fixed and variable costs of operating an automobile, including: depreciation, insurance, repairs, tires, maintenance, gas, and oil. The rate for medical and moving purposes is based on the variable costs, such as gas and oil. The charitable rate is set by law.

Under California Labor Code section 2802, employers must fully reimburse employees for all expenses actually and necessarily incurred. Many employers typically choose to use the IRS mileage reimbursement rate, but its use is optional. Alternatively, an employee can calculate the actual costs of using their vehicle and submit for reimbursement.

The Division of Labor Standards Enforcement has stated that using the IRS mileage rate will generally satisfy an employer's obligation to reimburse for business-related vehicle expenses, absent evidence to the contrary. However, if an employee can show that the chosen mileage reimbursement rate, even the IRS rate, does not cover all actual expenses the employee has incurred, the employer must pay the difference.



CALIFORNIA MINIMUM WAGE INCREASE AS OF JANUARY 1, 2018

Contributed by: Louise Matheny, Human Resources Consultant

California's minimum wage is going up again! On January 1, 2018, the state's minimum wage increased for all sizes of businesses, including "small employers" for whom this is the first wage hike in recent years.

Previously, on January 1, 2016, the minimum wage for all industries increased to \$10 per hour. Now, pursuant to SB 3, the minimum wage for all industries will be increased to \$15 per hour by January 1, 2022 for businesses employing 26 or more employees and by January 1, 2023 for businesses employing 25 or fewer employees (referred to as "small employers").

The following shows the scheduled minimum wage increases for any business that employs 26 or more employees:

- On January 1, 2018 to \$11 per hour
- On January 1, 2019 to \$12 per hour
- On January 1, 2020 to \$13 per hour
- On January 1, 2021 to \$14 per hour
- On January 1, 2022 to \$15 per hour

The following shows the scheduled minimum wage increases for any business that employs 25 or fewer employees:

- On January 1, 2018 to \$10.50 per hour
- On January 1, 2019 to \$11 per hour
- On January 1, 2020 to \$12 per hour
- On January 1, 2021 to \$13 per hour
- On January 1, 2022 to \$14 per hour
- On January 1, 2023 to \$15 per hour



Once the minimum wage reaches \$15 per hour for all businesses, wages could then be increased each year up to 3.5 percent (rounded to the nearest 10 cents) for inflation as measured by the national Consumer Price Index.

In addition, California employers should be mindful of the effect of future state minimum wage increases on exempt employees' compensation. For employees to qualify as "exempt" under any of the six exemptions in California, they must meet the salary-basis test, which is two times the monthly minimum wage, as well as the duties test that is not impacted by the wage hike. For employers with 26 or more employees, the state minimum wage increase on January 1, 2018 raised the minimum monthly salary for exempt employees to \$45,760 per year. For employers with 25 or fewer employees, the exemption threshold is \$43,680.

Due to the enactment of SB 3, in just a few short years there will be an increase of over \$15,000 in wages per exempt employee. Additionally, businesses will see their workers' compensation premiums go up, as well as increased costs for uniform/tool reimbursements, and overtime.

Please contact Louise Matheny, our Human Resources Consultant, with questions pertaining to these articles or any other HR inquiries.

UPCOMING LABOR LAWS SEMINARS

Contributed by: Louise Matheny, Human Resources Consultant

Littler Breakfast Briefing Series



Thursday, January 25, 2018
8:30am - 11:30am (registration opens at 7:30am)
The Santa Maria Inn
801 South Broadway, Santa Maria, CA 93454

Presenters: Gary Bethel, Littler Mendelson

Registration: [Littler Event Registration](#)

Fees: \$115

San Luis Obispo County EAC



Friday, February 2, 2018
8:30am - 12:00pm (registration opens at 8:00am)
Paso Robles Inn Ballroom
1103 Spring Street, Paso Robles, CA 93446

Presenters: Paul Wilcox & Rafael Gonzalez, Mullen & Henzell

Registration: Please fill out [this form](#) and send to Louise Matheny at lmatheny@morrisgarritano.com or print and mail to:
Morris & Garritano Attn: Louise Matheny PO Drawer 1189 San Luis Obispo, CA 93406

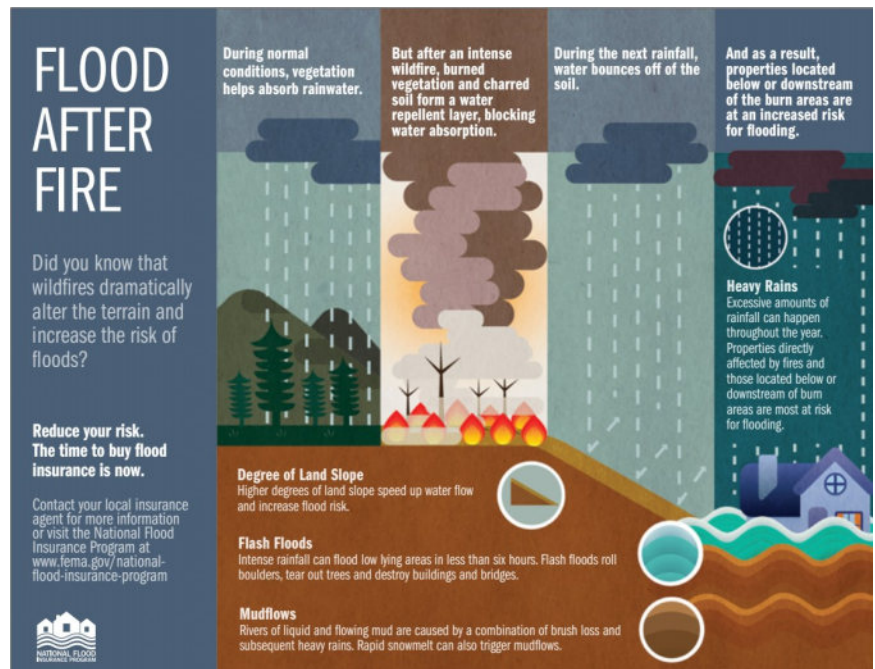
Fees: \$35

FLOODING AFTER WILDFIRES

Contributed by: Marie Bloomstine, Personal Lines Department Manager

There's no doubt that the damage from the Thomas fire and others in our area was catastrophic. Now, less than one month later, residents in Santa Barbara and Ventura counties are having to deal with the aftermath brought on by the rain and flash floods earlier this week. Burn areas are at a higher risk for flooding due to the altered landscape. Wildfires leave the ground charred, barren, and unable to absorb water, creating conditions ripe for flash flooding and mudflow.

Unfortunately, the flood risk for burn areas remains significantly higher until vegetation is restored—up to 5 years after a wildfire. So, while the cleanup begins, it's also important to prepare for any future storms. The best thing you can do if you are concerned about your home is to be proactive; gather supplies, strengthen your home against damage, and review your insurance coverages to ensure you have a flood insurance policy. If you do not currently have flood insurance, we can help with that. It may be a small added cost that could save you thousands of dollars in damages. Please feel free to call our office with any questions.



Source: National Flood Insurance Program

TBD: AHPs & THE ACA

Contributed by: Dave Morgan, Senior Employee Benefits Advisor

Association Health Plans (AHPs) pre-date the Affordable Care Act (ACA) and while they have a limited California presence, their potential for expansion jumpstarted on January 4th. The Department of Labor released proposed rules that may lead to the growth of AHP's, probably beginning in 2019. These proposed rules are open for comment until March 6th and may change. Since this has potential to influence the current small group and individual health insurance markets, it's worthwhile to have context for the rules and understand their key components.

In California, the main examples of AHPs are Multiple Employer Welfare Arrangements (MEWAs). Our current limited number of MEWAs have functioned over the years. However, some AHPs have a "checkered history," according to a January 4th Kaiser Health News article by Julie Appleby. "A number have had solvency problems that left consumers on the hook for unpaid medical bills, while others have been fined for misleading advertising or failing to pay benefits."

Hence, when evaluating these opportunities, brokers and employers have a lot of due diligence ahead of them. Within the proposed rules, the association plans will form in two types:

1. By industry, with up to a nationwide scope, either an existing association or one newly formed to host a health plan, or;
2. By geographical region, which under some circumstances could be multi-state as well.

What gives these plans potential for savings also gives them potential for hardship. Depending on their type of funding (self-funded or fully insured) and depending on their geographical scope (up to nationwide), there may be flexibility on where the plan is based geographically. This influences the nature of the oversight and in some cases, benefit mandates. For instance, since California's Departments of Insurance and Managed Care are rigorous in their scrutiny of insurance carriers and plans, and our legislature is enthusiastic about mandated benefits, an association might choose a different, more lenient state to domicile their plan. This may save money, yet it may also increase potential for a risky future.

The proposed rules give plans more flexibility in a menu of benefits, freeing them from coverage of all ten ACA "essential benefits." These include but are not limited to pharmacy, hospitalization, emergency services, and maternity. Not covering brand name drugs, for instance, would certainly save premium dollars, but may be less than ideal for someone who needs them. That dynamic gets to the crux of some of the early controversy. Assuming groups have favored the limited benefits for premium savings, they are considering themselves (sole proprietors potentially eligible) or their employees to be healthy enough not to mind the limitations. These healthy business owners and groups, probably younger than older in demographics, exiting the small group and individual markets in their states could make rates rise for those who depend on the markets.

We look to the positive. From the Society for Human Resource Management (SHRM) article by Stephen Miller,

"the proposed regulation seeks 'to liberalize the rules to build large insurance pools of small employers,' said Perry Braun, executive director at Benefits Advisors Network (BAN), a Cleveland-based consortium of health and welfare benefit brokers. 'Spreading the risk across large numbers of participants in an insurance pool is thought to bring insurance premium stability.'"

Morris & Garritano is a BAN partner, and we will be collaborating with very cautious optimism on these emerging opportunities for our clients.



Navigating Auto Claims

A series by Heather Ross, Claims Advocate



THE TOTAL LOSS PROCESS

Last month, we talked about the repair process following an accident. Unfortunately, not all vehicles can be successfully repaired after an accident, and even if repairs are possible, they're not always cost-effective. Here's what you can expect in the event your vehicle is determined to be a total loss.

After your vehicle is inspected, the appraiser will create a detailed estimate for the repair, and send it to the company adjuster for review. If the vehicle can't be repaired safely, or if it looks like the repair costs for the vehicle might be close to, or even exceed, its actual cash value (ACV), the adjuster will typically assign the loss to a total loss adjuster to work up a detailed vehicle valuation report.

The vehicle valuation process is somewhat like that used in the real estate industry: the adjuster looks for vehicles for sale in the area that are similar to the total loss vehicle – here, these are also called “comps” – and then utilizes a computer software program to make adjustments. Elements such as age, model, condition, and mileage are factored into the calculation, which is usually done entirely by computer. This keeps claims payments consistent and objective.

Once the valuation report is complete, many companies will send you a copy of the report, along with their settlement offer. The settlement offer includes the actual cash value of the vehicle, as determined in the valuation report, plus any applicable fees and taxes. Often, you're given two options: one in which you sign the vehicle over to the company in return for a larger settlement, and one in which you're offered a lower amount, but you're able to keep the vehicle, otherwise known as the “salvage.”

When you receive the settlement offer, you'll want to review it carefully to be sure that all the options and features for your vehicle have been considered. Also, if you disagree with the vehicles that have been selected as “comps,” be prepared to provide documentation to demonstrate that there are better examples of comparable vehicles available in your area.

After the settlement offer is accepted, you'll need to complete some paperwork to finalize the claim and to receive payment for the vehicle. If the vehicle has a lienholder, that lender or finance company will typically receive payment first, and then you will be issued payment for any remaining balance.

In the event of a vehicle theft, the settlement process is largely the same as described above, except that, of course, there's no option to keep the salvage. We'll talk more about vehicle theft claims in the February issue of M&G Exposure.

POLICY BREAKDOWN: DIRECTORS & OFFICERS INSURANCE

Contributed by: Justin Maire, Commercial Lines Risk Advisor

Across all industries, there are a large number of businesses who do not currently carry Directors & Officers insurance. While not always necessary, I've found that many businesses either aren't aware of the coverage or aren't familiar enough to determine if it is something they should carry - or even look into.

Directors & Officers (D&O) coverage is a specialized type of liability insurance that protects the directors and officers of a business against charges of negligence in their performance or management of the company. As representatives of a company, directors and officers can be held personally liable for their "individual capacity" as leaders of that organization. D&O claims can be filed by anyone who believes the company's directors or officers have wronged them - investors, shareholders, customers, clients, government regulators, creditors, or competitors. Typically, the larger the company the more susceptible it is to D&O claims.

Lawsuits, even those without merit, can directly impact a director's or officer's personal finances and professional standing. While standard General Liability insurance usually protects them against their liability for bodily injury, property damage, and personal injury; it often excludes coverage for the financial consequences for alleged wrongdoings typically covered by D&O insurance.

The most common reasons for a D&O claim include:

- Errors in judgement
- Improper management of company finances
- Negligence of duties or failure to deliver services
- Wrongful interference with a contract
- Self-dealing and conflicts of interest
- Failure to comply with workplace laws
- Theft of intellectual property

Many times, the cost to defend a D&O claim can be a substantial expense to the company and/or its board members individually, even if the claim is unwarranted. A D&O policy can help mitigate the damage to both the company and its accused employee(s).

To inquire further about Directors & Officers insurance please feel welcome to contact us.



HIDDEN DANGERS IN AN OFFICE ENVIRONMENT

Contributed by: Michael Schedler, Loss Control Consultant

Rarely do we consider a desk job in a climate-controlled office to be the scene of safety and health hazards, but a surprising number of injuries can occur in this environment. Below are some of the most common injuries and steps you can take to prevent them.



FALLS

- Remove boxes, files, and various items from walkways
- Use a proper stepladder to reach heights - not a chair or desk
- Place carpets at entranceways to prevent slipping on wet flooring



STRUCK BY

- Close drawers to file cabinets and desks
- Do not over-stack items and make sure to store heavy objects close to the floor



ERGONOMICS

- Provide adjustable equipment and training on proper use
- Provide document holders
- Ensure workstations have correct mouse placement



VISION PROBLEMS

- Dim overhead lights and use task lamps if needed
- Correctly position monitors (slightly below eye level and 20-26 inches from eyes)
- Minimize screen glare
- Increase font size if necessary



FIRE SAFETY

- Maintain cords in good repair and never overload an outlet
- Verify that space heaters are approved for commercial use and will automatically shut off if tipped over
- Never block fire sprinklers, escape routes, or prop open fire doors



ADMINISTRATIVE CONTROLS

- Conduct walk-throughs to examine the building and workstations
- Educate employees on the symptoms associated with ergonomic injuries
- Consider creating an anonymous reporting process where employees can voice their safety concerns

REPORTING AN EMPLOYEE'S STROKE OR HEART ATTACK

Contributed by: Mary Jean Collins, Workers' Compensation Claims Analyst

Reporting to Cal/OSHA

In the unfortunate event of an employee experiencing a stroke or heart attack while on the job, you **MUST** report it to Cal/OSHA.

"Reporting of a stroke or heart attack on the job must be reported to Cal/OSHA, under section 342 (a) Title 8, California Code of Regulations: Serious injury or death: A report must be made immediately by telephone (within 8 hours) to a district office. A serious injury is defined as one that requires inpatient hospitalization for more than 24 hours of care other than medical observation or as one in which an employee suffers a loss of a member of the body or serious disfigurement."

The employer needs to meet the reporting requirement regardless of whether they know if the condition is industrial vs non-industrial.

Reporting to the WC Carrier

The need to report an employee's stroke or heart attack to your WC carrier can vary by company. We have researched several WC carriers' position regarding reporting vs non reporting and found that most carriers do want a claim filed. If it is determined that the employee's stroke or heart attack was not considered work related, they will issue an automatic denial. The carrier only has 90 days right of discovery to investigate any injury allegation.

We recommend you contact your WC carrier to determine if they would like an official claim filed - just to be prepared.



PAY YOUR BILL ONLINE!

We are pleased to now offer you the ability to pay your Morris & Garritano invoices online! You can access the payment site in one of three ways:

Type in the Address	Follow the Link	Visit Our Website
Type the payment site address into your browser https://morrisgarritano.epaypolicy.com	Click the link on your PDF invoice	Go to www.morrisgarritano.com and click on 

Once you are on the site, simply fill in the required information and click Send. That's it! Your payment will be sent to our office and a receipt will be emailed to you.

If you have any questions, please contact your Account Manager for assistance.

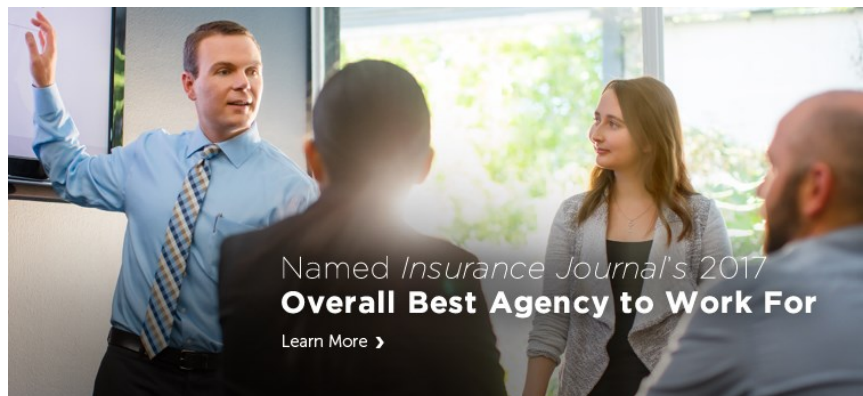
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MORRIS & GARRITANO INSURANCE

With a tradition of excellence in insurance services since 1885, we offer all lines of business and personal coverage with a staff of over 120 professionals.

Our monthly newsletter is where you can find informative articles relating to the Commercial Lines and Employee Benefits industries.

For day-to-day updates and more information about our community and our company, follow us on Facebook, Twitter, Instagram, or LinkedIn. Visit our website, or check us out on Yelp!

Please contact us for more information or questions on anything mentioned in this newsletter.

