

SECTION

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The Record
BUSINESS

TUESDAY, AUGUST 14, 2007

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B-8 THE RECORD

BUSINESS

ASK A LAWYER

Assessing need for disability insurance

Q. As a business owner, do I need disability insurance?

Of the many different types of insurance business owners must evaluate, disability insurance is important but possibly the least understood.

What is disability insurance? Disability insurance covers the risk that a person will be unable to perform his or her job function, either temporarily or permanently. The disability can be due to a physical or mental condition.

The two most important choices an applicant has to make when considering a disability policy are the "benefit period" and the "waiting period." The benefit period is the length of time the benefit will be paid, such as two-year, five-year, or to age 65. Coverage to age 65 is the most common choice.

The waiting period, also known as the "elimination period," is the period of time at the beginning of a disability during which a person will not receive benefits. Choices include 30-, 60-, 90-, 180-, 365-

and 720-day waiting periods. The most common is 90 days.

An applicant for disability coverage has to complete a detailed medical history, including chiropractor visits, arthritis, mental counseling and other conditions.

Cost and benefit. Disability insurance costs, on average, about 1 percent to 3 percent of annual income and covers 50 percent to 60 percent of the person's annual salary. The actual cost will be determined by the company underwriting the policy and depends on the applicant's age and health.

Do I need it? Business owners who have partners or key employees need to analyze what would

happen if their partner or key employee became disabled. There are several factors to consider, including the risk of harm to the business if the person cannot work, the cash flow of the business (to support salary payments if a person is not working), the financial condition of the partners, and the parties' personal opinions about the value of insurance.

Usually, the decision about disability insurance takes place in the context of a buy-sell agreement between business partners, which addresses the death, disability or withdrawal of a business partner. A lawyer typically will write the buy-sell agreement and provide

guidance when purchasing a disability policy.

Steve Saraisky is an attorney in the tax, trusts and estates department at Cole, Schotz, Meisel, Forman & Leonard, P.A., the largest law firm in Bergen County. He can be reached at ssaraisky@coleschotz.com. This is not intended to be legal advice, which can only be given after the attorney understands the facts of a particular matter and the goals of a client. The author thanks Martin Lebson for his assistance with this article.

Do you have a business question for a lawyer? Send it to BusinessNews@northjersey.com.