

Directors and Officers Insurance

Acting as a director and/or officer of a non-profit society carries with it certain responsibilities. Here are some key points to consider when purchasing insurance to protect the society and its directors and officers.¹

Why Have Directors and Officers Liability Insurance?

It is advisable for the non-profit society to have appropriate liability insurance for the business aspects of the society that will protect directors and officers financially.

What Coverage Is Required?

Directors and officers of a non-profit society are required by law to:

- Act diligently and with due care.
- Avoid conflicts of interest and activities that benefit them personally at the expense of the society.
- Comply with the federal and provincial laws (both personally and corporately) that regulate management and corporate conduct.

If directors and officers fail to act properly, they may be liable to members, employees, the general public, creditors, government regulators, and other third parties.

A society may not be able to protect a director or officer if:

- Indemnification by the society is not legally permissible.
- The society is insolvent or financially distressed.

What Does Directors and Officers Insurance Cover?

The policy provides coverage for errors and omissions in a broad range of management decisions that could conceivably result in a lawsuit against directors and officers. This includes coverage for defence costs, settlements, and judgments on account of claims by members, employees, creditors, the general public, creditors, regulators, governments, and other third parties for a broad range of allocations, such as:

- Unpaid wages, vacation, and taxes.
- Negligent misrepresentation.
- Breach of fiduciary duty/mismanagement (excluding pension plans).
- Negligence.
- Antitrust.
- Consumer protection violations.

¹ "Insured" includes the insured organization as well as past, present, and future directors, officers, trustees, members of board of managers, in-house general counsel, executive director, risk manager, human resources manager, employees (and contract employees), volunteers, and committee members.

- Wrongful interference with a contract.
- Copyright, trademark, and patent infringements.

Exclusions include:

- Claims that occurred before the policy was effective.
- Dishonest acts.
- Claims made by one director against another.²
- Claims alleging bodily injury.
- Property damage.
- Mental anguish.
- Emotional distress.

Coverage responds to many types of claims, not just lawsuits; for example:

- A written demand for money damages.
- A civil lawsuit.
- A criminal proceeding.
- A formal administrative or regulatory proceeding.

This coverage also can be extended to independent contractors employed by the society. In this case, some additional information will be requested to determine eligibility, including:

- Whether the independent contractor provides similar services to other organizations, and if so, how many.
- Whether the independent contractor retains their own independent consultant insurance coverage.
- What authority the independent contractor has over the decisions of the society, including any financial authority.
- What the term of the contract is.

Ultimately the Directors and Officers of the Society are the ones responsible for its management, control and supervision so they would be held liable for any mismanagement, either caused by themselves or by the independent contractor hired by them to work for the society.

How Much Insurance Is Enough?

The limit of liability should be at least \$1 million and equivalent to the assets or annual revenues operating budget of the society or the annual funding budget. However, the suggested liability limit for physician societies is \$3 million.

How Much Are the Annual Premiums?

Westland Affinity Group Insurance Services has partnered with Doctors of BC to provide an insurance package to the Physician Societies incorporated under the Facility Engagement Initiative and will be the insurance broker. The underwriter for this insurance package is Travellers Insurance Group.

The following premiums are based on annual budgets up to and including \$1 million:³

² Some coverage may be available for past directors taking action against current directors.

| Liability Limit | Annual Premium |
|------------------------|-----------------------|
| \$1 million | \$600 |
| \$2 million | \$900 |
| \$3 million | \$1200 |

How Does the Physician Society Procure Directors and Officers Insurance?

When the Physician Society receives its certificate of incorporation, it can complete the [liability insurance application form](#) and submit it to affinitygroup@westlandinsurance.ca at Westland Affinity Group Insurance Services. The Physician Society should receive notice of coverage within 2 business days of submission.

Further Information

For further information, please contact affinitygroup@westlandinsurance.ca

³ Annual budgets over \$1 million are still eligible for coverage, but the application will require additional review prior to pricing. This information was checked with Westland Affinity Group Insurance Services as of September 1, 2017.