

## INSURANCE NEEDS FOR NON-PROFITS

This contains a brief summary of insurance that non-profits should consider as part of their insurance portfolio. This is just a high-level description and each organization should have an agent that understand their industry put together a comprehensive insurance program.

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*According to a survey by Willis Towers Watson<sup>1</sup>, during a 10-year period, 63 % of nonprofits in the US have reported a D&O claim. This number is expected to grow as nonprofit board seats continue to grow.*

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### **Directors and Officers**

Typically covers wrongful acts by directors and officers of an entity within their capacity to make decisions regarding the entity's activities. A wrongful act can be defined to be something like "any error, misstatement, misleading statement, act, omission, neglect, breach of duty committed, attempted, or allegedly committed or attempted, by and insured person." There are multiple parts to this policy, typically referred to as "sides." There are 3 sides. Side A covers the individual directors and officers from claims as a result of their wrongful acts that cannot or are not paid by the entity. Ex. If there is a bankruptcy. It protects the individuals from having to pay personally. Side B covers claims the insured entity incurs on behalf of its directors and officers for their wrongful acts. Coverage C is coverage for the entity itself.

There are some provisions to look for in your policy that should be included: look for lifetime occurrence reporting, consent to settle/hammer clause, severability, whether the defense costs are included in the policy limits or outside of the limits, abuse and molestation (for exposure to kids).

## Employment Disputes<sup>1</sup>

Employment disputes comprise of nearly 85 percent of claims against non-profits.

Many carriers provide risk control programs to help avoid these claims.

### **Commercial General Liability**

Protects against third party claims (i.e. - everyone else) of bodily injury or property damage and personal and advertising injury liability. Legal defense is provided, even if the accusation is groundless.

### **Employment Practices Liability**

Coverage against claims of discrimination, including, but not limited to, race, age, religion, sexual orientation. Retaliation claims are 53.8% of the charges filed with the EEOC (FY 2019), and coverage is provided for allegations of wrongful dismissal, failure, or refusal to employ or promote.

### **Professional Liability**

Also known as Errors & Omissions insurance, if you provide a professional service and could make a mistake, misstate a fact, be misunderstood, miss a critical piece of information, you may be subject to claims. This is not just for those with professional licenses (attorneys, Realtors, medical professionals).

### **Crime**

You trust your employees but sometimes people are dishonest. This covers you against employee theft. It can include dishonesty, lost or stolen money/securities, forgery, theft or robbery of property and computer and wire transfer fraud. These claims continue to rise, with median losses exceeding \$100,000 per claim<sup>2</sup>.

Other coverages to consider: workers' compensation, commercial auto, property coverage, products liability, cyber liability.

## CLAIM EXAMPLES

- ▶ **Property:** A fire breaks out as a result of cooking in the common kitchen area of a Battered Women's Shelter which results in extensive smoke and heat damage to both building and contents and forces the Shelter's administration to seek an alternative facility for a period of one month. The organization suffers a loss of \$75,000 as a result of property damage and extra expenses.
- ▶ **General Liability:** A parent and a child are selecting a new family pet at an Animal Shelter. While petting the animal in a room reserved for this purpose, the dog lunges for the child and bites her on the hand. The child receives ten stitches. The parents of the child file a lawsuit for pain & suffering as well as emotional trauma.
- ▶ **Professional Liability:** A Registered Nurse administers a pain relieving intravenous drug to a Hospice patient. There is an allergic reaction causing the patient to break out into a painful rash. The patient's family is upset and sues for pain & suffering.
- ▶ **Hired / Non Owned Auto:** Holly is a Caregiver working for a Non Profit Religious Outreach organization that provides Home Companionship to Senior Citizens. While Holly is driving a client for a visit to the Doctor's office she fails to yield at a Stop Sign and strikes another vehicle. The client sustains a severe bodily injury and sues Holly's Personal Auto policy. It turns out that the claims amount will ultimately exceed Holly's Personal Auto limits and a secondary claim is made against the Hired / Non-Owned policy of the Non Profit Religious Outreach organization.
- ▶ **Products Liability:** A thrift store sells a rocking chair to a buyer. While at home, the buyer sits in the chair and it breaks causing bodily injury to the buyer. He sues the thrift store for special damages as well as pain & suffering.
- ▶ **Abuse & Molestation:** An adult who is volunteering for a Youth Organization receives parental consent to take a child that he is mentoring on an overnight camping trip. During the trip, the child is sexually molested by the adult. The child's family sues the organization's Abuse & Molestation coverage for bodily injury and mental duress.
- ▶ **Employment Practices:** A volunteer nurse at a Non Profit Healthcare clinic receives numerous sexual advances from a Doctor who is also a volunteer. The Nurse sues the clinic's Employment Practices policy for sexual harassment.
- ▶ **Non Profit Directors & Officers:** A donor made a large contribution to a local Community Center requesting that the money be used to enhance the building's facilities for the children that belong to the Club. The board instead votes to use the money to buy a new car for the Community Center Director. The donor files suit alleging misappropriation of funds.