

Coverage Corner

One of the reasons the Rhinebeck area is such a great place to live is that so many of us give our time to local organizations as volunteers. Many of us volunteer on the board level of these organizations. This is a great thing, but it does open us up to a wide range of exposures. The best way to protect ourselves is to be sure that the boards that we serve on provide Directors and Officers Liability coverage.

D&O liability is coverage for the Board of Directors that is based on their conduct or the conduct of an employee/member that the board is deemed to be responsible for. D&O is an extremely complicated form of insurance and the policies vary greatly from carrier to carrier. Therefore, I will give you very broad ideas about what is covered.

D&O covers:

- EPLI – Hiring, Firing, sexual harassment, workplace discrimination
- Fiduciary Liability
 - Care – Act reasonably with the best interest of the organization in mind
 - Loyalty – may not use the position to further your own cause
 - Obedience – must run the business in accordance with the by-laws and the mission as well as state and federal laws.
- Defamation, Libel and Slander
- Non employment based discrimination
 - Denial of service

The single largest area of litigation from a D&O standpoint is Sexual Harassment and workplace discrimination. Some of you may think your organization does not have any employees so you are free and clear. The courts have liberalized the definition of employee to include members of an organization. For example, a member of your organization has too much to drink and decides to grope the waitress. This could very well bring a lawsuit against the board. Without D&O coverage each board member is on their own for defense and any settlement arranged by the court.

There is also a common misconception that a board members personal liability will cover them if this was to happen. It may cover you in some very limited circumstances for certain types of suits, please refer to you homeowner policy for this. What I can tell you is that the NY Homeowner policy has no coverage for workplace discrimination or sexual harassment.

My advice to you all is very simple. At your next board meeting ask if you have D&O and if not, begin the discussion about getting it. It is not an inexpensive insurance but it is truly invaluable.

Thank you for reading and participating and remember “don’t be cornered by your coverage.”

This column is strictly for general insurance information please consult your local agent for the specifics of your insurance program.

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