

Frequently Asked Questions

Errors and Omissions Insurance Coverage

Errors and Omissions Liability (E&O) protects the healthcare organization's board, committees, etc. against claims that may arise out of their wrongful acts. This insurance, a broader form of Director's and Officer's coverage, is provided as part of HIROC's Composite Healthcare Insurance Policy. The details of this coverage can be found in Coverage F – Errors and Omissions Liability section of HIROC's Composite Healthcare Insurance Policy booklet.

Various provisions in the policy contain restrictions. We advise that you read the policy wording carefully to determine your rights, duties and what is and is not covered.

This document contains a brief description of the coverage. In the event of a claim, the insurance policy and its terms and conditions will apply.

Q Who is covered?

A Coverage F defines "Insured" as Named Insureds, trustees, officers, directors, members of boards and committees, officers and board members of volunteer and auxiliary associations, and employees who are acting within the scope of their duties.

Q What is the obligation of an Insured under the Errors and Omissions coverage?

A An Insured is obligated to apply diligence, obedience, honesty and loyalty in the performance of his or her duties. Each Insured is expected to act in good faith and in the best interest of the organization within the scope of their duties.

Q Why does an Insured need Errors and Omissions coverage?

A The Errors and Omissions coverage protects an Insured against a wrongful act allegation. The Insured may be held personally liable for a wrongful act and this can result in a costly claim or litigation.

Every organization wants its directors, board members, officers, etc. to be able to make decisions without worrying about personal liability. Errors and Omissions Insurance helps support good governance through appropriate risk management.

FAQ

Errors and Omissions Insurance Coverage

Q What is covered under the Errors and Omissions section of the policy?

A The policy covers losses, including damages, settlements and defence costs*, for wrongful acts when the Insureds are acting within the scope of their duties. The policy defines wrongful act as:

“any actual or alleged error or misstatement or misleading statement or act or omission or neglect or breach of duty by the Insured in the discharge of their duties, individually or collectively, or liability imposed by statute upon the Insured (except as excluded by this INSURING AGREEMENT), or any matter claimed against them solely by reason of their being or having been Insured during the POLICY PERIOD.”

Q What is the limit of liability?

A For the specific limit of liability, please refer to your organization’s Certificate of Insurance.

The limit of liability for Errors & Omissions Liability is the same limit purchased for other liability insurance covers. The limit is on a per occurrence basis without an annual aggregate.

Q Are legal and investigative costs* included in the limit of liability?

A The HIROC liability policy provides unlimited defence cost* coverage over and above the policy limit. The cost is paid directly by HIROC.

Q What is the deductible?

A Unless otherwise shown on the Certificate of Insurance, there is no deductible applicable to Coverage F – Errors and Omissions Liability.

Q On what grounds may lawsuits be based?

A The Insureds are vulnerable to lawsuits on any number of grounds. These are just a few possibilities:

- Irregular attendance at Board meetings
- Mismanagement of funds
- Conflicts of interest
- Unwarranted salaries
- Misrepresentation
- Misstatement of financial condition
- Misleading statements
- Discriminatory practices
- Self-dealing, and
- Actions beyond granted authority.

Not all causes for action are insurable, for example, fraudulent, criminal or malicious acts as well as fines and penalties are not insurable under the liability policy.

FAQ

Errors and Omissions Insurance Coverage

Q Is the board covered for mismanagement of employee benefits?

- A Yes. The policy includes Employee Benefits Liability, which protects the Insured – and the board by extension – against liability arising from the mismanagement of employee benefits. The policy refers to Employee Benefits as:
- Group Life Insurance
 - Group Accident or Health Insurance
 - Profit Sharing Plans
 - Pensions Plans
 - Employee Stock Subscription Plans
 - Workers' Compensation
 - Unemployment Insurance
 - Social Security, and
 - Disability Benefits.

Q Does the Errors and Omissions section cover expenses when a board member appears at tribunals, inquests, and hearings?

- A No, the policy does not cover this cost.

Q Many boards are sued for wrongful dismissal. Is the board covered for such an allegation?

- A Yes, the policy provides coverage for defence costs* under the Contingent Employer's liability section of the policy.

Q Is the board covered if sued for failure or refusal to appoint someone for membership on the medical staff or deny or suspend privileges to medical staff or personnel?

- A Yes, Coverage A – Bodily Injury (item f) is extended to include failure or refusal to appoint an applicant for membership on the medical staff, as well as suspension or revocation of privileges.

Q What is the time limit for past board members being covered in future claims?

- A The policy has an extensive Retroactive Coverage provision. Coverage goes back to January 1, 1986, even for those members of the board who are currently no longer part of your organization. Coverage is for allegations of a wrongful act:
- when they were members of the board
 - when they were acting within the scope of their duties, and
 - only if the organization is still a HIROC subscriber.

FAQ

Errors and Omissions Insurance Coverage

Q What is excluded from the Errors and Omissions section?

A

- Any dishonest, fraudulent, criminal or malicious acts committed by any Insured (this exclusion does not apply to any Insured not having knowledge of or being party to such act);
- Any damages, direct or consequential, arising from bodily injury, sickness, disease or death of any person, or for damage to or destruction of any property including subsequent loss of use thereof;
- Employee collective bargaining but this exclusion does not apply to a subsequent unintentional error or omission by the Insured in failing to implement the terms of any collective bargaining agreement;
- Any fines imposed by law or matters subject to ruling of Provincial or Federal Government Authorities, or such matters which shall be deemed uninsurable by law;
- Any liability assumed by the Insured under any contract or agreement;
- Any liability paid elsewhere in the policy.

Q Is membership in another non-profit board covered?

A

The Errors and Omissions Liability section has been extended to include membership on the board of another non-profit entity, when membership has been requested by the Named Insured. Coverage is in excess of any coverage or indemnification provided by that outside board, and it does not include the outside board or any other members.

Glossary

Limit of Liability:

The maximum amount of coverage that the Insured has for any one occurrence.

Retroactive Coverage:

Coverage that is available for new claims that are being reported for the first time to HIROC that might have occurred prior to an Insured's joining HIROC. The retroactive clause will cover incidents that occurred on or after January 1, 1986 where the Insured had no previous insurance or where limits at the time of the incident were insufficient. This coverage is available to the full limit purchased from HIROC.

*Defence Cost Exception: Those Subscribers participating in HIROC's "Indemnity Only" pilot project will be financially responsible for all legal and investigation costs required to handle an Insured claim on their behalf. In such cases, if separate representation for individual Board/Committee members is required, HIROC will assume the legal and investigation costs for the members only.