

Healthcare Foundations – Insurance Protection

OVERVIEW OF ISSUE

The foundation is the fundraising arm of the healthcare organization. Its Board has fiduciary responsibility over the operations of the Foundation, including protecting its assets from unnecessary risk and ensuring that there are no excessive administrative costs. In addition to meeting fundraising targets and increased demand for transparency in process, foundations must navigate and comply with increasingly complex federal and provincial legislation. Lack of compliance puts Foundations at risk for allegations of breach of trust, loss of charitable or corporate status, and legal action by donors.

Refer to related Risk Notes for further recommendations:

- [Waivers](#)
- [Errors and Omissions/Directors' and Officers' Liability Insurance Policy](#)
- [Special Events](#)
- [Contracts – Insurance Clauses](#)

KEY POINTS

- “Associated or affiliated foundations” are both Named Insured’s under the policy. Meaning, both healthcare organization and its Foundation - working exclusively on its behalf - are subject to the same terms and conditions of the policy which includes additional insuring agreements, special provisions, exclusions and limitations.

THINGS TO CONSIDER

Definitions and Coverage Distinction

- **Named Insured** - the person/entity contracting with the Insurer. This party enjoys the benefits of the policy and has the duties and obligations set forth in the contract.
- **Additional Insured** – person/entity not automatically covered as an insured under an insurance policy that is added as an insured at the request of the insured person/entity.
 - As a rule, additional insureds are insured only in relation to a specific event, services, agreements or contracts related to the insured’s operations.
 - Further, the Additional Insured does not necessarily have the same benefits, obligations and duties as the Named Insured.
 - Paragraph 1 of the Special Provisions section of the HIROC Liability and Crime policy establishes the criteria for and describes who may qualify as an Additional Insured or contact inquiries@hiroc.com

Insurance Protection for Foundations – Interpreting the HIROC Policy

- The Declarations section of the HIROC Liability and Crime policy states that the Subscriber (i.e. the insured healthcare organization) and their “associated or affiliated foundations” are both Named Insured’s under the policy. Meaning, both the healthcare organization and its Foundation - working exclusively on its behalf - are subject to the same terms and conditions of the policy which includes additional insuring agreements, special provisions, exclusions and limitations.
- This coverage (including but not limited to Errors and Omissions/Directors and Officers liability coverage) also extends to the Foundation’s Board of Directors, special committees, employees and volunteers.
- Additional insurance coverage over and above what is written in the HIROC policy is not required.

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- Further, written confirmation of this coverage is not required to protect the Foundation.
 - Note: Foundations should confirm with the healthcare organization to ascertain that the Foundation's assets are adequately and appropriately insured.
 - As a general rule, a Foundation's fundraising efforts are automatically covered by the HIROC liability policy. However, there may be special events/fundraising activities that may be especially hazardous (e.g. sports events, extreme sports) that need specialized coverage. Contact a HIROC underwriter at inquiries@hiroc.com to discuss the potential need for specialized coverage.
 - Exclusions in the HIROC policy to consider include occurrences or events arising from intentional or criminal acts, blanket contractual liability as well as from incidents involving asbestos and fungi.
- Third Party Offers to Fundraise**
- Before consenting to a third party's (e.g. a separate fundraising organization or a family/patient seeking ways to provide the healthcare organization with some financial assistance) offer to raise funds for the healthcare organization, the Foundation should assess the risk it will be assuming. Issues to assess include:
 - Does the third party have adequate and appropriate insurance? Can the healthcare organization be added to the third party's insurance as Additional Insured?
 - Is there a contract between the healthcare organization and the third party fundraiser? Does the contract indemnify the healthcare organization for any injury or damage arising from fundraising activity?
 - How much control/oversight does the healthcare organization have with respect to the fundraising activity? For example:
 - » Promotion, advertising, including proper use of the healthcare organization's name and logo;
 - » Certainty about what is promised or implied as a promise (e.g. % of funds generated);
 - » Selection of participants, level of competence, health risks;
 - » Security at the fundraising event;
 - » Infection prevention and control activities;
 - » Emergency preparedness;
 - » Permits and government insurance requirements;
 - » Fraud prevention; specific bequests; receipting.