

## Non-profit Corporate Liability (formerly known as Directors & Officers Liability) Coverage

### Available for Affiliated Clubs

What is Directors' and Officers' Liability Insurance and why is it important?

Directors' and Officers' Liability Insurance (DOLI) covers the costs that the Directors' and Officers' of an organization might become legally obligated to pay as a result of damages to another party. However, unlike a general liability insurance policy that covers losses arising from physical injury or property damage, DOLI covers only those losses arising from a director's own 'wrongful acts'.

Despite their commitment to countless causes and organizations, many board members may be unaware of the legal ramifications of their volunteer work and the possibility that they may be held personally liable. This applies to all nonprofit organizations including clubs, associations, societies, leagues, committees and charities. Directors' and Officers' Liability Insurance protects the volunteer board member in the event the Board is legally obligated to pay as a result of damages to another party.

### The Board of Directors – A Fiduciary Relationship

Effective board members should be knowledgeable about the operations of the organization, become regularly involved in board activities and ultimately develop a trusting relationship with the organization.

As a member of a board of directors, one has the power and obligation to act for the organization and are therefore held in a position of trust. This type of association based on trust is called a FIDUCIARY relationship. A fiduciary is one that stands in a special relation of trust, confidence, or responsibility in certain obligations to others.

### Care, Diligence and Skill

Regardless of the structure of an organization or its mandate, all directors face the fiduciary duty to perform with care, diligence and skill. Boards of Directors are expected to operate in good faith and with the best interests of an organization in mind.

The standard of care expected will be judged according to what a reasonably prudent person would do in comparable circumstances.

This does not mean that all directors will be judged the same. Rather, this depends on the individual director. For example, if the treasurer of a voluntary, community-based organization (VCBO) is an accountant, he or she has a duty to practice the same standard of care required when working as a paid professional. If a member has significant business experience this higher standard of care is also applied to that member.

### Higher Standard of Conduct

Directors of charitable organizations may be held to a higher standard of conduct than those who manage non-profit organizations that are not charitable. This is because the courts treat directors and officers of charitable organizations as TRUSTEES, setting a higher standard of care. A trustee is one who holds legal title to property, but other people have the right to benefit from that property.

The most effective way for a board member to ensure the proper standard of care is provided is to attend board meetings regularly, make reasonable inquiries into the day-to-day management of the organization, participate in making decisions, and ensure the selection of qualified and responsible management and staff.

In order to do this, directors must be prepared for meetings rather than relying on the opinions of others. To assist in preparation, directors should ask for copies of documents and reports prior to meetings. If anything is not clear, clarification and explanation should be sought.

### Be Prepared and Stay Informed

While making decisions, a director should try to foresee any consequences of a course of action in order to avoid taking unreasonable risks. This means directors must fully understand any issues and seek outside expert advice if necessary. For example, if deciding on the purchase of new equipment, a director needs to know the financial situation of the organization, as well as future plans, in order to make an informed vote.

If, for some reason, a director misses a meeting, he or she should review the minutes and ensure any objections to decisions are recorded at the next board meeting.

Essentially, a board of directors is responsible to not only the organization itself, but to other board members, employees, volunteers, clients and members of the organization.