



# INFORMATION BULLETIN

**Bulletin #:** I-2023-003

**Date:** March 24, 2023

**To:** Member Associations, Leagues, Teams

**Copies:** Board of Directors  
Terri Boizard, COO

**From:** Barry Petrachenko  
Executive Director

**Subject:** Directors and Officers Liability Insurance

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Over the course of the past year, we have received several inquiries on the topic of Directors and Officers (D&O) insurance coverage. Specifically, several of our members have asked whether D&O coverage is included in the insurance coverage purchased by our member associations, leagues and teams.

In investigating this topic, no simple answer that applies, and that this subject can create decision making challenges for our members. The following information has been compiled to assist each member association, team, and league in considering what level of D&O Coverage is appropriate to their situation.

Most, if not all sport liability insurance policies include some form of D&O coverage. Some insurance carriers call it professional liability, and some call it errors and omissions with D&O coverage. There is no “one size fits all” name that insurance companies use.

**It is important for local clubs/associations to be aware that D&O coverage included in your insurance fees paid to Softball BC is limited to compensatory damage claims.** An example of compensatory damages would be a situation where a board of directors is sued for a monetary amount. In such case, the policy provided through Softball BC will be triggered and respond (subject to the incident and claim being reviewed by an adjuster representing the insurance company).

To reduce exposures for Boards, it is recommended that associations/teams consider purchasing a separate D&O insurance policy that encompasses more incidents and allegations other than just a demand for compensatory damages.

Note that Softball BC purchases additional D&O coverage for our Board through SBC Insurance, who have provided the attached list of frequently asked questions to assist our members.



- FREQUENTLY ASKED QUESTIONS (FAQ) -

**NON-PROFIT DIRECTORS & OFFICERS INSURANCE (D&O)  
AKA: MANAGEMENT LIABILITY INSURANCE FOR NON-PROFIT  
ORGANIZATIONS**

**WHY DO NON-PROFIT ORGANIZATIONS NEED A SEPARATE D&O POLICY?**

Directors and officers of non-profit organizations carry significant risk to their personal assets in the event of the organization's bankruptcy or insolvency. These organizations along with their directors, officers, employees, and volunteers may be the subject of numerous types of claims that can incur significant defense costs over several years. It is important to remember that a lawsuit does not need to have merit to have a financial impact.

**WHAT IF I HAVE COVERAGE ALREADY?**

Please review your current policy coverages and policy wordings and feel free to seek consultation through your licensed SBC insurance broker or representative. There is a good chance that any "inclusive coverage" through a master policy or an organization's policy has limited coverage and may not be broad enough to cover your directors and officers' liabilities. Most "inclusive" directors and officers coverages only indemnify directors and officers for compensatory damage claims. This means claims seeking monetary compensation. The policy wording is very limited and an insurance broker would be able to identify this on your behalf. For example, there could be claims and allegations against your directors and officers where there is no demand for monetary compensation. This could be a gap in your policy and therefore your organization will be responsible for the defense costs.

**WHAT CAN NON-PROFIT ORGANIZATIONS PURCHASE?**

A separate D&O policy can be purchased through various insurance companies to encompass liability coverage for directors and officers (D&O), employment practices (EPL), fiduciary and outside directorship (ODL).

**WHAT CAN A SEPARATE D&O POLICY COVER?**

A separate D&O policy or management liability can protect the organization and individuals against a variety of allegations such as general negligence, misrepresentation, defamation, wrongful termination, discrimination, harassment, non-disclosure, as well as statutory liabilities under human rights, environment, and occupational health and safety legislation. Most separate D&O policies provide coverage for compensatory damages (monetary rewards awarded by a judge) AND punitive damages (awards intended to punish).

**WHAT DOES A D&O POLICY NOT COVER?**

**1) CGL NOT Covered or NOT a Benefit**

The directors and officers liability policy does not cover bodily injury and/or property damage claims, allegations and/or settlements against your organization/society/association. Bodily injury and/or property damage claims are normally covered via a Commercial General Liability insurance policy or also known as a CGL policy.

## **2) Sport Accident or AD&D NOT Covered or NOT a Benefit**

In addition, a directors and officers liability policy does not cover excess medical expenses such as physiotherapy, massage therapy or dental work if you are injured while participating in a sport or activity. Excess medical expenses would normally be covered through another separate policy known as “Sport Accident” or “AD&D” insurance.

## **3) Travel Medical or Excess Travel Medical Insurance NOT COVERED or NOT a Benefit**

The directors and officers liability policy does not cover travel expenses or travel medical expenses for your members should they be hospitalized or traveling abroad. A separate travel insurance policy for additional premium can be purchased for these trips.

### **Where can I buy this separate D&O Insurance?**

You can purchase a separate director and officers policy through **SBC Insurance Agencies Ltd.**, the only insurance brokerage in Canada owned by a non-for-profit. SBC Insurance has been dealing with non-for-profit organizations for over 30 years and has access to various insurance companies to provide your organization with a separate D&O policy.

Feel free to email [info@sbcinsurance.com](mailto:info@sbcinsurance.com) for more information.

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## **CLAIMS EXAMPLES**

Please note: These are claims examples referenced by an insurance company.

### **Negligence and Breach of Trust**

After filing for bankruptcy, a non-profit organization was sued for negligence and breach of trust for failing to repay a temporary operating fund provided by another organization for a fundraising event.

### **Unethical Conduct**

A former member sued the board of a professional association alleging that the board of directors had targeted her, and that they had not followed the organization’s bylaws, when they revoked her membership for unethical conduct.

### **Wrongful Termination**

After being terminated for sexual misconduct and harassment, a senior executive sued the non-profit organization for wrongful termination, and the directors and officers for alleged interference with contractual relations.

### **Wrongful Termination**

As part of a corporate reorganization, a large non-profit organization terminated the employment of a long-term employee. The employee sued the organization alleging wrongful termination. The employee also alleged that she had been defamed as a result of a written communication that had found its way into the hands of individuals outside the board of directors of the organization.

### **Negligent Misrepresentation**

A non-profit organization successfully applied for, and received, government funding for the purpose of organizing and hosting an event. Unfortunately, the expenses incurred for the event far exceeded the revenues received. After a government audit, it was determined that the funds had not been used for the purposes described in the funding application. The government commenced an action seeking damages due to the alleged negligent misrepresentations in the application documents and for the alleged breach of fiduciary duty on the part of the directors of the organization.

### **Breach of Fiduciary Duty**

A member of a professional association sued the association and several of its directors and officers as a result of a disagreement with respect to licensing requirements. The member sought damages as compensation for the alleged breach of fiduciary duty, defamation and interference with economic interests.

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## **Product Options**

Please note: The name of the specific insurance carriers has been purposely removed. A licensed and authorized SBC Insurance broker will be more than happy to provide the names of the insurance carriers during the initial inquiry stage. Thank you.

### **CARRIER 1**

- Product is recommended due to its affordability for not-profit organizations
- \$1,000,000 or \$2,000,000 management liability coverage options available for not-profit organizations.
- Higher limits are available. Please inquire with SBC Insurance directly for more information on higher limits
- Maximum of a 1 year policy is available
- \$2500 deductible for claims
- Main Advantage: Affordable
- Main Disadvantage: Deductible of \$2500 on claims

### **How do I get a quote with carrier 1?**

A fully completed application is required to obtain a quote. Please contact SBC Insurance for an application.

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## **CARRIER 2**

- Product is highly recommended by SBC Insurance Agencies Ltd. for its coverages and features
- Up to \$2,000,000 management liability coverage available for not-profit organizations.
- 3 year term policies available (If eligible).
  - Main advantage is that the rate remains the same for 3 years. No rate increases until the term expires.
  - The entire premium for the 3 years does not need to be remitted all at once.
  - Payments consist of 3 equal annual installments on the “anniversary date”
- No deductible on claims
- Main Advantages: Comprehensive & No Deductible on claims
- Main Disadvantage: Price

### **How do I get a quote with carrier 2?**

A fully completed application is required to obtain a quote. Please contact SBC Insurance for an application.

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## **PRODUCT OPTIONS - FAQ**

### **Can I get a quote with both carriers?**

Yes, as long as both applications are completed and sent to our brokerage.

### **What do I do and who do I contact to get a quote?**

1. Email [info@sbcinsurance.com](mailto:info@sbcinsurance.com) and an SBC Insurance broker will be in contact with you directly.
2. Provide your contact info in the email, your inquiry about D&O insurance, and identify which organization you are from.

### **How long does it take to get a quote?**

Turn-around times vary and are contingent on numerous factors. These turn-around times are approximate only: Carrier 1 – 1-3 business days. Carrier 2 – up to 15 business days.