Directors and Officers Liability Insurance

From Chubb Health Care

What health care organization is willing to put the personal assets of its board members at risk?

Every health care organization—whether large or small, for-profit or not-for-profit, privately owned or publicly traded—is a potential target for litigation. The business practices and decisions of health care boards, like boards in other business sectors, have come under intense scrutiny from governmental regulators and the public. Lawsuits can be brought by attorneys general, providers, employees, customers, vendors, creditors, competitors, and regulatory agencies, and can result in serious financial loss.

Lawsuits typically involve allegations stemming from:

- Employment practices issues, such as discrimination, harassment, and wrongful termination.
- Credentialing and peer review.
- Antitrust allegations, including restraint of trade and price fixing.
- Breach of fiduciary duty.
- Insolvency.
- Non-compliance with corporate bylaws.
- Waste of corporate assets.
- Self-dealing and conflicts of interest.
- Mergers and acquisitions.
- Business torts.
The liability of health care organizations in today’s changing world is a volatile area demanding a knowledgeable and experienced insurer that is comfortable dealing with the complex and potentially devastating legal challenges that are unique to health care. Chubb, a worldwide leader in directors and officers (D&O) liability insurance, is able to offer a D&O Liability Insurance policy backed by knowledge of the health care industry, risk management expertise, outstanding claims service, and financial stability.

CHUBB HEALTH CARE D&O LIABILITY PROTECTION FEATURES INCLUDE:

- **Coverage for both D&O liability and employment practices liability (EPL) claims.**
- **Broad definition of insured person**—Chubb’s D&O Liability Insurance policy insures directors, officers, and trustees, as well as peer review committee members, staff, faculty, and employees.
- **Advancement of defense expenses** as they are incurred.
- **Broad claim trigger**—Many D&O policies limit the claim trigger to be a demand for monetary damages. Our policy responds to written notices that any person or entity intends to hold our insured responsible for a wrongful act - this includes EEOC notices and administrative proceedings (which don’t include demands for money.)
- **No willful acts exclusion for employment practices liability**—We will, subject to the terms of the policy, defend a claim even if the allegation includes willful violations of law or fraudulent activity.

- **Mental anguish and emotional distress coverage** is available for EPL claims as well as provider selection claims. Many EPL policies exclude mental anguish and emotional distress, which seriously undermines coverage for EPL and provider selection. Often, the most significant monetary damages are in the areas of mental anguish and emotional distress.

- **Variety of defense management options**—Our policy can be customized to include panel counsel and duty to defend provisions.

- **Antitrust coverage available to those who qualify**—Charges of anticompetitive acts and restraint of trade from competitors, providers, and government agencies expose health care organizations to serious financial risk.

- **Optional entity coverage**—protects the organization against allegations of wrongful action even if no insured person is named.

- **As-soon-as-practicable claims reporting**—Chubb does not require policyholders to report a claim within 60 days, which is unique in the industry.

- **Bilateral discovery**—An extended reporting period is available even if the insured cancels or Chubb non-renews coverage.

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**ACCORDING TO AN ANNUAL STUDY BY TILLINGHAST-TOWERS PERRIN:**

- Health service organization directors and officers are, on average, 10 times more likely to be sued than other business classes.
- More than half of all claims made against directors and officers are made by employees.
- About one-quarter of D&O claim allegations are made by shareholders and other investors.
- Directors and officers of organizations experiencing recent merger, acquisition, or divestiture activity are more than twice as likely to be sued as other organizations’ directors and officers.
- Defense costs per D&O claim typically surpass $500,000.

* Tillinghast-Towers Perrin’s 2002 Directors and Officers Liability Survey
RISK MANAGEMENT SERVICES

Chubb’s Health Care D&O Liability Insurance customers gain access to a wide array of risk management services that are designed to promote awareness, provide resources, help identify risks, and enhance communication. Services include educational programs and brochures, 24-hour access to risk management professionals, a video lending library, loss/claim tracking, comprehensive risk review, our state-of-the-art Employment Practices Liability Loss Prevention Program, the booklet Directors and Officers Liability Loss Prevention, our quarterly newsletter STAT, which is written specifically for health care organizations, and more.

THE CHUBB ADVANTAGE

Chubb has earned its leadership position in the health care insurance marketplace by consistently providing comprehensive coverage, superior service, unparalleled expertise, and unflinching commitment to helping health care organizations solve their executive protection problems. In particular, we stand apart from other insurers in several key areas:

Financial stability—Our financial stability and ability to pay claims rate among the best in the insurance industry, as attested by Standard and Poor’s and A.M. Best Company, the leading insurance rating services. Agents, brokers, and prospective customers often seek out our services because our reputation in the market is well known.

Creative coverage solutions—We revolutionized health care insurance with our breakthrough D&O Liability Insurance product in the early 1990s. Today we continue to find ways to make good products better by tailoring them to meet each customer’s specific needs. If necessary, our insurance products can include enhancements and specific coverages that may not be granted in standard industry policies.

Specialization—Our experienced underwriters, claims professionals, and attorneys come from the health care industry. Because these dedicated professionals work only on health care accounts at Chubb, they are able to maintain focus on the ever-changing issues facing this complex industry. This depth of understanding of health care organizations and their exposures allows us to provide bold, clear, and comprehensive coverage that stands out in the market.

Long-term commitment to customers—Our customers can trust in the fact that Chubb is committed to the health care industry and will continue to provide insurance solutions and risk management services for the long haul.

Claims philosophy of fairness—Our claim examiners specialize in health care D&O liability matters and are committed to a high level of professionalism, open dialogue, and the amicable resolution of disputes whenever possible. Our philosophy is one of cooperation and partnership with agents and customers to provide both a vigorous defense against meritless claims and appropriate settlements where warranted. Our reputation for expert, fair claims handling is renowned in the industry.

CHUBB’S HEALTH CARE D&O LIABILITY INSURANCE IS DESIGNED FOR...

- Acute care organizations (e.g., hospitals, health systems, and integrated delivery systems);
- Continuum of care organizations (e.g., nursing homes, home health care organizations, and assisted living facilities);
- Medical groups (e.g., physician practices and dental practices); and
- Managed care organizations (health maintenance organizations, independent physician associations, provider hospital organizations, preferred provider organizations, and management service organizations).
DON'T TAKE A CHANCE

Litigation over the actions and decisions of health care organization leaders can last for years and cost millions of dollars. If an organization cannot indemnify its directors, officers, or employees because of the nature of the allegations or as a result of the company’s insolvency, then this financial burden can become the personal responsibility of those individuals.

Don’t take any chances. Chubb D&O Liability Insurance for health care organizations is available through Chubb-appointed agents. For more information, contact your agent or broker, or visit our Web site, www.chubb.com.

It’s Chubb. Or it’s Chance.