<u>Focus on Leadership</u>

Insurance

It is Called Cooperative Living.
You Enjoy Living. And Your Home Cooperates.
Leadership Series Handbook

THANK YOU FOR Volunteering!

You take pride in your home and in being part of a great community. When you saw an opportunity to make things even better, you decided to step up to the challenge and take on a more active role with your Cooperative. But, as board member, you are probably asking yourself: “Now what?”

Do not worry. We have seen it all, and we know all about the stress and responsibilities of being a board member. That is why we have put together a comprehensive resource guide to help.

In this book, is the collective knowledge of our 57+ years of experience working alongside countless board members to improve their communities. Keep reading to learn the fundamental roles and responsibilities of a cooperative board, how to find success in your new position, and the next steps you need to take a board member.

Some board members believe that their personal home insurance covers them as board directors. The reality is that many insurance policies exclude volunteer board service. It is also important to consider that all board members may not be homeowners and may not have home insurance at all.

Without question, organizations need liability insurance. Failing to get the right insurance policies with the right coverage limits and deductibles places board members unnecessarily at risk.

Directors and Officers Liability

This is another type of insurance that nonprofits should not be without. It provides coverage for management decisions that board directors and officers make. D&O insurance protects the organization and individual board members. D&O insurance policies often include insurance coverage for employment practices liability, which extends to volunteers as well as employees. This coverage protects against claims for harassment, discrimination and wrongful termination.

Professional Liability

Boards of directors can forget to tell people things or make mistakes. Professional liability insurance is also referred to as errors and omissions insurance. It protects against claims made as a result of a board director's action or inaction.

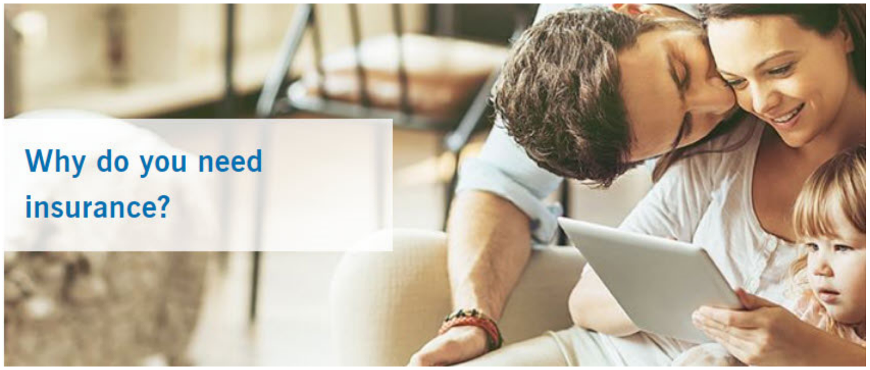
The Importance of Choosing the Right Deductible

To be affordable, most policies include a deductible in some amount. Usually, the higher the deductible, the lower the premium will be. It is advisable for boards to evaluate the premium costs at various deductible amounts to get the best value on their insurance policy. Having higher deductibles will prevent smaller claims. Organizations that file a claim and have a payout can expect their premiums to increase by possibly double or triple. It is best not to file claims unless it is necessary.

Understanding the Wording in Insurance Policies

Insurance policies are written much like legal language, making them difficult for ordinary people to read and understand. All insurance policies include additions, conditions and exclusions. Board members should review the wording in their insurance policies carefully with a licensed insurance agent, so they have a good understanding of what is – and is not – covered.

In most policies, the definition of an insured is any person who was, is or becomes a director, trustee, officer, employee, committee member or volunteer of the nonprofit as well as the nonprofit itself.



Affordable Housing Shapes vibrant communities

We know that affordable housing is bigger than a simple real estate transaction. It is the foundation of hope and new opportunity for individuals, families and communities. you need to look at the entirety of your organization from development and construction, asset management, social services and other community partnerships, all with the goal to help you build vibrant and strong communities. Your goal is to promote the health of your organization so the families that live in your communities feel comfortable and safe with hope for a brighter future.

You were elected to protect affordable housing and provide safe homes for growing families. You need to see family who is looking to grow, the child going to school, the single parent looking for a better life for their children and the individual needing hope and a fresh start. As the costs of real estate rise, more affordable homes and affordable apartments are needed for individuals and families to have access to quality and safe housing.

Affordable housing is a complex space requiring insurance expertise and a compassionate focus on the needs of your residents, as well as the regulatory and compliance responsibilities upon your organization.

Managing affordable housing development projects' assets
Continuous improvement and finding the correct affordable housing insurance for not-for-profit organizations is vital for a healthy enterprise.

Affordable housing insurance best practices.
You need to provide asset protection, implementing and maintaining risk management programs. You are engaging with property management staff, whether a third party or on your in-house team, as well as your administrative and program staff or volunteers to close gaps.

Affordable housing insurance placement.
Understanding surrounding the nuances of managed assets and business operations (including resident services) of not-for-profit organizations and affiliates aids you in getting customized coverage.
Contractual risk transfer. You need to make sure you are protected throughout transitions with support and consultation for vendor and partner agreements.

Affordable housing consulting and corporate governance protection
Affordable housing for not-for-profit must deal with the day-to-day oversight of your risk management programs. You need to make sure you have access to the most competitive markets with the best information for tailored programs to support your goals.

Risk assessment.
The board must develop corporate policies and procedures as well as provide management liability for corporate officers and your board of directors. Your board needs the best information so they can make better informed decisions for the health of your organization.

Insurance placement.
A good carrier relationship to accurately define your insurable risk as well as facilitate robust discussions about your organization's risk tolerance.

What Types of Insurance Policies Do Nonprofit Organizations Need?
There is no master list of the types of insurance policies that organizations should purchase or what amounts of coverage they should buy. Instead, associations must rely on the expertise of licensed, experienced insurance experts to help them find the best insurance policies for their needs.

Following is a short list of some of the more common types of policies about which organizations should ask their insurance agents. They may need fewer policies and they may need different policies to cover different types of losses.

General Liability
All organizations should purchase general liability insurance. It covers against claims made by third parties for bodily injury and property damage that occurs during the association's operations.

Property Insurance
Property insurance is self-explanatory. It covers damage or loss to buildings, office equipment, inventory and any other property the nonprofit owns. Fire and theft are common claims. Boards should be aware that not all insurance policies cover against floods and earthquakes.

Auto Insurance
Nonprofits may buy auto insurance if their boards or employees use autos for business. associations may purchase liability coverage to cover others and physical damage coverage for autos. Associations may also consider non-owned auto insurance coverage for volunteers who use their own vehicles for nonprofit volunteering.

Workers' Compensation
Workers' compensation will provide coverage for employees who get injured on the job. This type of insurance is mandatory in every state except Texas. This coverage will provide for medical expenses and wages if an employee gets injured while working for the association.

Do Associations Need Liability Insurance?

When a group or individual considers purchasing any type of insurance policy, it is important to think about the reason they need it, and the potential for them to cause harm to someone else, either intentionally or unintentionally. There is also the matter of whether association could afford to pay an expensive claim out of their own funds, as well as covering defense costs to hire an attorney.

The reality is that claims against organizations can and do happen – and more often than you might think. Payouts can be high, and claims come with additional risk to associations reputation.

What Types of Claims Could Be Brought Against Associations?
Millions of different circumstances might bring a claim to the door of a organization. Our society is becoming increasingly litigious. People and groups can, and do, sue associations.

What Is the Prevalence of Associations Claims?
It is risky for associations not to have liability insurance. According to the Nonprofits Insurance Alliance Group, 95% of claims filed against D&O policies concern wrongful termination, harassment, discrimination or other employment-related claims.

Blue Avocado tells us that one out of every 100 associations will file a D&O claim annually. The average cost of a settlement is likely to be around $28,000 if the case does not formally enter court. The average cost for attorneys to defend an associations liability suit is usually around $35,000.

Unfortunately, the trends are not improving. Allianz, a major insurance company, stated that their company is seeing increased exposures in certain, specific areas.

Strategic review.
Internal and peer-to-peer benchmarking helps reduce your total cost of risk.

Claims management.
work with proprietary claims management process aids you in closing out claims efficiently and in a cost-effective way.

All organizations should purchase general liability, typically thought of as "slip and fall" insurance, which comes into play when someone is hurt, or their property is damaged in your office, theatre, clinic or other area. Even organizations that do not have offices are subject to claims for damages such as a slip and fall at a program, or damage to an antique rug at a home where a fundraiser was held.

You should also purchase **"non-owned/hired" auto insurance** in case an employee or volunteer is involved in an auto accident and their personal insurance is inadequate. Organizations that have any employees, even just one, need to be fully covered with directors and officer's liability insurance.

If you want to purchase limits of more than $1 million in coverage, consider an umbrella policy that would provide extra limits over many different coverages at the same time.

One thing that confuses a lot of us is how much insurance to get.
In practice, most community-based nonprofits purchase $1 million in coverage, and that has been sufficient to cover 99 percent of the claims we have seen in our 20 years.

However, organizations with significant assets should consider purchasing higher limits. For example, an organization with assets of $500,000 may consider purchasing an umbrella policy with $1 million or $2 million in limits to go over their basic $1 million policy. Those with fleets of vehicles or many-passenger vehicles should consider higher limits. Some organizations are required by a government funder to have higher limits as part of contract requirements. But, absent a contract requirement, there is no rule of thumb for the right amount.

What is Directors and Officers (D&) insurance, and do we need it?
With the predominance of wrongful termination lawsuits, if the organization has even one employee, D&O insurance with employment practices coverage is probably essential.

Typically, lawsuits are filed when someone is hurt by some sort of accident and that person believes that someone, or some organization, is responsible for that accident. For example, a person tripped because the stairs were not properly lit, or a person was injured in a car accident because someone else ran a red light.

In contrast, a different type of claim is one made not because of the accident itself, but because someone believes that the board took an intentional and improper action. The most common lawsuit of this type would be one alleging that the board of directors allowed an improper termination of an employee. Insurance for these types of claims against nonprofits is typically found in the D&O policy.

In terms of D&O insurance, almost 95 percent of claims against D&O policies are employment-related, including harassment, discrimination, and wrongful termination.

The average D&O claim will cost $35,000 to resolve — a combination of legal defense costs and in a few cases, settlement payments. However, one out of ten claims will cost more than $100,000 to resolve.

Also make sure that the policy language is broad. For example:

- Who, exactly, is going to be insured under this policy? Make sure it includes coverage to any person who was, is, or becomes a director, trustee, officer, employee, committee member, or volunteer of the nonprofit as well as the nonprofit itself.

- Are all costs paid by the insurer as they are incurred? You should not have to front these dollars.

- Does it include broad coverage for employment-related activities? Although it is becoming more common that employment-related activities are covered in the D&O policies, do not assume it is covered — ask! A broadly written policy covering employment practices should insure a defense for claims alleging a wide range of wrongful employment actions.

What about the board member's homeowner or umbrella insurance?
This question often comes up when I speak with boards, but more than likely their homeowner's insurance protects them for serving on for-profit corporate boards but excludes volunteer nonprofit board service. And even if that coverage is there, not all board members are homeowners or have the right coverage.

What about legal protections for volunteers?
Legislative protections for volunteers are good but are not in all states. In addition, even where such protections exist, they cannot protect you from violations of the Americans with Disabilities Act (ADA), ERISA (Employee Retirement Income Security Act), or civil rights laws.

Is there anything D&O cannot cover?
Yes. In addition to the above, D&O legally cannot cover you for tax liabilities the organization incurs, or for any deliberate acts, such as criminal acts.

Maybe they were wronged and maybe they were not, but either way, getting to an answer is probably going to be expensive. Your general liability policy is not going to kick in for a third party — that coverage is for bodily injury, not for claims by employees. If you have coverage for employment-related lawsuits, that is almost surely going to be found in your D&O policy.

Two more eye-catching statistics:

- One in every 10 claims costs more than $100,000 (whether a settlement or court determined)
- The two largest claims to date: $500,000 and $1 million.

What are the key features to look for when purchasing D&O?

While it is very tempting to go for what appears to be the cheapest price, there are a couple of things you need to consider. Ask these two key questions first:

- Is there a deductible? Do not get burned by this one! There are policies in the market with no deductible at a very reasonable premium. Remember: deductibles can add up! Just because the quoted premium might be less — keep in mind, one claim and a $5,000 deductible can easily triple the original cost of the policy.

- Does the insurance company provide any employment practices assistance? If so, is it only by phone or are email communications also included? Is it free or just subsidized? Is it an unlimited service or is it capped at one or two hours? Make sure you ask these questions. Just two or three consultations a year could easily save you more than the cost of the policy.

D&O insurance typically protects individual board members as well as employees, volunteers and the organization itself in the instance of a civil suit. But since each policy is different, sometimes with different features even at the same insurance company, it is important to confirm with your broker that both individuals and the organization are covered, and that coverage for employment practices is included.

How much does D&O insurance typically cost?

Organizations with no employees can purchase $1 million in D&O limits for around $600 per year. Organizations with employees can expect to pay anywhere from about $1,200 for those with just a few employees, to around $4,000 to $5,000 for 50 employees. The cost of D&O insurance varies widely depending on the insurer, the breadth of coverage provided, prior claims, and the quality of employment practices at your organization. Remember that D&O insurance covers both the legal costs of defending your nonprofit, as well as any settlements that might arise.

What simple steps can the board take on risk management and insurance oversight?

very member of a board of directors needs to realize that there are risks to operating any not-for-profit and that through appropriate policies and procedures and staff training, these risks can be reduced. Insurance is there to cover those things that happen when the risk mitigation strategies are not completely successful. I suggest some board steps for insurance oversight. These steps include close monitoring of any accidents and suits, keeping up with organizational risks and regular review of your group's relationship with its insurance broker.

Three Steps to Effective Board Oversight of Insurance

As a board member, it is your responsibility to understand your group's insurance needs and help make sure you have the right coverage. Here are guidelines for board members who want to make sure their community has appropriate insurance coverage:

1. Monitor suits, threats of suits, and accidents. The board (or a risk management committee of the board) should be informed of any insurance claims made against the nonprofit and when threats of suits arise. In some organizations it is appropriate for the board to set goals and monitor progress on safety and risk reduction, such as reports on the number and type of automobile accidents and whether there were injuries, and what might have been done to prevent the accident.

2. Periodically review risks, risk reduction practices, and coverages. Depending on the size of the organization, the board, a board committee, a board-staff task force, or other group should develop a list of the key risks faced by the association and have a process to periodically review incidents or claims. Obvious areas of concern are driver selection and training, policies to protect vulnerable clients, and potential for fraud and damage to property. Less obvious risks are potential damage to reputation and staff morale from poor management. Your insurance broker should be able to assist with identifying the most important risks to address.

3. Review and consider changing brokers. Every few years, the board should review its relationship with its broker, just as it reviews the relationship with the auditor. In this review board representatives should look over what coverages are being purchased, at what rates, from which insurance companies, and whether the associations are getting the services (such as prompt payments) it deserves.

Board Insurance: Do You Really Need It?

In today's tight economic environment, associations are facing tough budget decisions, and one expense that often comes up is D&O insurance (Directors & Officers liability insurance). How should a board of directors think about this insurance?

Some statistics from our 10,000 insured nonprofits to get your attention:

- About 1 in 100 nonprofits each year will file a claim under D&O insurance
- Average cost of a settlement in a D&O claim (meaning it did not go to court): $28,000.
- Average legal costs of defending a claim: $35,000.

Most D&O claims are employment related:
we know that more than 95% of claims filed against D&O policies are related to wrongful termination, harassment, or discrimination, and so forth. And add to that, during economic downturns, there is an increase overall in the number of employment-related disputes as employers downsize and those fired or laid off find it harder to find employment.