

The ForeFront PortfolioSM

Directors & Officers and Entity Liability Insurance for Healthcare Organizations

Healthcare organizations are facing unprecedented levels of risk. Complex factors, such as rapidly increasing mergers and acquisitions (M&A), heightened regulatory oversight, reduced reimbursements, increased employee turnover, and changes in the care delivery model, leave organizations vulnerable to financial stress and claims for alleged wrongdoing. The Directors & Officers and Entity Liability insurance (D&O) for healthcare organizations is one of a suite of seven insurance coverage parts under *The ForeFront Portfolio* policy and is designed to specifically meet the needs of today's healthcare organizations, providing flexible coverage that helps protect both the organization and the personal assets of its directors and officers.

Why do you need Directors & Officers and Entity Liability insurance?	
Misconception	Reality
Healthcare organizations do not have to worry about regulatory actions since they are generally privately owned or not-for-profit.	Healthcare organizations do incur the added costs associated with responding to allegations or regulatory actions brought by governmental agencies, including the Office of Inspector General, Internal Revenue Service, U.S. Department of Justice, Medicare, and Medicaid. Organizations contemplating M&A face allegations of anticompetitive behavior, shareholder objections, or valuation issues.
As healthcare organizations are expanding their footprint, they face little scrutiny on how they manage the company.	A changing care delivery model expanding into new areas of care has resulted in increased requirements with respect to: financial commitment, experienced management, and new hires. Mistakes in expansion can lead to financial stress on existing businesses and allegations of mismanagement of corporate assets.
Reimbursement rates have increased, and healthcare organizations have vast financial means.	Reduced reimbursement rates and profitability pressures may lead organizations to take shortcuts in compliance, staffing, supply chain, or patient care. These financial decisions can lead to increased vulnerability or allegations of negligence by employees, regulators, or patients.

Directors & Officers and Entity Liability for Healthcare Organizations Coverage Highlights

- Coverage available for Antitrust Claims, Provider Selection Claims, and Emergency Medical Treatment and Labor Act Claims
- Regulatory Fraud Coverage and Clinical Trial Coverage (for qualifying risks) to respond to allegations brought by or on behalf of the government for violations of the False Claims Act and other health care fraud and abuse laws
- Sublimit for Securityholder Inquiry Coverage for Derivative Demand Investigations, Books and Records Requests, and Appraisal Actions
- Early Engagement Expense Coverage: pre-matter expense, pre-tender expense, or early settlement opportunity costs
- Additional Limits Dedicated for Executives
- Additional Defense Costs Limits in addition to the aggregate limit available

Directors & Officers and Entity Liability Claims Scenarios

Summary	Claim Details	Resolution
Unfair Trade Practices brought by patients	A patient who underwent spinal surgery at an outpatient surgery center brought a complaint against several individual doctors and the surgical center for violations of the Unfair Trade Practices Act. The complaint alleged that the defendants engaged in misleading advertising and bait and switch tactics, enticing patients with the hope of minimally invasive spinal surgery, but instead, recommending more invasive and expensive procedures.	The surgery center paid \$6,000,000 indemnity and an additional \$600,000 in defense costs.
False Claims Act Violations brought by the government	A nursing company received a letter from the U.S. Department of Justice advising that it was investigating the nursing home for possible violations of the Federal False Claims Act and other related statutes. The letter alleged that the company submitted false claims for payment with several government-funded health care programs for unlawful medical services. The letter also indicated that the investigation would focus on billing irregularities as well as improper remuneration in return for referrals for services paid by federal health care programs in violation of Anti-Kickback Statutes.	\$1,600,000 in defense costs were spent responding to and complying with the investigation.
Antitrust Violations brought by the Federal Trade Commission (FTC)	A multi-hospital health system announced the acquisition of one of its competitors. Shortly after the announcement was made, the Federal Trade Commission in conjunction with the State's Attorney General, issued an administrative complaint seeking to block the acquisition as it would be detrimental to patients in their service area. The complaint alleged that the acquisition would eliminate competition in the service area, allowing the newly formed entity to demand higher reimbursement rates and reducing their incentive to improve their care quality and facilities.	The health system paid \$4,200,000 in legal fees objecting to the FTC decision prior to abandoning the acquisition.

The ForeFront Portfolio

The ForeFront Portfolio is part of an evolution in one of Chubb's market-leading series of management liability products that have been specifically tailored to meet the individual needs of private companies, not-for-profit organizations, and healthcare organizations. With up to seven optional coverage parts, each coverage part works as a standalone policy or seamlessly together to minimize gaps and reduce overlaps in insurance coverage, providing companies choice and flexibility to help manage their individual and corporate exposures. It is a comprehensive insurance solution specifically designed to help companies not only survive, but thrive despite the most complex threats of litigation, extortion, and other white-collar crimes that may expose their bottom line.

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The claim scenarios described here are intended to show the types of situations that may result in claims. These scenarios should not be compared to any other claim. Whether or to what extent a particular loss is covered depends on the facts and circumstances of the loss, the terms and conditions of the policy as issued and applicable law. Facts may have been changed to protect privacy of the parties involved.

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