



PRODUCT HIGHLIGHTS

FLEXI PLUS FIVE

Benefits of this Program

This policy is a comprehensive liability solution for 501 (c) Non-Profit organizations that offers five unique “flexible” coverages: Directors & Officers Liability (*lead coverage*), Employment Practices Liability, Fiduciary Liability, Workplace Violence, and Internet Liability.

Key Benefits

- Broad definition of claim includes written demand for monetary and non-monetary relief, arbitration and administrative proceedings, as well as civil and criminal actions
- Optional selection of counsel – Insured may choose defense counsel or tender the defense to the Underwriter
- Defense Costs are in addition to the Limit of Liability
- Most favorable venue wording for punitive, multiple or exemplary damages
- Modified consent to settle (hammer) clause – 50/50 with a 10% retention reduction for the insured’s acceptance of the first settlement offer
- For-profit subsidiary coverage available by endorsement
- Definition of Individual Insured includes lawful spouse/domestic partner, the estate, and heirs
- Personal & Advertising Injury coverage
- Definition of Individual Insured includes global equivalents
- True worldwide coverage territory
- Automatic acquisitions coverage for non-profit entities coming within the Insured Organization’s control during the policy period (up to 35% of assets)

Directors and Officers Liability Highlights

- Order of payments language with priority placed on indemnifying Individual Insureds first
- Full severability for Individual Insureds; enhanced for the entity by naming Executive Officers
- Side A and Defense Costs carve-backs for claims alleging breach of contract
- Outside directorship liability (ODL) for 501(c)3 non-profit entities and endorsed outside entities

Employment Practices Liability Highlights

- Comprehensive 17 point definition of Employment Practice Act which includes: Retaliation, wrongful discipline, constructive discharge, breach of employment contract and much more...
- Third Party coverage
- EPL limits can be shared or purchased as a separate limit
- Mental anguish & emotional distress carve-backs
- Broad definition of Individual Insured includes leased employees
- Independent Contractor included as an Individual Insured

Fiduciary Liability Highlights

- Coverage available for all pension benefit and welfare benefit plans as defined by ERISA
- Omnibus welfare plan coverage
- Coverage includes any actual or alleged violation of Health Insurance Portability and Accountability Act (HIPAA) in the Administration of any Benefit Plan

Workplace Violence Highlights

- Workplace Violence Act includes actual or alleged intentional and unlawful use of, or threat to use, deadly force with an intent to cause harm
- Damages include business interruption expense and public image restoration expense

Internet Liability Highlights

- Libel, slander, oral or written publication of defamatory or disparaging material
- Invasion of or interference with the right of privacy
- Infringement of copyright, service mark, trademark, trade dress, or trade name, title or slogan
- Improper use of literary or artistic titles, formats, or performances

Bell Endorsement

- Includes \$50,000 limits each for Business Travel Accident Benefit, Donation Assurance, Emergency Real Estate Consulting Fee, Identity Theft Expense, Image Restoration and Counseling, Key Individual Replacement Expenses, Kidnap Expense, Terrorism Travel Reimbursement, Workplace Violence Counseling. \$25,000 limits for each Conference Cancellation, Fundraising Event Blackout, Political Unrest (\$5,000 per employee), Temporary Meeting Space Reimbursement and \$1,500 Travel Delay Reimbursement.

Crisis Management Enhancement Endorsement

- \$25,000 limit for crisis management emergency response expenses incurred because of an incident giving rise to a “crisis”

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FLEXI PLUS FIVE - *continued*

Documents Required for Proposal

- Completed, signed, and dated application
- Latest annual audited financial statement or 990 tax form
- Supplemental claim form, if applicable
- Form 5500 (if fiduciary liability coverage is requested)

Service

- Clients are serviced by both our home office staff as well as our regional offices located throughout the country

Carrier

- These coverages are underwritten by Philadelphia Insurance Companies, rated A+ (Superior) by A.M. Best. Nationally recognized as a member of Ward's Top 50. Forbes Magazine has recognized the Companies as one of the 400 Best Big Companies in America

Payment Terms

- Interest-free installments available for accounts that generate at least \$2,000 in premium

For more information about our products and services please visit us at www.phly.com

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EVALUATOR

FLEXI PLUS FIVE

It all adds up for your Flexi Plus Five needs! Stay in balance with a stable insurance carrier

How does the Flexi Plus Five policy (PI-NPD-2, Ed. 1/02) with the Pro- Pak Elite Enhancement (PI-NPD-82, Ed. 9/05) compare to other Non-Profit D&O forms in the marketplace?

Choose the Right Carrier that understands and provides the coverages and limits unique to Flexi Plus Five	Philadelphia Insurance Companies – Flexi Plus Five	Other Carrier(s)
Defense Costs in addition to the Limit of Liability	Yes <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Optional selection of counsel – Insured may choose defense counsel or tender the defense to the Underwriter	Yes <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Most favorable venue wording for punitive, multiple or exemplary damages	Yes <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Order of payments language with priority placed on indemnifying Individual Insureds first	Yes <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Fines and penalties coverage for Excess Benefit Transaction Excise Tax proceedings (up to \$10,000 per Individual Insured and up to \$100,000 per policy year)	Yes <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Full severability for Individual Insureds; enhanced for the entity by naming Executive Officers	Yes <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Side A & Defense Costs carve-backs for claims alleging breach of contract	Yes <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Fines and penalties resulting from a violation of the Emergency Medical Treatment and Active Labor Act (EMTALA), up to \$100,000	Yes <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Independent Contractor included as an Individual Insured	Yes <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Personal and Advertising Injury coverage	Yes <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Modified consent to settle (hammer) clause – 50/50 as well as an incentive for the insured's acceptance of the first settlement offer (10% reduction)	Yes <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Employment loss control services available via in2vate	Yes <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Loss assistance hotline – 2 free hours of legal consultation	Yes <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Automatic acquisitions coverage for non-profit entities coming within Insured Organization's control during the policy period (up to 35% of assets)	Yes <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Availability of important complementary coverages – such as Crime, Employed Lawyers Liability and Cyber Security Liability	Yes <input checked="" type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>

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CLAIM SCENARIOS

NON PROFIT DIRECTORS & OFFICERS LIABILITY

\$50,000 defense costs only

The Department of Human Services brought a **breach of contract** claim against an Insured for not properly documenting services and providing false billing charges for meetings with clients regarding food stamp eligibility.

\$7,250,000

A trade association with 3000 members self insured the members' workers compensation exposure. Workers compensation underwriting losses lead to the insolvency of the association. The members filed numerous suits including **class action suits** for allegations including breach of good faith, breach of contract, failure to report the financial condition, and failure to secure adequate premiums.

\$100,000 defense cost only

Two years after 5 acres of property was donated to a foundation, the donor sought to **revoke his donation**. The Insured had already begun to develop the property as a residence for disabled children. While the judge found in favor of the Insured, significant costs were incurred.

\$85,000 defense costs only

Residents living on an access road into a country club sued the club during a construction project to restrict the use of the road by construction vehicles. The complaint included allegations of **trespass, nuisance, and violation of easement**.

\$75,000 defense costs only

A group of association members filed a lawsuit alleging the **recent election of a new board President did not follow the association bylaws**. Members argued that the 51% majority vote required was not obtained for the election to be valid.

\$55,000

A potential vendor alleged that **bidding was rigged** when they did not receive a contract for an annual fund raising event.

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CLAIM SCENARIOS

NON PROFIT EMPLOYMENT PRACTICE LIABILITY

\$80,000

An overnight supervisor at a residential facility for disabled adults was found sleeping on the job. After an immediate termination the claimant alleged **racial discrimination** even though the majority of the supervisors employed by the Insured were the same race.

\$375,000

The vice president of programs was terminated for performance reasons. She alleged she was terminated only after she questioned the allocation of monies from funding sources. She filed a **whistle-blower lawsuit against the organization and the executive director**. Even though the allegations had little merit, the plaintiff began requesting documents from all funding sources and from the Insured which seriously disrupted operations and damaged its reputation in the non profit community.

\$115,000

The plaintiff terminated her position with the Insured because they reduced her hours when she returned from maternity leave. She alleged **pregnancy discrimination** and sought damages for lost wages for the 8 months it took her to find another job.

\$50,000 defense costs only

An Insured received an **Americans with Disabilities Act claim** involving a patron who alleged the Insured's facility could not accommodate his wheel chair.

\$75,000

A resident of a residential housing complex brought suit against a social service organization for distributing food to the homeless as part of a meal program in the lobby of building. The claim alleged **loss of use and enjoyment of the common areas** of the property and he sought an injunction to stop the food distribution.

\$50,000 defense costs only

A non profit fundraising arm of a social service/mental health agency had a stated policy to hire employees from its pool of successful client program graduates. One of these employee applicants alleged she was **sexually harassed** during a job interview.

\$55,000

A group of country club members filed an **age discrimination lawsuit** against the tennis pro for not scheduling tennis lessons around court times offered by the club.

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CLAIM SCENARIOS

FIDUCIARY LIABILITY

\$145,000

At the end of an employee's new hire probationary period she was given the option to purchase medical, disability and life insurance. The Plaintiff waived the life insurance coverage via an e-mail to the HR Department. The **Insured did not obtain a signed waiver**. At open enrollment the plaintiff requested the life insurance option which would be effective 1/1. Unfortunately she was diagnosed with cancer in December and immediately terminated her position with the Insured. Her life insurance request was denied since she was not an employee as of 1/1. She later claimed that she had never been offered the life insurance at the end of her probationary period and since the company did not obtain a signed waiver they couldn't prove otherwise. If she purchased the coverage after the probationary period then coverage would've been in place at the time of her diagnosis in December.

\$350,000

An Insured received a notice from the IRS for an investigation into violation of the tax code 502(i) which involves the Insured's establishment and financing of new stock certificates for their Employee Stock Option Plan (ESOP). The **IRS prohibited the transaction and assessed fines and penalties against company**.

\$110,000

An employer was negligent in the administration of their long-term disability coverage. An employee was paying the premium for disability coverage but her claim was denied by the insurance carrier because the company **never had the employee complete the required questionnaire** which resulted in more restrictive coverage.

\$55,000 defense costs only

An employee sued her employer for **unpaid medical bills** as a result of the Insured switching medical insurance carriers which offered reduced coverage.

\$110,000 defense costs only

Plaintiff alleged he purchased disability coverage at work and the premium was deducted from his paycheck. When the employee became disabled, he was told by the disability carrier that they had no record of his enrollment. He sued his employer and the disability carrier for **breach of fiduciary duty and fraud** seeking the cash equivalent of past and future disability benefit plus attorney fees.

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