



Why Do You Need Fiduciary Liability Insurance?

Because you may not be as protected as you think.

Misconception	Reality
I don't need fiduciary liability insurance because:	I need fiduciary liability insurance because:
We carry Employee Benefits Liability (EBL) coverage, and it will protect me from fiduciary liability exposures.	While EBL provides some coverage for errors in plan administration, it does not cover breach of fiduciary duty claims. This is critical because fiduciary breach claims can involve personal liability, plus they are typically more severe than administrative error claims. Thus, relying solely on EBL coverage leaves individuals personally exposed to some of the most severe claims involving benefit plans.
We don't sponsor any pension or retirement plans, and those are the plans that give rise to lawsuits.	While pension and retirement plans are commonly targeted, many other types of plans, including but not limited to medical and life insurance plans, SERPs, stock option plans and top hat plans, are also sued. In fact, suits over COBRA notices in medical plans are becoming more frequent
I don't have any fiduciary risk because we hire outside professionals to administer and manage our plans, and we delegate plan responsibilities to them.	While hiring outside professionals (such as a TPA or an investment advisor) to provide services to a plan may help mitigate fiduciary liability, it does not eliminate it. The company and its executives and other fiduciaries retain responsibility for selecting and monitoring those professionals, meaning that they are exposed to liability for damages resulting from an outside professional's mistakes. It's common to see executives and plan committees sued despite the use of external professionals to administer and manage the plan.
None of our executives or employees have fiduciary exposure because we are careful not to name any of them as plan fiduciaries in any documents.	Under ERISA, people can be held liable as a plan fiduciary even when they aren't expressly named as a fiduciary. Specifically, people can legally be deemed to be "functional" plan fiduciaries based on their conduct and the decisions they make, meaning someone may be a plan fiduciary without even realizing it. Executives get sued as functional fiduciaries due to the authority they wield.
If I am sued for anything I do as a plan fiduciary, I can rely on the plan and all of its assets to indemnify me.	ERISA prohibits plans from indemnifying plan fiduciaries for a breach of fiduciary duty, so plans may not pay defense costs, settlements, or awards on behalf of fiduciaries that have breached their fiduciary duties

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