

Are you one of the increasing number of people today who are considered a "professional" by our legal system and your clients?

If you give advice - of almost any nature - and advertise yourself as an expert, you will probably be considered a professional under the law. Newly recognized professionals are being held to higher standards of care today and being sued for errors and omissions (E&O).

### **Standards of care can be harsh.**

As an expert you have a duty to clients - and sometimes to others - to do high quality work, act in a prudent manner and not commit errors that cause harm. Some professionals like accountants and lawyers have detailed standards of conduct as part of their state licensing. If they fail to adhere to these standards they can be deemed liable for a client's loss. Even if your vocation or profession does not have published practices and procedures, the courts will penalize you if your quality is not the same as others in your line of work.

### **Your potential liabilities are increasing.**

Your liabilities to others - clients and third parties - include bodily injury or property damage. Knocking over the client's Ming vase or inadvertently tripping the secretary on the stairs are unfortunate examples.

You can also be liable for economic or financial losses that result from your erroneous advice. Remember that an omission - or a problem you knew about but did not explain - can result in as much damage as an error. Examples of economic losses might include:

- Your sloppy marketing advice causes your client's new product to

be late to market and not reach expected sales.

- Your job estimate is so far off that your customer has costly delays in completing a major kitchen remodel.
- Your email for a client goes out to inappropriate parties or includes a confidential report, and your client gets sued for breach of confidentiality.

Recently a computer programmer was updating software for a large client. He read some code incorrectly and deleted financial data that the company had no way to retrieve. A suit was brought for \$5 million.

### **Insurance protection is essential.**

Business customers today are often insisting on proof of E&O coverage in addition to standard insurance policies. Even a "small" lawsuit can far exceed a small firm's revenues and the personal assets of the owner.

Professionals, consultants and small businesses that offer advice must purchase professional liability or E&O coverage in today's litigious world. These specialized policies cover claims for economic loss from negligent advice or breach of duty. Perhaps more importantly, the insurance company will defend you and pay your legal fees. The average cost of defending an E&O claim was recently reported to be \$47,000, even when the defendant was found innocent.

When something goes wrong there is plenty of blame to go around. Don't get caught as the unprepared scapegoat: review your coverage, educate yourself about risks and make sure you have adequate protection against devastating and expensive liability.

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