

## **Fiduciary Liability Insurance – FAQs**

### ***What does fiduciary liability insurance provide?***

This coverage protects plan sponsors and trustees from the defense and penalties if they are sued for fiduciary decisions they make for an employee benefit plan. Plan fiduciaries are open to many types of lawsuits. Plan participants may sue individually or as a class if they feel that benefits were misrepresented or if they believe that different decisions by the trustees could have yielded a higher return. They may even sue over enrollment issues.

### ***Who are considered fiduciaries?***

A plan fiduciary is **anyone** who has discretionary judgment authority for the employee benefit plans (i.e. Trustee, HR Director, etc.). Under ERISA regulations a fiduciary is personally liable for the cost of their own defense if they are sued for their decisions. They are liable for judgments and penalties, too.

### ***Where does it say the Fiduciaries are held personally liable?***

ERISA is explicit in providing for the personal liability of fiduciaries by stating that fiduciaries cannot be relieved of their responsibilities through indemnification language in corporate bylaws (Section 410(a)). However, ERISA specifically permits persons with personal liability exposure to purchase liability insurance, if desired (Section 410(b)).

### ***Is Fiduciary Liability Insurance mandatory under ERISA?***

ERISA does not require liability protection; the only mandatory insurance is an ERISA/Fidelity bond to protect the plan assets from losses due to misuse or misappropriation. The ERISA/Fidelity bond protects the plan assets; Fiduciary Liability insurance protects the fiduciaries.