

## NSPE STATE SOCIETY INSURANCE PROGRAM FREQUENTLY ASKED QUESTIONS

### 1. WHAT IS COVERED?

Type:	Commercial General Liability
Carrier:	CNA Insurance
Limit of Liability:	\$1,000,000 per Occurrence, \$2,000,000 Aggregate
Deductible:	\$0

Type:	Management Liability (Directors and Officers & Employment Practices)
Carrier:	CNA Insurance
Limit of Liability:	\$500,000 per Society, \$3,000,000 Aggregate
Deductible:	\$2,500 per Occurrence

Type:	Management Liability (Fidelity)
Carrier:	CNA Insurance
Limit of Liability:	\$5,000 per policy year
Deductible:	\$1,000 per Occurrence

Commercial General Liability policy protects against claims resulting in either bodily injury or property damage that arise from the Society's use or occupancy of a premise (e.g., meetings at hotels and restaurants, facility tours, etc.). Very often these facilities will require that they be named as an Additional Insured on the Society's insurance policy through a Certificate of Insurance (see below).

Management Liability Policy contains three coverage modules – Directors & Officers (D&O) Liability, Employment Practice (EPL) Liability and Fidelity (employee/volunteer dishonesty). Nonprofit D&O protects against claims that allege a director or officer failed to perform their fiduciary duty (i.e., certain legal responsibilities such as placing the interests of the organization before their own). This program includes EPL coverage (even though few societies have employees) because, even without employees, societies face the risk of non-employment workplace claims such as sexual harassment and discrimination.

### 1. WHAT IS COVERED?

#### 1.1 DOES FIDELITY COVER A SITUATION WHERE A TREASURER STOLE MONEY FROM A SOCIETY?

Yes. Theft of society property by a director or officer is covered. The property involved is usually money. Theft by a society treasurer would be covered.

**1.2 WHAT IS AN AGGREGATE LIMIT?** Occurrence, or per claim limits, are the maximum amount of coverage available to an individual society. Aggregate limits shown are shared by all societies.

**1.3 WE DO NOT HAVE EMPLOYEES, BUT DO HAVE VOLUNTEERS. IS IT CORRECT THAT THEY ARE COVERED FOR NSPE-RELATED ACTIVITIES -- INCLUDING HARASSMENT, DISCRIMINATION, 3RD PARTY?** Close, but not exactly correct. True, the individuals referenced are covered. However, the coverage that responds to claims involving harassment and discrimination, for example, is not found in the

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D&O section (module) of the policy. Just because a Wrongful Act is committed by a director or officer doesn't necessarily mean that the coverage for that will be found in the D&O policy (or any policy for that matter).

**1.4 DOES SOMEONE'S PERSONAL (NON-NSPE) OFFENSES HAVE ANY RELATIONSHIP TO ANY OF THESE POLICIES?** Claims arising from actions undertaken outside the scope of an **Individual Insured's** insured capacity (i.e., personal offenses) are not covered.

**1.5 ARE GOLF OUTINGS COVERED?** Yes, golf outings are covered on the GL. This isn't true of all sporting and athletic events however. Rock climbing, bungee cord jumping, mechanical bull riding, most watersports are just a few of the examples that would fall outside the scope of coverage.

**1.6 IS HOST LIQUOR LIABILITY COVERED?** Yes.

### 2. WHO IS COVERED?

In general, the Society is the insured. The Society's directors, officers and volunteers are also insured if they are acting at the Society's direction and within the scope of authority granted to them. Independent contractors are not insureds under any policy.

**2.1 ARE COMMITTEE OR BOARD MEMBERS WHO ARE OFFICERS OF THE SOCIETY COVERED?** Both board members and committee members are considered **Individual Insureds** under the Management Liability policy. The officers of an organization occupy specific roles such as President, Treasurer and Secretary, which are created within the Society bylaws. All such officers of the corporation qualify as Individual Insureds.

**2.2 DOES THE COVERAGE ONLY APPLY SPECIFICALLY TO NORTH AMERICA OR IS IT GLOBAL? SOCIETIES MAY HAVE OFFICERS/DIRECTORS THAT ARE NOT FROM NORTH AMERICA.** Only those societies domiciled in the United States and US territories are eligible for coverage. That a director or officer of one of these societies is not from the US, has no bearing on his or her status as an insured under the policy. The territorial provision under the D&O and EPL modules of the Management Liability policy is referred to as "worldwide". The **Wrongful Act** which gives rise to a claim and the demand for damages that **results** may both take place anywhere in the world subject to OFAC sanctions\*. The territorial provision under the Commercial General Liability policy is referred to as limited worldwide. A society engaged in incidental operations outside the US, Canada and US Territories (attending a meeting for example) may reasonably expect the policy to respond. However, the demand for damages – in other words, the lawsuit, must be brought in a court within the coverage territory.

*\* The Office of Foreign Assets Control, administered by the Treasury Department, enforces economic and trade sanctions declared by the US Government against foreign countries determined to be involved in activities that threaten national security. No coverage will be provided for claims arising from trade or commerce undertaken in OFAC designated countries.*

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**2.4 ARE NON-NSPE MEMBERS WHO ATTEND EVENTS ALSO COVERED?** Neither members nor non-members attending Society sponsored events are covered. That's because general liability insurance protects against claims, in the form of lawsuits, that allege negligence on the part of the Society resulting in harm to them.

### **3. WHAT IS EXCLUDED? (*Not a complete listing*)**

Commercial General Liability - Certain activities are specifically excluded, such as Professional Liability, Automobile Liability and Sporting & Athletic Events. Separate coverage may be obtained if needed by contacting your Client Service Manager at Gallagher.

Management Liability – D&O and Employment Practice Liability: Bodily Injury, Property Damage, Professional Liability, Prior or Pending Litigation, Insured vs. Insured.

Fidelity - Theft of 3<sup>rd</sup> party property. Theft by an Insured where it is known that the individual had previously committed dishonest acts.

**3.1 IF WE ARE HOLDING A CONFERENCE/EVENT AND THERE IS A SHUTTLE BUS FOR THE ATTENDEES TO VISIT ANOTHER FACILITY, DO WE NEED A CERTIFICATE OF INSURANCE?** The General Liability policy does not cover automobile liability. Where participants at an event or meeting are provided access to shuttle service arranged by the Society, it is the responsibility of the Society to: (i) secure a Certificate of Insurance from the transportation vendor and (ii) require the transportation vendor to add the Society as an additional insured to its policy for the period during which services are provided. The rationale being that foreseeable harm suffered by an attendee, results from the negligence of the transportation provider, not the Society.

**3.2 CAN THE INSURANCE COVER ANY LOSS OF MEMBER DATA LIKE CREDIT CARD INFORMATION?** In most instances this involves cyber risk, which is not covered under the NSPE Programs.

## **ELIGIBILITY, EXPENSE & ENROLLMENT**

### **4. WHICH SOCIETIES ARE ELIGIBLE TO PARTICIPATE?**

All societies of the National Society of Professional Engineers which are based in the U.S. and are in "good standing" are eligible for coverage. Assistance will be provided to any non-US Society which is unable to secure coverage locally.

### **5. WHAT DETERMINES "GOOD STANDING?"**

Societies are considered in "good standing," and are thereby eligible for coverage through this program, if they meet the following three criteria:

1. The Society has complied with all the relevant requirements pursuant to the then-current NSPE Bylaws and Policies. Societies which do not meet these criteria are notified by headquarters in writing and given ninety (90) days to cure the deficiency before losing eligibility;

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2. The Society has completed and returned to Gallagher the Warranty Statement (available on the program web site and through the NSPE web site);

### **6. HOW DOES A SOCIETY ENROLL?**

There will be no application required for individual societies. To secure coverage for your society, a warranty statement must be executed by a current society officer. A warranty is a statement of fact by the applicant society attesting to the fact that there are no claims, potential claims or circumstances which may reasonably be expected to result in a claim, which may be covered under the policy to be issued.

The warranty statement for both Management Liability and Commercial General Liability can be found on the NSPE Society Insurance Portal at [novickgroup.com/nspe\\_societies.asp](http://novickgroup.com/nspe_societies.asp).

### **7. IS ENROLLMENT PERMITTED AFTER DECEMBER 1, 2019?**

Only newly-formed societies can join the program during the policy year.

### **8. WHEN DOES COVERAGE BEGIN?**

The initial policy period for both the Management Liability and Commercial General Liability policies is December 1, 2019 through December 1, 2020.

### **9. WHAT IS THE TIME LIMIT TO APPLY?**

Each society should submit a completed Warranty Statement to their Client Service Manager via email to [Chapters@novickgroup.com](mailto:Chapters@novickgroup.com) as soon as possible, but no later than **November 1, 2019**.

### **10. HOW IS PAYMENT EXECUTED?**

NSPE will pay the insurance premium for each NSPE state society. Any additional insurance or the cost of a special COI will be borne by the NSPE State Societies.

## **POLICY & CERTIFICATES OF INSURANCE (COI)**

### **11. WILL WE RECEIVE A COPY OF THE POLICY?**

The master policies for both the Management Liability and Commercial General Liability will be held at NSPE Headquarters. A Certificate of Insurance (COI) evidencing coverage and a specimen of the master policies including all applicable endorsements will be available for download to all Insured Societies via the [NSPE State Society Insurance Portal](#).

### **12. HOW DO WE GET A COI?**

Once we have received your completed Warranty Statement, your COI will be available on the [NSPE State Society Insurance Portal](#). The "Certificate" link will include your Society's COI as proof of general coverage. Certificate requests for events or special needs can be submitted using the [Certificate of Insurance Request Form](#) located in the portal.

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### 13. HOW LONG DOES IT TAKE TO GET A COI?

If the form submitted is complete and accurate, certificate requests are typically processed within two business days. You will be notified of any delays.

### 14. IS A COI NEEDED IF WE HOLD AN EVENT?

The COI accessible on the NSPE State Society Insurance Portal provides evidence of the insurance coverage provided to the enrolled Societies. Hosting an event or participating in another organization's event, by itself, does not require a COI. Unless a 3rd party seeks evidence of coverage, there is no need to provide a COI. See also...

<b><i>Do we need to have a certificate for an event if no one is asking for it?</i></b>	No
<b><i>Are we still covered?</i></b>	Yes
<b><i>Do we need a COI for a golf event if the golf course didn't ask for one?</i></b>	No
<b><i>Do we need a COI whether the society has an event or not?</i></b>	No

### 15. IS THERE ANY COST FOR A COI?

There is no additional charge for routine requests. However, there are three circumstances when an additional charge may apply:

Primary Wording – Some companies may require that they be added to your policy as an additional insured on a “primary & non-contributory basis”. If so, the carrier may charge up to \$100.

Complex Compliance Requirements - Contracts entered into by societies sometimes contain provisions which may transfer the responsibility to the Society to hold the other contract Party harmless from loss. Very often this burden may go beyond the scope of insurance provided by commercial standard policies, including NSPE's. When such contractual provisions are brought to our attention, we will help societies, at no cost, to gain a better understanding from a risk management perspective. When the need for risk management guidance is beyond the experience or expertise of the assigned service representative(s), a more senior and experienced associate is available to assist. You would be advised that a charge, typically no more than \$25, will be invoiced.

Multiple Re-Issue of a Certificate of Insurance (COI) - As previously noted, there is no charge for routine certificate requests including a one-time reissue of a certificate due to (i) information provided to us that was incomplete or erroneous or (ii) a subsequent change in the requirements by the certificate holder. However, a \$10 charge for each subsequent re-issue of the same certificate will apply.

*In offering any level of guidance, Gallagher is not providing legal advice, nor should any information provided be construed as such. Societies are encouraged to engage knowledgeable legal Counsel in all matters involving contract interpretation and defer to Counsel in all such matters.*

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### MISCELLANEOUS

#### 16. DO WE HAVE TO STAY ENROLLED OR CAN WE ENROLL ONE YEAR AND NOT THE NEXT?

Enrolled one year but not the next, maybe again the following year, etc., is not a risk management strategy that serves the best interests of either the national organization or the individual Societies. Societies are required to participate in this program.

- While withdrawal isn't necessarily a breach of fiduciary duty, the leadership would have difficulty justifying their rationale in the event they dropped out and there was a claim.
- Certain state volunteer protection statutes require the entity to maintain GL in order for eligible volunteers to qualify for the statutory defense.
- NSPE is at risk for your activity.
- A claim involving a Society may well involve the national office on the basis of vicarious liability. Societies opting out run the risk of being unprotected. Imagine sitting at a defense table with no lawyer at your side while NSPE has one.
- The carrier would be hesitant to allow it out of the belief that the organization's interest in coverage rose or fell based on knowledge of potential claims or plans for riskier operations.

#### 17. WHERE CAN I GET MORE INFORMATION?

- All the current details of this program are found at [http://www.novickgroup.com/nspe\\_societies.asp](http://www.novickgroup.com/nspe_societies.asp)
- For questions about this program, contact NSPE
- For questions about coverage contact your Client Service Manager, Abigail Furgal at [Abigail\\_Furgal@ajg.com](mailto:Abigail_Furgal@ajg.com) or [Chapters@novickgroup.com](mailto:Chapters@novickgroup.com)