



## Miscellaneous Professional Liability: Navigating Coverage for Emerging Services



We live in an exciting time of business innovation and entrepreneurship where it seems like every day a new professional service emerges, claiming to make our work or personal lives better.

Non-tangible services offered by professionals—hair stylists, car mechanics, massage therapists, interior designers, etc.—have become so pervasive in our everyday lives that, depending on the relationship, it can be easy for consumers to forget these practitioners are operating professional businesses with inherent risk exposures and liability concerns.

But that's exactly what they are—businesses in need of insurance. And as savvy providers increasingly offer specific and specialized services, they are recognizing the limits of their liability insurance and seeking bespoke professional liability policies that cover their unique risk exposures.

What they might be finding instead, however, are miscellaneous professional liability (MPL) policies that fail to provide an effective professional services definition—potentially rendering the policy worthless in a claim of professional negligence.

In this article, we will examine the complexities of MPL policies and placements and how retailers and brokers can help their insureds obtain better coverages by understanding their specific risk exposures and working with experts.

### CONTACT

To learn more about how Amwins can help you place coverage for your clients, reach out to your local Amwins broker.

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## Understanding Professional Liability

Before we can discuss the complexities of MPL insurance, it's important to first define the purpose of professional liability insurance.

Professional liability insurance, also known as errors and omissions (E&O) insurance, protects professionals if they are sued for negligence when providing services to a third party for a fee.

Let's break that definition down by its base components:



### Professional services

Work which require a specialized certification, education, skill, or license.



### Third parties

People or entities other than the insured themselves or their own companies/subsidiaries.



### Fee

Contracted payment, or simple financial transaction such as cash or check. This is important because the cost of services is typically a basis for losses claimed in a lawsuit.



### Negligence

A "reasonable standard of care" (whether someone acts with care as an average reasonable person would under those circumstances) is applied at a higher level for professionals. For example, engineers are evaluated based on the professional standards (education, skill, training, licensing) of their field.

### Claim Example:

A project owner hires a structural engineer to determine the steel needed for a mixed-use project. The engineer mistakenly uses the incorrect code for the project, resulting in higher structural steel costs. The owner incurs \$5 million in additional costs due to the alleged negligence of the structural engineer, so the owner sues the engineer for the additional costs.

The reasonable standard of care applied to the engineer means he should have known and used the correct code for the project. Thus, his error is considered professional negligence and the claim is paid by the engineer's professional liability policy.

This is a simplified example of how traditional professional liability policies are typically applied to claims. The application is straightforward because these policies are written on existing specialty forms designed for specific professionals—architects, accountants, lawyers, insurance agents, etc.—where the professional services definitions, policy language, and contract terms account for known risk exposures in those professions. And there is established precedent for how the policies have historically been applied.

**But what about newly emerging professions where there aren't known risk exposures or precedent to guide policy language? Enter the increasing trend toward tailored MPL policies.**

## Complexities of MPL Policies

As the term “miscellaneous” implies, MPL is a more generalized type of E&O coverage for service professionals—business consultants, interior designers, travel agents, realtors, etc.—who don’t fall into a traditional, specified professional category with a designated policy form.

Instead, for MPL policies, a broad-form E&O policy is often used as the base policy language with endorsements added for professional exposures associated with industry groups, such as real estate agents.

You might think that the flexible nature of these forms makes them easy to adapt and use, but it can instead make service definitions more difficult to craft and placing the risk more challenging.

### Service Definitions

Agents and brokers need to have a comprehensive understanding of the insured’s operations and service offerings to ensure appropriate coverage definitions and exclusions are listed in policies.

Generally, MPL policies include broad definitions of covered services—sometimes as broad as “any services provided to others for a fee or consideration” or “services as listed on the insured’s website.” This broad language leaves much to interpretation, but also can provide a comfortable “blanket” of covered activities. That said, carriers often tailor the definition of covered services with a line item in the declarations page, a specific endorsement, and/or exclusions.

If the covered professional services definition is not accurate, too broad (or conversely, too limited), then the policy can’t be triggered, rendering any other coverages contained in the policy useless. Similarly, some of the industry specific endorsements typically added to policies can contain exclusions that are applicable to the entire policy. Therefore, careful examination of endorsement language is required to avoid coverage issues.



### Carrier Appetite, Form Limitations, and Pricing

Placement of MPL risks can also be challenging for agents and brokers due to carrier appetites that vary widely and are constantly evolving, as well as rating calculations that favor traditional, established professional services.

Some carriers have books that heavily favor specified professions, while others are engineered to respond with unique solutions for MPL. Blended service offerings can be particularly difficult to place because many carriers who write specific professions have guidelines that prevent them from offering complete MPL solutions alongside more traditional E&O offerings.

Adding to the complexity are pricing models that not only consider the nature of the services provided and the types of projects or industries served, but also the experience level of the professionals, the company’s previous annual revenues (which represent scope of the services provided), and claims loss history—data that might not exist yet for new or emerging professional service providers.

The lack of industry standards around MPL policies highlights the important role educated agents and brokers play in helping insureds understand their risks and choose the best coverage options.



## Takeaway

As the landscape for professional liability insurance continues to evolve, so will the complexities in finding bespoke policies that meet the needs of emerging professionals. Agents and brokers committed to helping their insureds make informed decisions should partner with wholesale experts who can guide them through the latest trends.

Amwins now offers an online quoting portal for light touch risks that includes MPL coverage. Our portal leverages the scale of the nation's largest wholesaler with the speed and simplicity of digital quoting. Excluded classes are addressed early in the process, and your Amwins broker can provide tailored solutions for more complex risks.

Contact your Amwins broker to learn more about our propriety professional lines or visit [digital.amwins.com](https://digital.amwins.com) to start quoting today. *Please note that agents must be appointed with Amwins to use the portal.*

### About the Author

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