

Employment Practices Liability (EPLI)

What is Employment Practices Liability Insurance (EPLI) and What Does it Cover?

EPLI coverage provides protection for an organization, its management or its employees from claims relating to wrongful employment practices by its executives, partners, principals, employees, and, if necessary, independent contractors.

An EPLI policy typically protects against defense costs and damages for claims relating to a company's employment practices. EPLI policies are broad and can provide protection from employment related claims such as:

Immigration	Discrimination (e.g. age, race or gender)
Sexual Harassment	Hostile Work Environment
Claims from Prospective Employees/Applicants	Failure to Employees/Applicants
Wage and Hour	Family Medical Leave Act (FMLA)
Workplace Violence	Immigration Reform Violation
Claims from Clients, Vendors and Others	Breach of Contract

Why does the Cannabis Industry Need EPLI?

The cost of defending an employment claim can be significant. According to a Equal Employment Opportunity Commission (EEOC) report, there were 72,675 charges in 2019. The same report showed the average cost of defending discrimination claims was \$160,000. An EPLI policy can provide the resources and funds to help defend and pay EPLI claims.

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Enhancements to Note

- Defense outside limit
- Workplace Violence
- Family Medical Leave
- 3rd Party Coverage
- Immigration Reform
- FSLA
- Third Part Coverage

Coverage Items to Consider

- Criminal, Fraudulent, or Malicious Acts
- Sexual Abuse/Molestation
- Class Action Exclusions
- Reduction in Force Exclusions
- Covid Exclusions

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Claim Scenarios:

Hostile Work Environment

A multi-state organization's dispensary worker alleged there were derogatory statements posted by co-workers on the internal messaging platform. The cannabis company's leadership denied responsibility, arguing the harassment occurred outside the physical workplace. Employers are not required to monitor all private communications between employees. However, they do have a duty to stop harassment in settings related to the workplace if they know or have reason to know about it. The employee sued for defamation and emotional distress. Courts decided the employer was liable due to online forum being related to the workplace. Total costs incurred exceeded \$600,000.

Wrongful Termination

A cannabis cultivator hired a relative and subsequently fired their controller for their relative to replace. The former controller sued stating they were terminated without cause. The company had previous issues with this controller; however, they did a poor job of documenting those performance issues leading to a poor defense position. The former controller also alleged they had information about questionable accounting practices they'd bring to light without a quick settlement. Total costs incurred exceeded \$250,000.

EPLI Best Practices:

Have counsel review and be sure to implement formal policies, guidelines or procedures relating to:

Family Medical Leave Act

Anti Discrimination

Anti Harassment

Adherence to Genetic Nondiscrimination

Equal Pay Act

Adherence to "at-will" relationship

Social Media Policy

Performance Appraisals

ADA

Define Exempt employees

Investigation of Employee Complaints

Immigration Reform (IRCA)

Proper use of company email, telephone and internet

Severance for terminated employees

HR Employment training

Discharge/Termination

Grievance

Let's talk about your insurance needs.

Contact a cannabis industry insurance expert today.

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