

Your answers are shown below:

1. Which one of the following statements is correct regarding the roles and responsibilities of corporate directors and officers?

- A. Directors and officers are considered to have met their duty of care if they refrain from acting as a spokesperson for the corporation.
- B. Directors are not permitted to delegate special powers to others to sign contracts.
- C. The duty of loyalty requires directors and officers to perform their duties in accordance with federal and state law.
- D. **A major responsibility of corporate directors is to approve important financial matters and ensure proper financial reports are provided to shareholders.**

D is correct. (Obj 1 – Type A).

A is incorrect. Directors and officers are considered to have met their duty of care if they act in good faith and discharge their responsibilities with informed judgment.

B is incorrect. One responsibility of a director is to delegate special powers to others to sign contracts and conduct any activities that may require board approval.

C is incorrect. The duty of obedience requires directors and officers to perform their duties in accordance with federal and state law.

2. Which one of the following represents a fiduciary duty of a corporate director or officer?

- **A. Duty of diligence.**
- B. Duty of honesty.
- C. Duty of judgment.
- D. Duty of indemnity.

A is correct. (Obj 1 – Type A).

Directors and officers have the following fiduciary duties:

- Duty of care (diligence).
- Duty of loyalty.
- Duty of disclosure.
- Duty of obedience.

3. Which one of the following represents a fiduciary duty of a corporate director or officer?

- A. Duty of independence.
- B. Duty of objectivity.
- **C. Duty of loyalty.**
- D. Duty of integrity.

C is correct. (Obj 1 – Type A).

Directors and officers have the following fiduciary duties:

- Duty of care (diligence).
- Duty of loyalty.
- Duty of disclosure.
- Duty of obedience.

4. Which one of the following statements is correct regarding types of lawsuits made against directors and officers of a corporation?

- A. Class action lawsuits are typically initiated by the corporation against its shareholders.
- **B. The Ultra Vires Act expanded federal jurisdiction over class action lawsuits.**
- C. Damages recovered in a derivative lawsuit are paid directly to the shareholders of the corporation.
- D. Nonderivative lawsuits usually name one or more directors and the corporation as defendants.

D is correct. (Obj 1 – Type A).

A is incorrect. Class action lawsuits are initiated by a group of individuals.

B is incorrect. The Class-Action Fairness Act expanded federal jurisdiction over class action lawsuits.

C is incorrect. Damages recovered in a derivative lawsuit are paid directly to the corporation.

5. Which one of the following prohibits officers and directors from using insider information to buy or sell stock of the corporation?

- A. Business judgment rule.
- **B. Securities and Exchange Act of 1934.**
- C. Sarbanes-Oxley Act of 2002.
- D. Class Action Fairness Act of 2005.

B is correct. (Obj 1 – Type A).

A is incorrect. The business judgment rule provides that a director will not be personally liable for a decision involving business judgment, provided the director made an informed decision and acted in good faith.

C is incorrect. The Sarbanes-Oxley Act of 2002 prohibits corporations from making most kinds of loans to officers or directors, as well as other restrictions meant to increase corporate and auditing accountability and transparency.

D is incorrect. The Class Action Fairness Act of 2005 expanded federal jurisdiction over class actions with additional oversight of attorney fees in this type of suit.

6. John is a director of Corriente Oil & Gas. If John also owned or operated a business that competed with Corriente, it would be a breach of which fiduciary duty?

- A. Duty of care.
- **B. Duty of loyalty.**
- C. Duty of disclosure.
- D. Duty of obedience.

B is correct. (Obj 1 – Type B).

A is incorrect. The duty of care requires directors and officers to act in good faith and discharge their responsibilities with informed judgment.

C is incorrect. The duty of disclosure requires directors and officers to disclose material facts.

D is incorrect. The duty of obedience requires directors and officers to perform their duties according to federal and state law.

7. Richard and Jane are large shareholders of Globodyne Corporation. They feel that recent mismanagement of the company is the cause of the recent decline in the price of the company's stock. They sue the CEO and CFO in the name of the corporation. This type of lawsuit is known as a(n):

- **A. Derivative suit.**
- B. Nonderivative suit.
- C. Class action suit.
- D. Indemnification suit.

A is correct. (Obj 1 – Type B).

B is incorrect. A nonderivative suit is not made in the name of the corporation. They may be made by shareholders, customers, competitors, or others who suffer harm and decide to bring suit in their own name.

C is incorrect. A class action suit is a lawsuit in which one person or a small group of people represent the interests of an entire class of people in litigation.

D is incorrect. An indemnification suit is not a type of lawsuit.

8. Which one of the following describes the Coverage B insuring agreement in a directors and officer policy?

- A. Individual coverage.
- B. Direct coverage.
- **C. Indemnification coverage.**
- D. Entity coverage.

C is correct. (Obj 2 – Type A).

A is incorrect. Coverage A insures the individual directors and officers. It is sometimes referred to as individual coverage, direct coverage, or directors and officers coverage.

B is incorrect. Coverage A insures the individual directors and officers. It is sometimes referred to as individual coverage, direct coverage, or directors and officers coverage.

D is incorrect. Coverage C is entity coverage, because it makes the corporation itself an insured.

9. In a directors and officers liability insurance policy, which one of the following makes the corporation itself an insured for claims made against it because of wrongful acts covered by the policy?

- A. Coverage A.
- B. Coverage B.
- **C. Coverage C.**
- D. Coverage D.

C is correct. (Obj 2 – Type A).

A is incorrect. Coverage A indemnifies the directors and officers for covered claims when indemnification by the corporation is not required or permitted by law.

B is incorrect. Coverage B provides coverage for the corporation for the amounts it is required to pay to defend claims against the directors or officers.

D is incorrect. Coverage D is not an available coverage in a directors and officers liability insurance policy.

10. Which one of the following statements is correct regarding a standard, unendorsed directors and officers (D&O) liability policy?

- **A. It typically includes defense costs in the definition of loss.**
- B. It seldom includes a deductible.
- C. It seldom covers wrongful acts that occurred before the policy period.
- D. It typically provides 10- to 25-day automatic tail coverage, with an occurrence coverage trigger.

A is correct. (Obj 2 – Type A).

B is incorrect. D&O policies usually have a deductible, which is also referred to as a retention..

C is incorrect. Many D&O policies cover claims made during the policy period for wrongful acts that occurred either during the policy period or at any time before the policy period.

D is incorrect. A standard D&O policy provides 30- to 60-day automatic tail coverage, with a claims-made coverage trigger.

11. Which one of the following represents a provision in a directors and officers (D&O) liability policy that provides coverage for innocent directors and officers who did not have knowledge of wrongful acts?

- A. Consent to settle claims provision.
- B. Allocation of loss provision.
- C. Arbitration provision.
- **D. Severability of interests provision.**

D is correct. (Obj 2 – Type A).

A is incorrect. The consent to settle claims provision gives the insured the option of participating in the decision to settle a claim.

B is incorrect. The allocation of loss provision addresses the handling of defense costs.

C is incorrect. The arbitration provision addresses the resolution of disputes between the insured and the insurer.

12. Losses resulting from which of the following would most likely be covered under a directors and officers (D&O) liability policy?

- A. Bodily injury.
- **B. Financial statement errors.**
- C. Advertising injury.
- D. Property damage.

B is correct. (Obj 2 – Type A).

A is incorrect. Bodily injury is often excluded from coverage under a D&O policy.

C is incorrect. Advertising injury is often excluded from coverage under a D&O policy.

D is incorrect. Property damage is often excluded from coverage under a D&O policy.

13. In order to generate a higher yield on their cash portfolio, the CFO of Omega Manufacturing, Inc. placed most of the corporation's cash into illiquid debt instruments. This illiquidity caused Omega to not be able to pay their suppliers, ultimately leading to the company's bankruptcy and the freezing of the company's assets. A lawsuit was filed against the CFO and he was found liable for \$10,000,000. Omega's directors and officers (D&O) liability policy provides coverage of \$1,000,000 for each loss and a \$4,000,000 aggregate limit. How much will the D&O policy pay with respect to this loss?

- A. \$0.
- B. \$1,000,000 under Coverage A, with a \$3,000,000 aggregate limit remaining.
- C. \$1,000,000 under Coverage B, with a \$3,000,000 aggregate limit remaining.
- D. \$1,000,000 under Coverage A and \$1,000,000 under Coverage B, with a \$2,000,000 aggregate limit remaining.

B is correct. (Obj 2 – Type B).

The D&O policy will pay \$1,000,000 under Coverage A, which insures the individual directors and officers. Coverage B insures the corporation for the amounts that it is lawfully permitted to pay to defend or settle claims against the directors and officers.

Because of the bankruptcy, the company cannot indemnify the CFO and coverage B does not apply.

14. Which one of the following policies provides coverage for directors not otherwise affiliated with the corporation they serve?

- A. Outside directors liability policy.
- B. Inside directors liability policy.
- C. Unaffiliated directors liability policy.
- D. Independent directors liability policy.

D is correct. (Obj 3 – Type A).

A is incorrect. An outside directors liability policy covers the liability of a corporation's directors while they serve as outside directors for another corporation.

B is incorrect. There is no such policy.

C is incorrect. There is no such policy.

15. Which one of the following statements is correct regarding occupation-specific directors and officers policies?

- A. They exclude coverage for employment practices liability and professional liability.
- B. They are often used by organizations such as school boards and non-profits.
- C. They insure only the independent officers and directors listed in the policy.
- D. They feature a low premium because defense costs are not covered.

B is correct. (Obj 3 – Type A).

A is incorrect. Occupation-specific directors and officers policies often cover employment practices liability and professional liability.

C is incorrect. Independent directors liability policies insure only the independent directors listed in the policy.

D is incorrect. Most occupation-specific directors and officers policies cover defense costs.

16. Which one of the following statements is correct regarding directors and officers Side-A only coverage?

- A. It is only offered on an excess coverage basis.
- B. It covers only the individual liability of the insured directors and officers.
- C. It is a disadvantage to directors in bankruptcy coverage disputes.
- D. It serves as a substitute for normal directors and officers liability coverage.

B is correct. (Obj 3 – Type A).

A is incorrect. Side-A only coverage is offered as primary coverage by some insurers.

C is incorrect. Side-A only policies are advantageous to directors in bankruptcy coverage disputes because the corporation is not an insured. Therefore, the policy is not regarded as a corporate asset that can be frozen by the bankruptcy court.

D is incorrect. Side-A only coverage is not a substitute for normal D&O coverage, because it does not include any reimbursement coverage for the corporation when the corporation indemnifies the directors or officers, nor does it include any entity coverage.

17. Dan is an independent director on the board of Liberty International, Inc. He has requested that the company provide him with his own separate D&O policy. Which one of the following is likely his reasoning for this?

- A. Standard unendorsed D&O policies do not cover independent directors.
- B. The premium for a separate policy will be lower than one covering all directors.
- C. To prevent claims against other directors from diluting his limits.
- D. To reduce the likelihood he will be named in a suit involving other directors.

C is correct. (Obj 3 – Type B).

Directors serving on boards that they are not otherwise affiliated with may insist on having their own D&O coverage so that their insurance limits would not be diluted by claims against other directors.

18. Jill is an employee of Fast Books Accounting where she serves on the board of directors. Recently, she was asked by Fast Books CEO to serve on the board of Children's Place, a local nonprofit organization. Fast Books would like to protect Jill from any liability that could result from her serving on the board of Children's Place. Which of the following policies should they consider?

- A. Independent directors liability policy.
- B. Dependent directors liability policy.
- C. Inside directors liability policy.
- D. Outside directors liability policy.

D is correct. (Obj 3 – Type B).

A is incorrect. An independent directors liability policy provides coverage for directors not otherwise affiliated with the corporation they serve.

B is incorrect. There is no such policy.

C is incorrect. There is no such policy.

19. Which one of the following statements is correct regarding employment practices liability (EPL) loss exposures?

- A. Legislation has greatly reduced the basis for employment-related discrimination claims.
- B. All violations of employment-related laws are covered by EPL insurance.
- C. Unintentional discrimination is not unlawful.
- D. Classification of EPL claims are not mutually exclusive.

D is correct. (Obj 4 – Type A).

A is incorrect. Legislation has greatly expanded the basis for employment-related discrimination claims.

B is incorrect. Not all violations of employment-related laws are covered by EPL insurance. Some violations are specifically excluded.

C is incorrect. Discrimination does not have to be intentional to be unlawful.

20. Which one of the following describes a specific, observable action that discriminates against a person or class of persons?

- A. Adverse impact.
- B. Disparate treatment.
- C. Overt discrimination.
- D. Discrimination by effect.

C is correct. (Obj 4 – Type A).

A is incorrect. Adverse impact (also called discrimination by effect or disparate impact) occurs when personnel policies deny employment/advancement to members of protected classes.

B is incorrect. Disparate treatment is unfair treatment of someone in comparison to how similar individuals are treated.

D is incorrect. Discrimination by effect (also called disparate impact or adverse impact) occurs when personnel policies deny employment/advancement to members of protected classes.

21. Which one of the following statements is correct regarding wrongful termination claims?

- A. They account for the majority of cases of alleged wrongful employment practices.
- B. They do not include constructive discharge.

- C. The theory of implied contract is a defense often used by employers.
- D. Courts in a majority of states hold that employment at will is subject to a covenant of good faith.

A is correct. (Obj 4 – Type A).

B is incorrect. Wrongful termination includes constructive discharge.

C is incorrect. Under the theory of implied contract, an employer's representations to employees regarding job security or disciplinary procedures are held to create a contract of employment. It is an exception to employment at will, and not a defense to wrongful termination.

D is incorrect. Courts in a minority of states hold that employment at will is subject to a covenant of good faith.

22. Which one of the following statements is correct regarding employment practices liability?

- A. Sexual harassment, retaliation, and unlawful discrimination are all examples of unintentional torts.
- **B. Dismissal of a complaint by the Equal Employment Opportunity Commission is not a bar to a suit by the employee.**
- C. Wrongful termination claims often allege that an implied employment contracts exists based on the employer's corporate charter.
- D. The practice of extreme discharge is an exception to the "employment at will" legal doctrine.

B is correct. (Obj 4 – Type A).

A is incorrect. Sexual harassment, retaliation, and unlawful discrimination are all examples of wrongful employment practices.

C is incorrect. Wrongful termination claims often allege that an implied employment contracts exists based on the employee handbook.

D is incorrect. The theory of implied contract is an exception to the "employment at will" legal doctrine.

23. Which one of the following statements is correct regarding the Consolidated Omnibus Budget Reconciliation Act?

- A. It sets minimum standards for most voluntarily established pension and benefit plans.
- B. It requires employers to provide notice 60 days in advance of covered plant closings and mass layoffs.
- C. It establishes minimum wage and overtime rates and regulates the employment of children.
- **D. It gives workers who lose their health benefits the right to continue group health benefits under certain circumstances.**

D is correct. (Obj 4 – Type A).

A is incorrect. The Employee Retirement Income Security Act (ERISA) sets minimum standards for most voluntarily established pension and benefit plans.

B is incorrect. The Worker Adjustment and Retraining Notification Act (WARN) requires employers to provide notice 60 days in advance of covered plant closings and mass layoffs.

C is incorrect. The Fair Labor Standards Act (FLSA) establishes minimum wage and overtime rates and regulates the employment of children.

24. In order to prevail in a claim relating to a hostile work environment, the employee must generally prove all of the following,

EXCEPT:

- A. The employee was subjected to harassment that was unwelcome.
- **B. The employer did not know about the harassment.**
- C. The harassment affected a condition of employment.
- D. They are a member of a protected class.

B is correct. (Obj 4 – Type A).

To prevail in a claim of hostile work environment, an employee generally must prove the employer knew (or should have known) about the harassment, and failed to take action.

25. Which one of the following statements is correct regarding laws affecting employment practices liability loss exposures?

- A. The Civil Rights Act of 1991 requires that employers provide up to 12 weeks of unpaid leave to care for a newborn child.
- B. The Fair Labor Standards Act prohibits discrimination against individuals age 40 or older based on their age.
- **C. The Worker Adjustment and Retraining Notification Act requires employers to provide advanced notice for certain plant closings.**
- D. The Employee Retirement Income Security Act gives terminated workers the right to continue their group health insurance.

C is correct. (Obj 4 – Type A).

A is incorrect. The Family and Medical Leave Act requires that employers provide up to 12 weeks of unpaid leave to care for a newborn child.

B is incorrect. The Age Discrimination in Employment Act prohibits discrimination against individuals age 40 or older based on their age.

D is incorrect. The Consolidated Omnibus Budget Reconciliation Act gives terminated workers the right to continue their group health insurance.

26. Ron resigned from his job at ABC Company due to unendurable working conditions. He was able to prove his allegations in court, and as a result, he was treated by the court as though ABC Company terminated him. This is an example of a:

- A. Involuntary termination.
- **B. Constructive discharge.**
- C. Proactive
- D. Retaliation claim.

B is correct. (Obj 4 – Type B).

Constructive discharge occurs when an employee quits due to unendurable conditions, and the employee is treated as if they were instead terminated by the employer after being able to prove their allegations.

27. Sally works for Macroware Inc., a software development company. Sally and several other women in her department have been reprimanded multiple times for returning to work late from their lunch break. Sally has noticed that her male coworkers have not been reprimanded at all, even though they have also returned late from lunch on multiple occasions. This is an example of which of:

- A. Disparate impact.
- **B. Disparate treatment.**
- C. Sexual harassment.
- D. Overt discrimination.

B is correct. (Obj 4 – Type B).

Disparate treatment is unfair treatment of someone in comparison to how other similar individuals are treated.

28. Which one of the following statements is correct regarding employment practices liability (EPL) insurance?

- A. The rise in use of independent contractors in the workplace has driven insurers to develop a uniform standard for their treatment in policies.
- **B. The named perils form provides a general description of offenses.**
- C. Stand-alone EPL policies rarely include the employer as a named insured.
- D. The two ways EPL insurance defines "wrongful act" are named perils and broad form.

D is correct. (Obj 5 – Type A).

A is incorrect. EPL policies treat independent contractors in different ways.

B is incorrect. The named perils form provides a listing of offenses. The broad form provides a general description.

C is incorrect. Stand-alone EPL policies always include the employer as a named insured.

29. Which one of the following is least likely to be provided additional coverage for third-party discrimination in an EPL policy?

- A. Vendors.
- **B. Managers.**
- C. Customers.
- D. Independent contractors.

B is correct. (Obj 5 – Type A).

Customers, vendors, independent contractors, or any other nonemployees who interact with the firm can all make third-party discrimination claims.

30. Which one of the following is an additional coverage that may be offered by an insurer in an EPL policy?

- A. Second-party discrimination.
- B. Workplace safety (OSHA).
- C. Unemployment compensation.
- D. Reputation management.

D is correct. (Obj 5 – Type A).

Additional coverages and services offered to insureds on an EPL policy include:

- Third-party discrimination.
- Workplace violence.
- Reputation management.
- EPL Risk Control Services.

31. Which one of the following statements is correct regarding coverage under an employment practices liability (EPL) policy?

- A. Coverage is provided for front pay awards but excluded for back pay.
- B. A policy that does not specifically list independent contractors would likely provide no coverage for claims made by independent contractors.
- C. Expenses incurred to retain a public relations firm to mitigate negative publicity may be covered if the policy contains added coverage for sunk costs.
- D. The named perils form provides indemnity and defense cost while the broad form provides "all-risks" coverage.

B is correct. (Obj 5 – Type A).

A is incorrect. Some EPL policies cover claims for back pay for certain types of claims.

C is incorrect. Expenses incurred to retain a public relations firm to mitigate negative publicity may be covered if the policy contains added coverage for reputation management costs.

D is incorrect. The named perils form provides a listing of offenses while the broad form provides a general description.

32. Gerald and Samantha work as employees at Roadside Diner, a restaurant that has an unendorsed employment practices liability (EPL) policy with a \$500,000 limit of liability and \$10,000 self-insured retention. Samantha's husband entered the restaurant and got into a heated argument with Samantha. When Gerald tried to intervene, Samantha's husband struck him, causing him to fall and hit his head. Gerald's jaw was broken, requiring extensive medical treatment and surgery. He also suffered a traumatic head injury, necessitating prolonged rehabilitation and therapy. Total damages were \$600,000. How much will the EPL policy pay?

- A. \$0.
- B. \$490,000.
- C. \$500,000.
- D. \$590,000.

A is correct. (Obj 5 – Type B).

The EPL policy excludes bodily injury and workers' compensation damages; therefore, coverage does not apply.

33. Steve works for Pipe Dreams, a plumbing repair company. While on a job at Pat's house, Pat claims that Steve made a series of unwelcome sexual advances. During an investigation, it was determined that Steve had made similar advances with other customers in the past. Coverage may be available under Pipe Dreams' employment practices liability (EPL) policy under which of the following conditions?

- A. Steve is an independent contractor.
- B. The policy has a reputation management endorsement.
- C. The policy has a third-party discrimination endorsement.
- D. The employer was not aware of Steve's past behavior.

C is correct. (Obj 5 – Type B).

A is incorrect. To provide coverage for independent contractors, a policy would need to include them in the definition of employee or add them through endorsement.

B is incorrect. Reputation management costs can be added by endorsement or through a stand-alone policy and are designed to minimize or repair damage in an employment discrimination or harassment suit that has created a public relations problem.

D is incorrect. This is typically a requirement of proving a hostile work environment, but is not relevant in this particular case since customer claims (third-party) would only be available with an added endorsement.

34. Black Rooster Roasters, a national chain of coffee shops, requires all its employees to sample their coffee of the day each morning prior to the store opening. They are found to have discriminated against the hiring of over 200 individuals over the past 15 years whose religious practices prohibit them from ingesting caffeine. Black Rooster has an employment practices liability (EPL) policy with a \$2,000,000 liability limit, including defense costs. Their self-insured retention is \$100,000. The retroactive date is September 9, 1999. Assuming court defense costs total \$100,000 and the court awards a \$1,500,000 judgment, the EPL policy will pay:

- A. \$0 for defense costs and \$1,500,000 for the judgment.
- **B. \$100,000 for defense costs and \$1,400,000 for the judgment.**
- C. \$100,000 for defense costs and \$1,500,000 for the judgment.
- D. \$100,000 for defense costs and \$0 for the judgment.

C is correct. (Obj 5 – Type B).

This is a covered claim under the EPL policy. The wrongful acts have occurred over the past 15 years and so are after the retroactive date. Defense costs are covered in full up to the policy limit. The judgment is covered in full up to the policy limit less the self-insured retention.

35. Which one of the following statements is correct regarding management liability insurance?

- A. Unlike a commercial general liability policy, a management liability policy provides no defense coverage to the insured.
- B. A directors and officers liability policy would cover individuals who are negligent in making investment decisions relating to a company's retirement plan.
- **C. An employment practices liability policy would cover an organization against claims of sexual harassment and wrongful termination.**
- D. A fiduciary liability policy would only cover fiduciaries of retirement plans, investment companies, and financial services organizations.

C is correct. (Obj 6 – Type A).

A is incorrect. Management liability insurance policies can provide defense coverage in the same manner as a commercial general liability policy.

B is incorrect. A fiduciary liability policy would cover individuals who are negligent in making investment decisions relating to a company's retirement plan.

D is incorrect. The definition of fiduciary is much broader and generally includes any individual whose role in employee benefits involves discretionary judgment relating to the benefit plan.

36. Which one of the following is an employee benefit plan fiduciary duty that requires the fiduciary's actions be solely in the best interests of the plan and its participants?

- **A. Loyalty.**
- B. Prudence.
- C. Diversification.
- D. Adherence.

A is correct. (Obj 6 – Type A).

B is incorrect. The duty of prudence requires the fiduciary to carry out his or her duties with the care and skill of a prudent person.

C is incorrect. The duty of diversification requires the fiduciary to ensure plan investments are sufficiently diversified to minimize the risk of large losses.

D is incorrect. The duty of adherence requires the fiduciary to act according the plan documents and applicable law.

37. Which one of the following statements is correct regarding the Employee Retirement Income Securities Act (ERISA)?

- A. It only applies to qualified retirement plans, such as pension and profit sharing plans.
- B. It requires a plan fiduciary to act in the best interest of the plan sponsor.
- **C. It was enacted in response to abuses and underfunding in many benefit plans.**
- D. It requires the plan fiduciary to ensure that no plan investments will lose money for the beneficiaries.

C is correct. (Obj 6 – Type A).

A is incorrect. ERISA governs retirement and other benefit plans, including group health insurance.

B is incorrect. ERISA requires a fiduciary to act for the benefit of the plan and its participants and beneficiaries.

D is incorrect. Plan fiduciaries have a duty of diversification. This requires the fiduciary to ensure that the plan's investments are sufficiently diversified to minimize the risk of large losses.

38. Which one of the following represents a fiduciary duty under the Employee Retirement Income Securities Act (ERISA)?

- A. Integrity.
- B. Objectivity.
- C. Adherence.
- D. Independence.

C is correct. (Obj 6 – Type A).

The following are the duties of a fiduciary under ERISA:

- Prudence.
- Loyalty.
- Adherence.
- Diversification.

39. Which one of the following statements is correct regarding the Health Insurance Portability and Accountability Act (HIPAA)?

- A. It permits premiums to be determined based on health-related factors.
- B. It prohibits disclosure about group health plans.
- C. It increases allowed exclusions for preexisting medical conditions.
- D. It calls for the protection and confidentiality of employee medical information.

D is correct. (Obj 6 – Type A).

A is incorrect. HIPAA prohibits discrimination based on health-related factors.

B is incorrect. HIPAA improves disclosure relating to group health plans.

C is incorrect. HIPAA limits exclusions for preexisting medical conditions.

40. Apache Energy is a company involved in the trading of complex energy derivatives. Their board of directors is compensated quarterly based on the performance of the company's stock price. The board of directors approved investment in the company's stock in their employee's pension plan. The pension plan was already invested in various equity and fixed income mutual funds. The company began to fall on hard times, and the board froze transfers out of the company stock investment option, fearing sales of the stock would put downward pressure on the stock price. Which one of their fiduciary duties have they violated by focusing only on the impact to the stock price?

- A. Loyalty.
- B. Prudence.
- C. Diversification.
- D. Adherence.

A is correct. (Obj 6 – Type B).

B is incorrect. The duty of prudence requires the fiduciary use care and skill of a prudent person.

C is incorrect. The duty of diversification requires the fiduciary to ensure that the plan's investments are sufficiently diversified.

D is incorrect. The duty of adherence requires the fiduciary to act according the plan documents and applicable law.

41. Which one of the following statements is correct regarding fiduciary liability insurance?

- A. Covered defense expenses are typically payable in addition to the liability limit.
- B. Defense coverage can be on either a duty-to-defend or reimbursement basis.
- C. Standard unendorsed policies include coverage for multi-employer plans.
- D. Deductibles apply to damages but not defense costs.

B is correct. (Obj 7 – Type A).

A is incorrect. Covered defense expenses are usually included within the overall limit.

C is incorrect. Unless the policy is specifically endorsed, multi-employer plans are usually not covered.

D is incorrect. A fiduciary liability policy is generally subject to a deductible that applies to both defense costs and damages.

42. Claims arising from which one of the following would typically be covered in a fiduciary liability policy?

- A. Disability benefits.
- B. Workers' compensation.
- C. Unemployment.
- D. COBRA claims.

D is correct. (Obj 7 – Type A).

Exclusions from coverage under a fiduciary liability policy include:

- Workers' compensation.
- Disability benefits.
- Unemployment.
- Failure to properly fund the plan.

However, claims arising under the Consolidated Omnibus Budget Reconciliation Act (COBRA) are covered.

43. Claims arising from which one of the following would typically be covered in a fiduciary liability policy?

- A. Certain fines and penalties imposed by ERISA.
- B. Failure to collect required employee contributions.
- C. Criminal or fraudulent acts.
- D. Acts that occurred before the retroactive period.

A is correct. (Obj 7 – Type A).

B is incorrect. Fiduciary liability policies typically exclude any loss resulting from an insured's failure to collect required employee contributions.

C is incorrect. Fiduciary liability policies exclude criminal or fraudulent acts.

D is incorrect. Fiduciary liability policies exclude claims made for acts that occurred before any retroactive period.

44. Which one of the following statements is correct regarding the Health Insurance Portability and Accountability Act (HIPAA)?

- A. The criminal penalties that can be imposed under HIPAA are insurable.
- B. It laid the groundwork for the eventually passing of ERISA.
- C. Some insurers offer endorsements that cover some civil penalties imposed by HIPAA.
- D. It requires employee benefit plan fiduciaries to purchase a fidelity bond.

C is correct. (Obj 7 – Type A).

A is incorrect. The criminal penalties that can be imposed under HIPAA are not insurable.

B is incorrect. ERISA was enacted in 1974. HIPAA was enacted in 1996, and amended some portions of ERISA.

D is incorrect. ERISA imposes a fidelity bond coverage requirement.

45. Which one of the following statements is correct regarding fiduciary liability policies?

- A. The named insured is the benefit organization.
- B. As a response to HIPAA, many insurers removed the definition of "wrongful act" from these policies.
- C. Unless a specific endorsement applies, pension plans are usually not covered.
- D. To be covered, claims must be first reported during the policy period.

D is correct. (Obj 7 – Type A).

A is incorrect. The named insured in a fiduciary liability policy is the sponsor organization.

B is incorrect. As a response to HIPAA, many insurers added "breach of duties imposed by HIPAA" to the definition of "wrongful act."

C is incorrect. Unless a specific endorsement applies, multi-employer plans are usually not covered.

46. The Chief Operating Officer of Professional Staffing, Inc. was in charge of the administration of the company's group health insurance plan. On multiple occasions, he failed to send COBRA benefits information to retiring employees. Which one of the following would provide coverage?

- A. Fiduciary liability policy.
- B. Commercial general liability policy.
- C. Directors and officers liability policy.
- D. Employment practices liability policy.

A is correct. (Obj 7 – Type B).

Fiduciary liability policies have exclusions that include workers' compensation, disability benefits, unemployment, and similar laws. However, there is an exception that covers claims arising under the Consolidated Omnibus Budget Reconciliation Act (COBRA).