

# Is There a Difference Between Professional Conduct and Acting Professionally?

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What do architectural door and hardware businesses share in common with insurance consulting operations? If your answer is “absolutely nothing”, you would be wrong because at the root both types of businesses exist with many of the same foundations and principals. Both seek to help others in life or business, specifically by providing security and safety to their clients. Both also strive to offer specialized advice based on experience and training on their subject matter that the general person would not have, or could not suggest. Have you ever thought about the insurance exposure associated with providing advice, writing specifications, or performing safety inspections to others? How much liability is there for you and your business? This article will explain the differences between “professional conduct” and “acting professionally”.

Before we can go any further, the distinction between “professional conduct” and “acting professionally” needs to be defined. Things like answering phone calls promptly, addressing customers with respect, and communicating in the proper tone in oral and written communications are all parts of “acting professionally”. “Professional conduct” occurs when an individual holds a skill or knowledge of a subject matter that the general public does not. Certain professions are known to be classified as professionals such as lawyers, accountants, doctors, insurance agents, and safety/security inspectors. Many consultants fall into this category as well but the lines often get blurred. As an example, we can look at food services and ask does this definition cover the waiter or waitress who recommends a certain dish at the local restaurant? Or in the retail business, the sales clerk who recommends a particular brand or color of clothing? The answer to both is generally no. Having an opinion is not the same thing as supplying technical knowledge and, therefore, it must be separated.

Are you, as a consultant/safety inspector, held to a standard of conduct as professionals? Some are held to a higher standard for advice they give, but not all are held to this same standard. Some consultants have individuals or employees that are outside the normal scope of providing simple experience. Instead, they utilize special training or education along with advice. Going back to the description noted above for “professional conduct” versus “acting professionally” we can clear up some of this gray area of coverage.

If you are insured as a consultant or safety inspector, it is assumed that you and your employees will act professionally and your main source of revenue will be offering advice or inspection services. There is still the possibility that there will be allegations which will not be related to the professional aspects of your business and those will be addressed under the Commercial General Liability (CGL) form. One activity, installation, would normally be considered a CGL type claim as the allegation will probably be property damage or bodily injury. However, if the company in question hires an employee to write specifications, design and provide consultation on safe door openings, or inspect properties to see if the commercial doors are compliant as described in NFPA 80, and they also install or maintain the door openings, the line of doing business as a professional has been crossed.



Although a few individuals have dabbled in these areas without formal training, the majority of those who practice this trade have formal education and/or a certification of some type, but both can be subject to claims.

All of the commonly recognized professions regardless of Industry have one universal exposure. More than likely, any potential error on their part will affect their customers financially. Basically, the standard CGL policy covers in three major parts 1) Bodily Injury and Property Damage, 2) Advertising Injury and Personal Injury, and 3) Medical Payments. If one of these defined areas of the policy is the trigger of coverage with respect to a loss, the resulting financial harm will most likely be covered. The problem is that the trigger of a loss for a professional is often advice or an intangible service, which as the defined cause of loss does not fit into the three major coverage sections of the CGL.

When do you rise above and beyond incidental exposure and venture outside of the coverage contemplated by the CGL? Two criteria can be used to test your exposure:

- 1) Do you charge a separate fee for consulting, design, or inspection work?
- 2) Do you have employees that are trained and possibly certified handling the technical side of the job?

If you answered “yes” to these questions, you have now crossed into “professional conduct” because the trained or certified employee has a level of expertise that the general public does not have in technical support, consulting or design. This licensing, training, or certification holds them to a higher standard and triggers a professional exposure for insurance purposes in most cases.

Where do you find coverage for professional exposures? The answer lies in the type of service you are providing. Insurers are not required to carry coverage for errors and omissions but many do. Architectural door and hardware companies can purchase professional liability for operations that may trigger professional claims such as consulting and inspecting.

The best and safest advise that I can offer to a door and hardware company is to call TISC when you start a new operation or subsidiary, or expand your current operations into areas that involve the use of employees with special training that include designations, certifications, or licenses. The staff at TISC will be happy to explore with you the professional exposure associated with your business.

