

the E&O angle

E&O issues and advice

Road Map for Claims Prevention

Don't get overwhelmed—here's the path toward preventing E&O claims.

By David Hulcher

What does E&O claims prevention mean to your agency and employees? If your agency has young commercial lines sales executives, it probably means nothing. It probably ranks far behind, "How can I write more business?" The reality is that E&O claims prevention probably doesn't mean much to agency employees and it should! Until sound E&O claims prevention practices are stamped into your agency's corporate culture, it will be difficult to reduce the chances of an E&O claim. It takes commitment at the top to make this shift in thinking.

The first step is educating employees on the importance of E&O claims prevention. Employees should understand that having an E&O claim can result in the payment of a significant E&O policy deductible, increased future E&O premiums for the agency, damaged client relationships, and lost productivity.

As a starting point, examine these client processes in your agency and analyze any E&O exposures that may exist:

- 1. Marketing and Advertising:** Senior management should review all advertising and marketing materials without exception. Make sure that materials don't over-promise the benefits of policies and that they are compared carefully with the actual policy language.
- 2. New Business Process:** There are many E&O exposures hiding in the new business process which includes account reviews, taking the insured's application, and delivering a proposal. Using surveys and checklists to review a prospect's exposures to loss will help insure a thorough review. Coverage recommendations that are accepted and rejected should be documented.

Insureds should always review every question on the application themselves with you there as a resource for questions. No agency employee should sign an application on behalf of the insured. Misrepresentations on the applications often cause carrier denial of claims—a serious E&O exposure.

The proposal process is a great opportunity to show the professionalism of the agency. However, customers should make coverage decisions. All proposals should include disclaimers that policy terms will take precedence over their proposal. The client should always initial next to the coverage rejected and sign the proposal sheet.

Never go outside of your agency's binding authority. A log of the binding authority the agency has with each carrier should be maintained and distributed to employees. The binders should be done the same day as requested and never be a longer period than allowed by state law.

Policy delivery is another opportunity to interact with clients and to review their coverage decisions. When policies are received from the carrier, review each policy against the application, proposal and binders to verify that the coverage requested is in place. It also is good to review the coverages that are offered and rejected by the client.

- 3. Policy Changes:** Confirm requested policy changes with the insured in writing. Your staff should know to only accept policy changes from the policyholder and not a third party. If coverage is reduced or eliminated, the policyholder should provide a signed acknowledgment.
- 4. Claims Handling:** When a client has a claim, they want help quickly. After all, that is why they pay their premiums. Set expectations for the claims process is the first step for your agency. Make sure the insured understands their duties under the policy. Never confirm or deny coverage—that is the carrier's job.
- 5. Renewals:** Don't fall into the routine of renewing policies as is—your client's operations change over time. The renewal process should not be unlike that used for new business. It is an excellent time to revisit coverage that was previously rejected and to have the policyholder acknowledge their ongoing rejection if not accepted.
- 6. Cancellations and Non-renewals:** Policies can be cancelled for a number of reasons while compiling with state-specific regulations. Advise your employees of these regulations the make sure they are familiar with them. In general, cancellations are handled by the insurers. Your agency shouldn't directly contact customers who receive notices of intent to cancel for nonpayment. Instead, conduct an exit interview with clients to determine why coverage was terminated. Contacting clients for late payment increases the standard of care that you must provide to all of your clients. This activity can help determine the level of service the customer received to make certain that the level of service remains high.

Increasing the awareness of E&O exposures within the agency—and making employees understand the importance of sound procedures—has benefits, both financially and from an efficiency standpoint. Taking time to look at each step in a client's lifecycle will help you focus on E&O claims prevention without being overwhelmed. Agencies that truly make E&O claims prevention part of their corporate culture will be favored by their E&O carrier. **IA**

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