

## Say What You Do, Do What You Say

**W**hat happens if your office is closed for the weekend and a fax requesting to bind coverage sits until the agency's regular business hours? How should your agency handle a scenario like this, whether it relates to e-mails, faxes, cell phones or voicemails?


Keeping your agency safe from E&O claims is not about good intentions when servicing your accounts; it's about following up and meeting the expectations you create with your customer. Say what you will do for your consumers—and then do it. Exercising reasonable care and consistently performing due diligence in your operations are key to meeting customers' insurance needs no matter the form of communication.

Use disclaimer language on all agency communications. Disclaimer language helps create expectations on what your agency can realistically do to meet customers' insurance needs. It also can provide you with a better defense if a claim does occur. Include the appropriate disclaimers for handling requests and claims on the agency's voicemail system. Make it clear that merely indicating a need for coverage will not put coverage into effect and that it must be confirmed by speaking directly with someone from the agency. Here is a sample disclaimer:

"You've reached the voicemail of Joe Agent with the ABC Insurance Agency. Today is Feb. 4. I will be out of the office on appointments for much of the afternoon and may not be able to return your call immediately. Please leave your name, number and a brief description of why you are calling and I will return your call as soon as possible. If you are calling to report a claim and this is an emergency, please call 866-555-1234. Remember that you can't bind or change coverage via the voicemail system and one of our licensed agents must verify that coverage is in place. We strongly encourage you to provide written requests for changes in coverage to [joe.agent@agency.com](mailto:joe.agent@agency.com). Thanks for allowing us to service your insurance needs and have a wonderful day."

When responding to customer voicemails, update the agency management system with details about the call. Keeping a message log of incoming calls is also good practice. What is considered a reasonable standard for returning calls varies with the details of the particular situation, but the agency should have a procedure in place that agency staff recognizes.

The guidelines also hold true for e-mails and faxes. Receiving an e-mail or a fax from a client with a specific request does not automatically create an obligation for the agency. Use disclaimers in e-mails to help confirm this in customers' minds. You can modify the voicemail disclaimer for e-mail and fax purposes. These disclaimers may help when an e-mail or fax comes in during off-business hours. However, if you specifically tell a client that you will provide a service, whether it is binding coverage or increasing limits, even when the office is closed, then you should meet the reasonable expectation you created. E-mail and fax machines are great tools because they provide date stamps on sent and received messages. Check the date and time on your e-mail, fax and voicemail systems to verify accuracy.

In its most fundamental form, protecting your agency from E&O claims is pretty simply: Say what you do and do what you say. Set expectations for the service your agency can provide to clients with an understanding of how you can meet their needs. Disclaimer language on all communications can help build and reaffirm this expectation. Since many E&O claims are "he said, she said" types of disputes, proper documentation, including a recorded chronology of events, can provide a good E&O defense. 

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## Increase Accessibility, Not Exposure

Cell phones allow us to be more accessible to our clients. But don't let the increased accessibility turn into increased E&O exposure.

Today's enhanced communications ability may add to the balls agency employees juggle. The problem is that "real time" documentation of client conversations from remote locations may not be possible, and you don't want to lose sight of what you say you'll do for clients.

Consider using your own voicemail as a way to document and remind yourself of action items that need to be taken care of when you return to the office. Providing remote access to the agency management system to employees who are frequently out of the office also may insure better client file documentation. Share this tip with producers (claims data indicates that people in the agency most frequently involved in E&O claims are producers).

—D.H.