

Section 5: Preventing E&O Claims

An Ounce of Prevention Equals a Pound of Professionalism

Ben Franklin said “an ounce of prevention is worth a pound of cure.” Unfortunately, in our imperfect and hectic world we often lose sight of being proactive and are more reactive. We asked the panel counsel from Swiss Re Corporate Solutions what agents could do to prevent E&O claims or at least to get them resolved quickly. Below are their responses for your review to see how your agency stacks up. Take a moment and get PROACTIVE by sharing these with your staff and talking about this list at your next staff meeting. It will be worth the time because not only will these best practices help reduce your E&O exposure but can also improve your profitability and professionalism.

Best Practices To Prevent E&O Claims or Get Them Resolved Quickly:

- ✓ Understand the standard of care owed to your customer and how this may vary depending on the state in which you are doing business Maintain standard agency procedures that address each type of customer transaction
- ✓ Audit to ensure standard agency procedures are adhered to by all agency staff, and that file comments are at the professional standard desired by your agency
- ✓ Thoroughly document customers files with requests for coverage, both offered and rejected
- ✓ Use surveys/coverage checklists to identify customer’s exposures and to document the acceptance or rejection of coverages
- ✓ Voice mail, email, fax, or other electronic communication should contain a disclaimer stating coverage cannot be bound without speaking with a licensed representative
- ✓ Implement a standard procedure to review policies and endorsements for accuracy, recognizing that non-admitted policies in particular may contain non-standard coverage conditions or exclusions
- ✓ Deliver policy on a timely basis and document policy was delivered while also including language your customer to read their policy to ensure that is in accord with the insurance ordered by the customer and to contact your agency if any changes are desired. (Note: State laws may require varying levels of delivery confirmation)
- ✓ Utilize the agency management system at all times and for all communications/correspondence
- ✓ Send written correspondence to customers confirming declined coverages
- ✓ Include disclaimers on all coverage summaries and policy delivery correspondence.
 - Example language: PLEASE READ YOUR POLICY CAREFULLY: This is a proposal (or summary) provided for illustration purposes only; it is not a legal contract. It is provided to facilitate your understanding of your insurance program. Please refer to the actual policies for specific terms, coverage, conditions, limitations and exclusions that will govern the event of a loss. Specimen copies of all policies are available for review prior to the binding of coverage. In assisting you with your insurance needs we have been dependent upon information provided to us by you. If there are other areas that need to be evaluated prior to binding of coverage, please bring them to our attention. Should

any of your business operations or exposures to loss change after coverage is bound, it is the customer's responsibility to let us know promptly so proper coverage(s) can be discussed.

- ✓ Avoid "renew as is" - Discuss with customers what has changed since last year and offer increased limits or additional coverages
- ✓ Stay within your comfort zone and area of expertise
- ✓ Be aware of how policies you place integrate and overlap, especially regarding umbrella and excess policies
- ✓ Instill a "claims prevention" mentality among agency staff
- ✓ Submit ALL claims to the carrier in a timely manner and do not make coverage determination on behalf of the carrier
- ✓ Have the customer sign, date, and initial applications, where required
- ✓ Require continuing education to staff beyond just what is required to maintain licenses
- ✓ Have service standards and respond to all customer inquiries in a timely fashion
- ✓ Do not alter standard Certificates of Insurance forms or indicate coverage or limits that do not exist on the actual insurance policy
- ✓ Require written confirmation from the insured before making any changes to an existing policy, or if accepted via telephone, send written confirmation to the customer verifying change