



*It's much easier to justify a premium increase to a client when you have knowledge to back up why the increase is occurring.*

## RISK MANAGERS' FORUM

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# WILL THE COVID-19 PANDEMIC INFECT YOUR AGENCY?

*Conditions are ripe for errors and omissions claims; here's how to prevent them*

Unquestionably the COVID-19 pandemic has had a significant impact on the independent agent. Agents wonder what their agencies will look like after the pandemic has passed. Employees who are working remotely may want to continue to do so because current technology makes it possible.

Another serious impact of COVID-19 on independent agencies is the increased errors and omissions (E&O) exposure caused by working remotely and by COVID-19-related time element and expense claims.

Let's peel away some of the layers of this E&O concern. While current technology has allowed agency staff to work remotely, it has made communication among employees uncertain. Agency standards, procedures and workflows are much harder to manage and communicate when employees are working remotely. These employees may not understand management expectations for overall E&O prevention and claims management.

Errors and omissions prevention begins with understanding what is the right thing to do. Even under normal conditions, managing an agency's E&O exposure is difficult. One reason is that employees have different ideas of what is right and wrong. Like most people, agency employees form ideas through a combination of family, friends, education, culture, media and religion.

Agency management should never assume that employees have the same ideas or impressions of right and wrong and morality. Additionally, when some or all agency employees are working from

home, it may be difficult to maintain uniform practices when responding to claims.

Agency management should not expect to change employees' personal ideas of right and wrong. But owners and managers must establish expectations of what are considered acceptable actions and behaviors when employees are working within the four walls of the agency or working remotely. Otherwise these standards most likely will be developed and implemented by agency employees. The result will be confusion and increased E&O claims.

The COVID-19 pandemic has given rise to questions regarding coverage provided by property forms under time element and extra expense policies. Many knowledgeable industry experts and authors indicate that the possibility of coverage for COVID-19 claims is remote. Questions of coverage are likely to be the subject of lengthy litigation. Responses to potential COVID-19 claims and responses to more typical claims should be a center of agency management attention.

Procedures for processing claims should be regularly communicated and reinforced to everyone in face-to-face or virtual meetings. This helps to prevent E&O claims and protect the agency's image.

In the event of an E&O claim, agency employees, including owners, managers and producers, should never give an opinion as to coverage; this is the job of adjusters. Most company-agency contracts convey no such authority. The majority of states require an

insurer to deny a claim in writing. No agency employee should interfere with this process.

Agencies must be extra vigilant regarding E&O prevention. On what areas should agencies focus? In what areas are claims likely to occur? Let's look at two of them.

**Failure to obtain coverage** is a leading cause of E&O claims. Agency standards, procedures and workflows may not be adequate, not followed, not communicated or a combination of these factors. Working remotely exacerbates this situation.

A contributing factor is a reliance on memory. As an example, a producer may be driving from one client to another, conducting business by phone on the way. A client requests coverage, and the producer forgets to put the coverage in place. Never trust memory—devise a system of annotation to aid memory. Pull over to the side of the road and make a note.

Another leading cause of E&O claims is **failure to advise a client of**

**cancellation or non-renewal** of coverage. An agent is expected to convey communications and decisions of the insurer to policyholders. Some agents may not want to lose the confidence and trust of a client and would prefer to obtain a new market before disclosing a cancellation or non-renewal notice from the former company. If this is an agency practice, it should be discontinued.

These are only two leading causes of E&O claims; unfortunately there are several others. The COVID-19 pandemic has exacerbated the problem of E&O claim prevention.

Agencies must work diligently to communicate in person and/or remotely the actions, directions and responses put in place to reduce the agency's E&O exposure. It is a never-ending task, but it leads to an effective, efficient agency with an excellent reputation among its clients and carriers.

These measures will go a long way toward ensuring that your agency will not be affected by COVID-19. ■



### **The author**

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