

Utica National's Errors & Omissions

RISK MANAGEMENT ALERT

We KNOW
for Insurance Agents



Protect Your Agency from E&O Exposures

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Carriers' online applications are convenient, but can lead to E&O exposures for your agency. Here are some scenarios and tips that can help you protect your agency:

SCENARIO #1: Your client completes the application online and digitally signs it.

- **TIP: Ensure the signed application is stored in your records.**

SCENARIO #2: Your client completes an application, and you enter it into the carrier's online system.

- **TIP: Save a signed copy of the application for your records, regardless of whether the carrier requires it.** This will help if there's a claim alleging the information provided to the carrier was not the information the client provided to you.

SCENARIO #3: You use a checklist to obtain information instead of an application.

- **TIP: If you can print a copy of the application entered online, have the client review the application and sign it prior to binding coverage.** Communicate to the client that they should review the entire application for accuracy before signing and bring any discrepancies to your attention.
- **TIP: If you can't print a copy of the application entered online, have the client review the information on the checklist and sign off on its accuracy.** Indicate to the carrier that they are creating a potential E&O exposure for their agents by not providing access to the completed application.

WHAT ELSE YOU SHOULD DO

- **Carefully document guidance you provide to help the client fill out the application and coverage discussions.** Comments in your agency management system are good, but an email to the client memorializing the conversation is better – and provides protection if there's a claim.
- **Get the client's signed confirmation.** Claims where a client indicates the information they provided to the agent differs from what was provided to the carrier are common. You have no way to defend yourself without signed confirmation from the client. You will lose in a "he said/she said" scenario.

Continued

- **Ask your client about information on the application you are unsure about before entering it into the carrier's system.** Never enter rough information to generate an estimate – it can be problematic if the application is not updated once accurate information is provided.

DON'T LET THIS HAPPEN TO YOU

The insured procured an HO-3 policy for the claimant that was placed with a carrier. The contract was written with the following Coverage Limits:

- Dwelling: \$155,000
- Other Structures: \$15,500
- Contents: \$77,500
- ALE: \$31,000

The claimant's single-family dwelling was a total fire loss. The claim against the insured arose from allegations that the insured made material misrepresentations on the carrier's policy application regarding the claimant's criminal history. The carrier investigated the claim and eventually rescinded the policy back to policy inception based on material misrepresentations made on the policy application. The carrier stated they would not have written the risk if they were aware of claimant's prior criminal conduct.

The claimant noted she would pursue an E&O claim against the insured alleging that the agency answered the questions on the claimant's policy application without any input from the claimant. The agency producer stated that he completed the application based on a phone interview with the claimant. The claimant indicated she stopped at the agent's office, was simply advised to sign the form, and was never asked to answer or review any of the application's questions. The dwelling loss totaled nearly \$200,000.

This claim is ongoing with the creditability of the agent/claimant to be assessed.

LESSON: Be cautious in your communications if you fill out an application using information not supplied in writing by the client. Always get the completed application signed and communicate in writing to the insured that they should review the application for accuracy before signing. Use language such as: *Please review the attached application and sign to warrant that all information is accurate. If there are any discrepancies, contact me prior to signing.*

ADDITIONAL INFORMATION:

[How are You Handling Completion of the App? »](#)

[Consider These Best Practices when Completing an Application »](#)

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