

# ERRORS & OMISSIONS

## RISK MANAGEMENT ALERT

### Virtual Assistants: E&O Concerns and Risk Management Tips

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Insurance agencies are using virtual assistants more and more. These services can be advantageous, but there are coverage and risk management concerns, too.

#### WHAT IS A VIRTUAL ASSISTANT?

Also referred to as a third-party resource, outside resource, or back-office support, **a virtual assistant is an organization an agency contracts with to perform services that typically slow agencies down**, such as:

- **Checking policies, comparing expiring to renewal forms and edition dates, and alerting agency personnel to changes**
- **Issuing Certificates of Insurance (COIs)**
- **Policy processing**
- **Data entry**
- **New business support**
- **Sending auto responders**

**Having a virtual assistant allows agency personnel to focus more on selling, improving the customer experience, eliminating backlogs, and growing the agency.** Depending on the services the agency contracts, the provider will assign several individuals to work on that business, in most cases exclusively for the agent. This will be adjusted as contracted services change or the agency grows. These individuals do not typically have direct contact with agency customers as agency personnel continue to be the public face of the agency.

#### COVERAGE CONCERNS

**Does the Utica National Agents' E&O policy cover virtual assistants?** The vendor and its employees would not fall within the definition of "who is an insured" on the E&O policy. If there is a problem with their work that results in an E&O claim, the E&O claim would likely be brought against the agency. If the agency is named in a claim covered by the E&O policy, Utica National would provide defense to the agency. If the agency is found liable, then that is what your E&O is for.\*

*\*The facts of a claim determine the application of coverage and any exclusions. This response does not alter, modify, or change any of the terms, conditions, or exclusions of the Utica Mutual E&O policy. Utica Mutual Insurance Company reserves all rights and does not waive any rights contained in the E&O policy.*

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**Does the E&O carrier have recourse against the virtual assistant if it was determined that their error resulted in the E&O claim?** It's possible. Make sure the virtual assistant maintains its own E&O coverage. However, the contract between the agency and the virtual assistant – and the E&O coverage carried by the virtual assistant – is mostly likely limited to gross negligence, which is less likely to occur and hard to prove.

## RISK MANAGEMENT TIPS

If you are considering using virtual assistants, you should protect yourself by:

- **Obtaining references and following up on them.** Reputation is important.
- **Having your attorneys review the contract.**
- **Requiring the virtual assistants to carry their own E&O** and provide you with proof coverage is in place.
- **Checking their work regularly** to ensure they are meeting your expectations.
- **Contacting your E&O carrier.** Advise them of the vendor you are using, what services they are performing, and the staff equivalency for those services. Not all E&O policies are the same – so there may be conditions or exclusions for claims arising from wrongful acts caused by the virtual assistants.

## DON'T LET THIS HAPPEN TO YOU

*An agency entered a service contract with a virtual assistant service. One of the tasks performed by the service on behalf of the insured agency involved the creation and distribution of Certificates of Insurance (COIs) for the agency's customers. The claim against the agency involved an alleged error on a COI issued by the virtual assistant.*

*The COI indicated that an underlying CGL Policy was written with Products Completed Operations Coverage. This was not the case and the carrier denied coverage for an underlying claim since the policy was not written to afford coverage for this exposure. The client filed suit against the agency for issuing a defective COI. A subsequent third-party action was pursued on behalf of the agency against the virtual assistant service. The E&O and underlying claims were resolved for \$165,000.*

**LESSON: When using a virtual assistant, be aware that their errors may result in an E&O claim against your agency.**

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