

How to break up with a client in under 200 words

By Bradford J. Lachut, Esq.



We KNOW
for Insurance Agents



— Reprinted with permission from PIA Management Services Inc. —

A frequently asked question at PIA is how does a producer go about terminating their relationship with a client. Maybe the account is not profitable or the client is difficult; whatever the reason, there are legitimate reasons that a producer may wish to part ways with a client.

The question we get is how does a producer do that legally? It is a good question. There are so many rules when it comes to an insurer terminating with a policyholder (i.e. policy cancellations) that there must be rules for when an agency wishes to terminate their relationship with a client. Surprisingly, there isn't much in the way of legal obligation to a client. There is no law or regulation that requires producers to retain a client or to notify their clients when the producer decides to cut ties with them. As such, a producer is under no legal obligation to notify their clients in advance as a carrier would be required to do when nonrenewing a policy.

That said, even though there is no legal requirement to notify, PIA still recommends that you provide the client(s) in question with written notice of the decision in order to protect yourself from any legal liability.

When you terminate a relationship with a client, documentation is vital to protect your agency from potential legal liability. By providing the terminated policyholders with notice of your decision, preferably by a method that requires the policyholder's signature to evidence they received the notice, you will have documentation that the policyholder knew or should have known of your decision. The amount of notice you give to a policyholder is up to your discretion but PIA would recommend that notice be sent at least 90 days in advance of any policy expiration.

The letter to the soon-to-be-former client should state that the client has the right to continue their current policy or policies through the insurer. In addition, it should state that they have the right to choose a new agent or broker if they so desire. PIA has prepared a sample termination letter that can be customized to your agency. A link for the letter can be found at the end of this resource kit.

Internal documentation also is important for a producer. While there is no law or regulation that would prohibit a producer from terminating a relationship with a difficult or unprofitable client, there are several state and federal laws and regulations that prevent a producer from acting in a discriminatory manner. Documenting that you are terminating a client because they are difficult or they are hurting your loss runs as opposed to they being of a certain ethnicity, gender, age, religion, etc., will help to protect you in case there is a claim of discrimination. As such, it is important to keep track of information like receipts of late payments and claim frequency. If the client is particularly difficult, it might be wise to also keep a written record of interactions with the client or to record your conversations with the client.

If you do plan on recording conversations with clients, remember to check your state's recording laws. New York, New Jersey and Vermont are all "one-party consent" states. This means that only one person in an in-person or telephone conversation needs to consent to the conversation being recorded. As such, you would not be required to inform the client that the conversation is being recorded (this assumes you or your employee has consented to the recording). New Hampshire is a "two-party consent" state, so you would be required to notify them of any recording of an in-person or telephone conversation. Connecticut has a hybrid system. Telephone conversations require all parties to the conversation to consent, while only the consent of one party is needed when recording an in-person conversation.

Continued

Terminating a relationship with a client is a difficult decision to make, but it does not have to be a difficult one to execute.

Below is a sample letter provided by the Professional Insurance Agents of New York. The letter was provided for informational purposes only and should not be used as a form of legal advice.

Sample Letter:

[Date]

Dear [client's name]:

We appreciate the opportunity you have given [agency name] to work with you in assessing and addressing your insurance needs. However, we regret to inform you that [agency name] will no longer be able to provide you with insurance services. Effective [date], [agency name] will terminate our professional relationship with you.

Please be advised that you have the following policies in effect: [list of all current policies, including expiration/renewal dates, policy number, policy type, named insured]. As of this letter, you have no open claims or upcoming policy renewals within 30 days of the date of this letter.

Please see the attached listing for policy expiration/renewal dates.

Alternative language if there is an open claim(s): Please be advised you currently have the following policies in effect: [list of current policies, including expiration/renewal dates, policy number, policy type, named insured]. As of the date of this letter, you have [X] open claims. A list of policies with open claims is attached for convenience. You have no policy renewals within 30 days of the day of the date of this letter. Please see the attached listing for policy expiration/renewal dates.

Alternative language if there is an upcoming policy renewal: Please be advised you currently have the following policies in effect: [list of current policies, including expiration/renewal dates, policy number, policy type, named insured]. As of the date of this letter, you have no open claims. You do have [X] policies that will renew within the next 30 days. A list of the renewal dates of your policies has been attached. Please see the attached listing for policy expiration/renewal dates.

If you wish to continue your current policy or policies, you have the right to do so through the insurer, subject to the insurer's underwriting guidelines. You also have the right to choose a new agent or broker should you desire to do so. For information requests or questions on your current policy(ies) subsequent to the effective date above, please contact the insurer or a new agent or broker. We encourage you to make contact with these entities prior to the termination date as well.

We appreciate your business and apologize for any inconvenience this may cause.

Sincerely,

[Agency representative]

Includes copyrighted material from the PIA Management Services Inc., with permission.

This information is provided solely as an insurance risk management tool. It is provided with the understanding that the member insurance companies of the Utica National Insurance Group are not providing legal advice, or any other professional services or advice. Utica National shall have no liability to any person or entity with respect to any loss or damages alleged to have been caused, directly or indirectly, by the use of this information. You are encouraged to consult an attorney or other professional for advice on these issues.

