

ERRORS & OMISSIONS

RISK MANAGEMENT ALERT

Producers Don't Know What They Don't Know

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As most insurance professionals would admit, insurance can be somewhat of a complicated issue. There are multiple coverages and, for some of those coverages, the forms of the various carriers are not similar. This poses some tremendous challenges for agency sales staff when they are meeting with prospects or clients.

The number one cause of errors and omissions (E&O) claims is “failure to provide the proper coverage.” This is obviously where effective use of an exposure analysis checklist could bear positive results. But that may be just part of the equation.

The exposure analysis checklist (especially those developed by many of the industry software carriers and periodicals) will typically list, by class of business, the key exposures faced by that type of business. Thus, for agents looking to sell coverage to a risk, such as a marina, doing some homework on the exposures of a marina would certainly be time well spent. However, it is important to do more than just address those exposures with the client. It is critical for the agency representative to know the coverages in detail.

For example, just because the agency representative knows that the client has a cyber exposure, this does not mean that the agency producer would automatically address this with the client. A recent study showed that cyber was oftentimes not brought up in discussions with clients because the sales staff didn't fully understand cyber and were afraid they would be asked a question that they could not answer.

In some respects, this was smart because one of the key elements of the typical standard of care for insurance agents is that they will be held responsible for what they say and what they put in writing. Thus, if they were asked a question regarding cyber and provided inaccurate information, they could be held responsible if a wrong answer was a key issue. On the other hand, taking that approach of avoiding discussion may just result in less production for the producer and less growth for the agency. The better approach is to ensure that the sales staff are provided with the necessary training. Not every agency can have a person solely dedicated to training, but it is still incumbent upon the agency to have some degree of focus on education.

Agencies with some specialization should consider having their sales staff develop a higher level of technical expertise in specific areas such as construction, nonprofit, habitational, etc. This will enable the staff to become totally knowledgeable on, not only the issues of those specific type of clients but also the coverages those clients should consider.

If there is the potential for claims-made coverage to be part of the insurance portfolio, agencies should ensure that the nuances of this type of coverage be discussed in detail. For example, the “retro date” issue on claims-made coverages has not only generated a fair number of E&O claims but also some very significant ones when the “retro date” was not properly handled.

Producers may, “not know what they don't know.” To assist in identifying key areas where the technical knowledge is not at the desired level, agency management should perform an evaluation of each member of the sales staff to determine his or her level of knowledge and to identify training opportunities. This could be done using a test or possibly a mock sales presentation where the staff is asked various questions about specific coverages. Once the knowledge level is determined, the training can be customized using approaches, including:

- weekly or monthly sessions in a classroom environment where a specific type of coverage or the type of business is discussed and the exposures dissected;
- using the education sessions conducted by your state agents' association; and
- training organizations, such as the Institute or the National Alliance.

Bottom line, training of staff needs to be a key issue within every agency. This will not only result in staff being knowledgeable on the coverage they are selling, but it should also greatly minimize the potential for your agency to face an E&O claim. .

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