
ERRORS & OMISSIONS

RISK MANAGEMENT ALERT

Enhance your E&O culture in 2020

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With the bustle of the holiday season over and 2020 well underway, it's a good time to give serious consideration to implementing initiatives that will enhance your errors and omissions (E&O) culture, increase sales and add to the financial bottom line.

Here are some tips to consider:

Be serious about performing an exposure analysis to increase your hit ratio in attracting new business. Many agencies focus on price to attract new business, but as the adage goes “if you write the account based on price, you are going to lose the account based on price.” Truly successful agencies are focused more on “value added,” with identifying a client’s exposure that is not properly insured as one way to demonstrate your value. Work hard to fully understand your prospect, whether they are a commercial or personal account. The easy thing to do is simply duplicate what they currently have, but if you do that, you are probably just being a barometer to help your client know whether they are getting a good deal.

Implement a renewal checklist/questionnaire to identify changes in your client’s exposures. In many cases, this can simply be handled by a letter that is emailed to the client. There is a good chance that your client’s exposures are different compared to last year, so asking your client what has changed may very well prompt a response that needs your attention. If you don’t ask your client what has changed, you run the risk of another agent identifying those new exposures.

Increase the commitment to staff training. This can involve “soft skills” or technical insurance issues. The insurance industry is fortunate to have a significant number of excellent periodicals that contain solid content every month. Use this content as part of the agenda for your agency staff meetings. In addition, check out the loss control material on the Utica National E&O Risk Management website and educational offerings of your state agents’ association.

Document your procedures. It is extremely important that procedures are performed in a consistent manner among the agency staff. Putting together a procedure manual is a serious task, but at the very least ensure that key procedures are documented and shared with the staff. The documented procedures should include issues such as a confirmation of the client’s decision not to purchase certain coverages or certain limits, file document expectations, proper handling when the agency takes over an account via Agent of Record, expectations for proposals and what disclaimers should always be included, and the proper procedure for issuing certificates.

Analyze any coverage differences (especially reductions) when moving coverage to a new carrier. Clients get moved to a new carrier with great frequency in most agencies with the thought of trying to save the client some premium. In virtually all situations, there is the possibility that the client could be losing some coverage. When they have a claim that would have been covered by the expiring policy, but not covered

by the new policy, the client may look to allege that they never would have approved the moving of the coverage if they knew they were giving up some coverages. Have a procedure to evaluate the differences and make the client aware of them.

Develop a best practices document for claims handling. It is amazing that for most E&O carriers, a common cause of claims involves the manner in which the agency handles their client's claims. Develop and share with all staff (especially producers) a document that states the key issues. This includes:

- 1) avoiding any admission of liability;
- 2) never stating positively that there is coverage for a claim (this is a carrier role); and
- 3) when excess carriers should be put on notice (which typically applies to death, dismemberment, brain or spinal injury, lawsuit, etc.).

Another issue to include involves reviewing all of the client's policies for possible coverage. Oftentimes, when a claim is presented, there is more than one policy that provides some element of coverage. It is best to put all potential carriers on notice. If there is no coverage, let the carrier make that determination.

Review your website/marketing materials. When was the last time you looked at your website and your marketing materials to see if they still accurately reflect your agency? Does your staff even know what they say? There have been many E&O cases where the plaintiff's attorney made a case that the marketing message was "over-promising" the capabilities of the agency.

Bottom line, most of the items discussed above can be easily developed and implemented. They will enable your agency to continue to make solid strides in enhancing your E&O culture and minimizing your E&O risk.

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