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THE E&O REPORT

**The Importance of Using Insurance Coverage Checklists**

One of the best E&O loss control practices for insurance agencies and brokerages to follow is the use of coverage checklists. This simple, but highly effective, E&O loss control practice is one that any size, or type of, agency or brokerage can easily implement and follow. In this issue of The E&O Report, we will discuss how insurance coverage checklists should be used and the many benefits that they provide when they are used on a regular basis. The primary benefit of using insurance coverage checklists is that they help protect an agency or brokerage from E&O claims and lawsuits being made by customers on the basis that various coverages were not offered to them. An insurance coverage checklist can prove to be a valuable piece of documentation if an insurance agency or brokerage is forced to defend itself against a claim made by a customer that it failed to obtain a particular type of insurance coverage to cover a loss. In fact, many professional liability insurers specifically ask on their applications whether the insurance agency or brokerage to be insured under the policy regularly uses insurance coverage checklists. This question is asked because the E&O insurers are aware that coverage checklists can be instrumental in defeating an E&O claim based upon allegations of failure to procure coverage. For this reason alone, every insurance agency or brokerage should implement a procedure pursuant to which insurance coverage checklists are used consistently by all employees when they are reviewing possible coverages with customers and potential customers. Another benefit of using insurance coverage checklists is that they help ensure that consistent information is being provided to customers no matter which employee, or which office location, of the agency or brokerage they are dealing with. When used consistently throughout an agency or brokerage, insurance coverage checklists can help provide better customer service to all customers. An additional benefit of using E&O coverage checklists is that quite often they will have the customer think about coverages or exposures that they had not originally contemplated. When this occurs, customers will often purchase insurance for risks or exposures that they had not planned on insuring, which then helps the agency or brokerage sell more insurance. This factor not only helps protect the customer by providing insurance for something that they did not originally consider insuring, but it also helps increase the sales of the insurance agency or brokerage. Sample insurance coverage checklists are available for insurance agencies and brokerages from many sources. Big I NY has sample coverage checklists for both commercial lines and personal lines available for members on the association's web page. Additionally, "The Big Book of Form Letters and Other E&O Tools" published by Big I NY contains several sample checklists, as well as many form letters, disclaimers, and other useful information. This book is offered for sale by Big I NY. However, as each agency or brokerage has its own unique type of business and areas of specialty, there is no one form checklist that fits the needs of every agency or brokerage. An agency or brokerage that seeks to implement the use of insurance coverage checklists should carefully review the various forms that are available and then modify the forms to fit within the parameters of how that particular agency or brokerage operates and the types of customers that it has. One important question that every insurance coverage checklist should have is a catchall question at the end asking the customer whether they have any other insurance or risk that they would like to discuss other than what was reviewed with the agency or brokerage on the checklist above. This question puts the burden on the customer to affirmatively request information concerning anything that was not reviewed with the agency or brokerage. Coverage checklists should be used when discussing insurance coverages with both insureds and potential insureds either on the telephone or in face-to-face meetings. If the coverage checklist is reviewed in person with a customer, a good practice is to have the customer complete and sign the form to acknowledge that the coverages were reviewed. Once the coverage checklist is completed and signed, the agency or brokerage should save the checklist in the customer's file. If a checklist is reviewed instead with a customer over the telephone, notes of that discussion can either be made on the checklist form or in the agency management system. When insurance coverage checklists are used by an agency or brokerage one of the most important things to require is that they are used consistently by all employees on a regular basis. For all of the reasons discussed above, the prudent insurance agency or brokerage should make certain that all employees consistently use insurance coverage checklists when discussing coverages with customers and potential customers. In our experience, insurance coverage checklists are one of the best E&O loss control practices to follow because they not only provide E&O protection for the agency or brokerage, but they also with help a customer identify risks and exposures that they may not have originally contemplated, which in turn will help sell more insurance. Submitted by: James C. Keidel, Esq. Keidel, Weldon & Cunningham, LLP Keidel, Weldon & Cunningham, LLP concentrates its practice in the defense of insurance agents and broker's errors and omissions claims and litigation, errors and omissions loss control and education, insurance coverage analysis and litigation and insurance regulatory matters. Please direct any comments or questions to James C. Keidel, Esq. by mail to the main office of Keidel, Weldon & Cunningham, LLP, at 925 Westchester Avenue, Suite 400, White Plains, NY 10604, telephone at (914)948-7000 or email at [jkeidel@kwcllp.com](mailto:jkeidel@kwcllp.com). The law firm also maintains offices in Syracuse, New York; New York City, New York; Wilton, Connecticut; Fair Lawn, New Jersey; Warwick, Rhode Island; Philadelphia, Pennsylvania; Williston, Vermont; and Naples, Florida.