

The background of the top half of the page is a black and white photograph of a business meeting. Several people in suits are visible, with one person in the foreground pointing their right index finger upwards. The image is slightly blurred, focusing attention on the foreground hand.

Professional Liability Risks and the Cost of Potential Errors

Amidst the ever-changing insurance market, insurance agents find themselves increasingly vulnerable to professional liability risks, despite their significant expertise in the field. Recent reports have highlighted a surge in E&O claims arising from lawsuits related to underinsurance and emerging exposures.

The insurance world has become more complicated than ever, offering coverage for an extensive variety of things. Business Risk Partners, which specializes in underwriting insurance agents' E&O coverage, estimates that around one in four insurance agencies get sued for mistakes every year.

The Impact of Rising Premiums and Inflation on Underinsurance

Inflation and challenging conditions in property and personal lines markets may be contributing factors to this escalating trend. Clients might discover that their policies only cover the replacement or repair costs based on outdated values, leading to unpleasant surprises when filing a claim.

CONTACT

To learn more about how Amwins can help you place coverage for your clients, reach out to your local Amwins broker.

LEGAL DISCLAIMER

Views expressed here do not constitute legal advice. The information contained herein is for general guidance of matter only and not for the purpose of providing legal advice. Discussion of insurance policy language is descriptive only. Every policy has different policy language. Coverage afforded under any insurance policy issued is subject to individual policy terms and conditions. Please refer to your policy for the actual language.

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Consider, for instance, a client who insured their property at 2015 prices. This coverage might only account for 65% of the current building costs. Unfortunately, many agents may not be proactively advising clients to increase their coverage, potentially exposing clients to significant risks in the event of property-related tragedies. Regular client check-ins are essential for agents to ensure that coverage limits are current, and assets are adequately insured.

The surge in aberration verdicts, exceptionally high jury awards or settlements exceeding \$10 million, is adding to the cost pressures for insurers, resulting in higher premiums for clients. For example, if a medical facility had a \$10-\$15 million limit, but they get hit with a \$27 million verdict for medical malpractice, they're going to be asking their agent why they were underinsured and looking for the agent to be part of the solution.



The Impact of Carrier Exits on Agents' E&O

Insurance agencies are facing challenges due to carrier exits and restrictions, particularly in states like California, New York and Florida. The impact of these developments on agents' E&O exposure is a growing concern within the industry.

Large admitted carriers have announced withdrawals from major markets, pullback on certain lines of business, or non-renewals as they wrangle with ballooning catastrophe losses, often leaving agents scrambling to find new sources of capacity for their clients. But the question remains: will it be the same or equivalent to what their clients had before?

Claims stemming from catastrophes such as hurricanes, earthquakes and wildfires are also often followed by a wave of E&O claims. Clients typically only learn of alleged coverage deficiencies once a claim is filed, and the policy does not respond as the client expected. Known as a double trigger, first there must be a loss or claim filed under the policy, and the policy must not respond as planned through some failure on the part of the agent. MGA leaders confirmed a significant number of E&O claims on the back of the 2020 Glass Fire in California and Superstorm Sandy, for instance. And in states like Florida and California, it's important to proceed with caution as they tend to have more losses on average, which can lead to additional E&O losses.

Mitigating E&O Risk Among Insurance Agents

Key strategies to mitigate E&O risks are observing agency best practices and requiring continued education. Strong communication with clients is also a driver. The best protection in most E&O cases is the agency's documentation. If higher limits were offered, or an extension of coverage was declined, there should be clear documentation in the file to reflect the clients' choices. At the end of the day, taking the time to understand your client and apply that knowledge to your insurance practice will benefit everyone involved.

Takeaway

Business Risk Partners is a specialty commercial insurance underwriter and program administrator. With more than 20 years of experience, their team provides a wide range of specialty coverage solutions for private companies of all sizes nationwide.

Specialists in E&O insurance, Business Risk Partners works with you to help protect your clients from all manner of legal peril. They offer coverages for insurance agents, financial institutions, real estate agents and property services, home inspectors, architects and engineers. They also offer a Miscellaneous Professional Liability Program for another 150 classes of professional services.

You can count on Business Risk Partners for creative underwriting for a wide variety of sectors. To learn more [click here](#).

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