



In the know with GenPro Issue #1

Professional liability news you can use.....

So often we hear an insured has elected to allow their Professional Liability policy to lapse for many reasons. For example; a contract has ended, they don't have work lined up and business is slow, or they're going out of business so they can work for someone else.

Whatever the reason may be, it is important they understand the claims made coverage triggers and the potential exposure if they choose to cancel or non-renew their policy. Failure to do so could not only leave your client unknowingly without coverage, but also leave your agency open to an E&O claim if the client alleges they were not advised of the claims made coverage triggers.

What is a claims made policy and how does it work?

To allow the policy to lapse is basically throwing the previously paid annual premium dollars for coverage in the shredder! In order for coverage to respond, the policy must be in force at the time a claim is made against the insured either via an active policy or extended reporting period (ERP). Please refer the insured to the policy wording and advise them regarding the policy's provisions for the purchase of an extended reporting period (Tail Coverage). Some policies have one to three year options and others up to five. They vary depending on coverage and carrier.

How does this impact your Agency's E&O coverage?

A common misconception of the insured is that they think of this policy as they do a general liability policy. They think that the trigger is as an occurrence not claims made and since they paid their premiums and had coverage in force during the time of the incident, coverage should apply. Due to this misunderstanding, when insurers decline said claim due to no coverage being in force, either via an active policy or Extended Reporting Period, insured's often allege they did not understand or were not aware of this coverage trigger nor the impact of allowing it to lapse without purchasing the ERP.

In order to avoid this misconception and the potential E&O exposure to your agency, it is imperative to explain the coverage triggers & ERP to the insured at the time of cancellation or non-renewal. Keep your file updated by asking the insured to sign a statement acknowledging they have declined to purchase an ERP, understand their options available to them per their policy wording and waive the right to ERP. Give them a copy and keep the original for your file. No matter the reason for cancelling the policy it is at the insured's own discretion to make the final decision but as their insurance agent it is your responsibility to help them make an educated one.

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