

AGENCY RISK MANAGEMENT FAQs

Review answers to the top questions we hear often from Big “I” agents.

Q. What is the best practice for naming a commercial insured on a policy?

For “Trading As” (TA) and/or “Doing Business As” (DBA), the legal name is all that’s required, correct? For example - “John Doe dba John’s Plumbing” can be correctly insured as “John Doe” but would not be correct as only “John’s Plumbing,” correct?

Essentially, this is correct. But there are entity types that may require the DBA – most specifically, sole proprietors and possibly partnerships. Although legally all that is required to cover a sole proprietor is the person’s correct legal name, some carriers may require the DBA or T/A be used as part of the named insured.

So, there is a legal requirement and an underwriting requirement to consider. However, with insuring LLCs and corporations, the only name required is the legal name (unless the carrier is unusual and requires the DBA or T/A).

Five or six states have now handed down court decisions stating that the inclusion of a DBA or a T/A can effectively limit coverage to those activities even if the legal entity engaged in an activity outside that DBA or T/A and that outside activity caused injury or damage. Thus, our recommendation is to use the legal name only when allowed.

Q. Does an agent have a duty to report claims to the insurer, even if the insured does not want to report the claim?

Claims adjusters quickly learn that “Notice to the agent is notice to the carrier.” Therefore, we believe once an agent knows of a claim, to advise the insured not to report will open an agent to an E&O claim. As the below article opines, you must know your E&O carrier claim reporting requirements by reviewing your professional liability policy.

We know that you walk a fine line on property claims, because your insured may be better off not reporting a smaller water damage or other property claims, especially those that fall within the deductible or where a second claim may cause non-renewal. However, on liability claims, it’s always best to report, even when your insured is not at fault.

You can use the Virtual University “Ask an Expert” feature to ask and receive lots of answers from our gang of experts on this topic or any other.

Visit:
www.independentagent.com/vu/askanexpert

This topic is further explained in an IA magazine article, **“Should an Agent Report a Claim They Heard About on the News?”**

Q. Can I contact my insured post notice of cancellation, or does that expose our agency to a potential errors and omissions (E&O) claim?

Reasons for notices of cancellation (NOC) can vary. However, we can share the following:

- If the NOC relates to a cancellation due to unpaid premium (such as Direct Bill or Premium Financing), do not contact the insured unless you contact every insured every time you receive a notice of cancellation. We recommend in our Meeting the Challenge of Change program and other resources on E&O Guardian and Virtual University that you do not contact your insureds regarding notice of cancellation for unpaid premiums.
- If the NOC relates to another matter NOT related to unpaid premium, the agency should talk to their client to see how they can assist them. Always keep in mind, however, the agent's Standard of Care is for their particular state.

What about using a Bot with your agency management system to respond to notices of cancellation? We believe doing so increases standard of care and may not be in your best interest from an E&O perspective. We recommend consulting the Standard of Care resource on the E&O Guardian page.

Find additional info on the Agents Council for Technology (ACT) page of IIABA at www.iiaba.net/ACT, or contact act@iiaba.net.

Here are two links on the topic in Virtual University:

[Virtual University | Should Agents Follow Up on Pending Cancellations for NonPayment?](#)

[Virtual University | 'Courtesy' Calls on Cancellations of Direct-Billed Policies](#)

We understand that you strive to retain clients you've worked hard to find. However, if you contact one client regarding a pending NOC, then you must contact all similarly situated clients, as well, and document. This is your best defense in any E&O claim.

Q. I know there are liabilities associated with obtaining and distributing motor vehicle reports (MVR). What are some best practices?

You're frequently asked to obtain MVRs for underwriting eligibility purposes. However, doing so creates a risk of an E&O exposure to your agency.

Here is some solid information surrounding obtaining and providing MVRs.

[Big "I" News & Publications - Value-Added Services Could Pose an E&O Exposure](#)

[Virtual University - Running MVRs for Commercial Auto Clients](#)

[Virtual University - Furnishing MVRs...Legal But Not Permitted](#)

The carrier may be unaware that they can order MVRs themselves. More likely, since they are in the risk-transfer business, they are shifting the risk and liability to the agent.

Big "I" Professional Liability discussed MVRs in the recent ["Five Minute Fixes" webinar](#), along with many other subjects. Look at the discussion beginning around 7:30 in the session.

Q. How can my agency get a risk management credit?

Swiss Re Corporate Solutions has a risk management credit program that allows your agency to earn credits on your E&O premium for two policy terms. There are a variety of ways to qualify for the risk management premium credit on your E&O policy. Your state association can assist you with your options.

To learn more, read an overview of the risk management premium credits [here](#).

Your state E&O Program manager can help you navigate the path to receiving credit. We encourage you to connect with them directly to learn about available options for reducing your premium. Visit iiaba.net/EOContact.

Questions?
Reach out to eo@iiaba.net.
Get more risk management tips and information at
www.iiaba.net/EOGuardian.