

TOP 5

Certificate of Insurance Q&As

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Several months ago, I responded to a post on The MIX, MAIA's member discussion community. (If you've never used this free MAIA member resource for a peer-to-peer exchange of information, you are missing out on a valuable communications tool.) The question was about certificates of insurance (COIs). In response to my comments, MAIA asked me if I would consider writing an article about COI best practices.

Over a decade ago when I was with the Big "I" national, I noticed that the number of COI questions received through the Virtual University "Ask an Expert" service was escalating rapidly. After writing several Q&A articles, I drafted a more complete white paper on COI issues. In 2007, we conducted our first national certificates of insurance webinar that was attended by an estimated 7,000 people. Over the years, I don't recall ever doing any kind of update webinar with less than 300 participants. Needless to say, certificate issues have been, and continue to be, in the forefront of issues facing insurance agencies.

So, when I was asked to write this article, I reflected on the questions I've received over the years and narrowed them down to what I feel are the Top 5 most common and/or important questions. So, here we go....

1 Should agents send copies of certificates to insurers?

In a word, "Yes." Doing so benefits the insured, the carrier, and you, and it will make your very appreciative E&O underwriter happy. I have seen automatic additional insured (AI) endorsements that are not triggered unless the agency issues a COI. Copying the insurer confirms and documents this. Do you have carriers with AI endorsements like this? Do you know which ones? An invariable practice of transmitting all COIs to insurers means you don't have to remember this for each insurer.

I've told insurers for years that they need to review the COIs issued by their agents, if only from a QC perspective. Frankly, they would be appalled to see the representations made on COIs by some of their agents that potentially create liabilities for insurer, insured, and agent that wouldn't otherwise exist.

Sometimes when an error is made that involves a COI or AI endorsement, it is not easy to determine where liability lies. There have been court cases where insurers tried to absolve themselves of any liability by asserting that they never saw the COI. Two cases on point are *Marlin v. Wetzel County Board of Education*, 569 S.E.2d 462 (West Virginia Ct. App., 2002) and *Erie Insurance Group v. National Grange Mutual Ins. Co.* (NY Sup. Ct., June 2009).

2 Should agents follow up on company notices (e.g., cancellation) to insureds?

Insurance policies are contracts between insurer and insured. When it comes to executing obligations and responsibilities under such contracts, the E&O recommendation is that agencies should not establish precedents of following up on cancellations or late payers. But whether you do or not is, absent any regulatory or statutory prohibition, a business decision.

If you do follow up, the secondary E&O recommendation is that you do so consistently. That means following the Invariable Practice Rule of "One Way, All the Time, By Everyone." How you handle such "follow ups" should be established in your written agency procedures manual, including any exceptions you may have for certain customers, and files should be QC'd to confirm compliance by agency staff members.

In addition, be wary of following up with certificate holders on things like cancellation. The certificate holder is usually not granted any policy rights and, since cancellation is a policy right, you may be implying that they have that and other rights under the policy. A COI is a snapshot in time, nothing more, and there is usually no agency duty to follow up on policy changes.

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3 What can an agent enter in the certificate of insurance “Description of Operations” field?

This is the big one. It gets agents into trouble more than just about any other COI activity. In the section of your agency procedures manual regarding certificates of insurance, incorporate or notate that you follow the ACORD Forms Instruction Guide (FIG) for COIs. A FIG for each ACORD form is available for free on ACORD’s website. If you read the ACORD 25 FIG, it says nothing about placing information in the Description of Operations field that you are often asked to provide.

I cannot overstate how important it is to minimize ANY verbiage in this field. Because it’s so important and space is limited in this article, I’m going to refer you to the following two articles that you’ll find on the Big “I” Virtual University:

- “What Can/Should I Enter in the ACORD 25 ‘Description of Operations’ Field?” (<http://bit.ly/ACORD25-DOO>)

- “Should AI Endorsements Be Sent to Additional Insureds?” (<http://bit.ly/IAEndorse-Sent>)

One of the most common requests for this field involves enumerating who are being added as additional insureds. The second article above provides several reasons why you should *never* do this, including some court cases that show that it is far better to simply provide the certificate holder with the actual AI endorsements.

4 What policy limits can/should an agent show on a certificate of insurance?

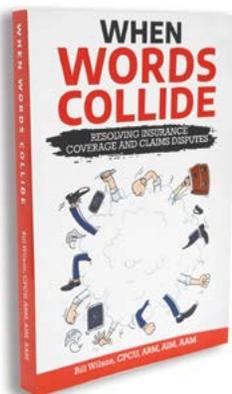
If you incorporate the ACORD FIGS in your agency procedures manual, at least by reference, they say to show the limits on the Declarations page. I know that, if your customer has a \$2M CGL occurrence limit and a construction contract requires \$1M, they only want to show \$1M. However, the \$1M “requirement” is often a minimum...the indemnity agreement in the contract is likely unlimited. Show the actual policy limit.

In addition, the COI is issued not only to indicate what an AI might have in the way of limits, but also what is available to the named insured. The 2013 ISO AI endorsements say that the AI is entitled to the lesser of policy limits or contract requirements, but that’s not an excuse for not showing full Dec. page limits on the COI for the reasons cited above.

5 Should agents issue “blank” or “sample” certificates of insurance?

This is an easy one...“No.” What sometimes happens is that the customer then starts issuing or distributing their own COIs. Only the agency, not the insured, is authorized to issue a certificate of insurance on behalf of the insurer. In addition, I’ve seen carrier COI guidelines that strictly prohibit this practice.

Certificate issuance is a pain, but it must be done right. Direct policy detail confirmation from the insurer is the best solution and it may come someday soon through the efforts of folks like www.gaprossystem.com and/or perhaps blockchain or other technology, but for now, it’s advisable to follow certain protocols. ■



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