

INSURANCE COUNCIL OF BRITISH COLUMBIA

Proposal to Introduce a Mandatory Errors and Omissions Requirement for Insurance Agents, Salespersons and Adjusters

In 1999 the Insurance Council of British Columbia (“Council”) determined that licensees should be required to carry errors and omissions (“E&O”) insurance as a condition of doing business. The public places great reliance on insurance professionals and while licensees are qualified, competent and knowledgeable, errors can still occur. Accordingly, Council feels it is important that there is a minimum level of protection available to all insurance consumers and believes this protection can best be accomplished with E&O insurance.

Council’s first step was to establish a committee (with representation from all segments of the insurance industry – life and general agents, adjusters and travel agents) to look at this issue and prepare recommendations for a mandatory E&O program. The Committee looked at E&O policies currently available from the marketplace or through industry associations and reviewed the E&O requirements in other jurisdictions. Quebec, Ontario, Saskatchewan and Newfoundland currently require E&O insurance for licensees and Alberta and Manitoba are in the process of introducing a mandatory E&O requirement.

In looking at this issue, it was determined that a significant proportion of the industry currently has E&O coverage, either directly or through their employer. However, Council believes it is in the public interest that there be uniform requirements for all licensees.

Based on the work of the committee as well as what is currently required in other jurisdictions, Council has developed a number of recommendations on what the minimum E&O coverage must include. These consist of the following requirements:

1. All licensees, other than motor vehicle warranty dealers, must have E&O coverage with a minimum limit of \$1,000,000 per claim and an aggregate limit that is twice the claim limit.
2. Both corporate and individual licensees must have E&O coverage. However, individual licensees “employed” by a general insurance agency, travel agency (licensed to sell travel insurance), adjusting firm or a life insurance agency may be covered under the corporate E&O policy without the need for individual coverage.
3. E&O coverage must extend to insurance activities and all related activities, including financial planning in the case of life insurance agents.
4. The E&O insurance must include coverage for prior acts and a minimum of 5 years of tail coverage.

5. The E&O insurance must include extended coverage for fraudulent acts.
6. The E&O policy must require the insurer to pay out any claim on the first dollar and recover any deductible from the insured.
7. Applicants for an insurance licence will be required to certify that they have E&O coverage that meets Council's requirements and indicate the insurer and policy number on their application for a licence.
8. Licensees will be required to advise Council of the termination or lapse of their E&O coverage and will acknowledge this obligation on their application for a licence.
9. The E&O policy must require insurers to advise Council when a licensee's policy lapses and to give 30 days' advance notice to Council when a licensee's E&O policy is to be cancelled.
10. A licensee whose E&O coverage ceases must not conduct any further insurance business while uninsured and must obtain new coverage within 30 days or his/her licence will be subject to action by Council.

Council is seeking feedback from licensees and the industry concerning these recommendations before they are finalized. Comments should be made, in writing, **by May 22, 2001** to the attention of David Stewart, Director, Policy & Legislation, at:

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