GUIDE

An Insurance Carrier's Guide to Compliance Pitfalls and Protips

What's Inside

Executive Summary

From recruiting to termination, compliance and operations teams have their hands full with maintaining a sales team that's compliant and ready to sell at all times. With this guide, you can understand the duties and responsibilities of your team, spot potential pitfalls well in advance, and assess your current compliance and distribution management risks.

With a compliance checklist for the producer lifecycle, and a self-assessment of your current practices at the end, readers with all degrees of compliance knowledge will walk away with a better understanding of the possible strengths and weaknesses of their current compliance and distribution channel management.

Producer Management Duties

Onboarding duties

- Collect basic producer data.
  - Name, National Producer Number, etc.
  - Proof of E&O policy
  - W-9 or applicable tax form
- Background check.
- Get a current producer agreement signed.
- Verify producer firm and individual state licenses.
- Make appointments.

Ongoing producer management duties

- Verify proper license and appointments before commission payouts.
- Maintain current copies of producer agreement.
- Track continuing education and product training.
- Renew carrier appointments.
- Data protection and digital due diligence.

Relationship termination duties

- Notify the producer in writing of your intent to terminate your agreement and appointment.
- Terminate the carrier appointment with the states, indicating cause if necessary.

While insurers have seen success with direct-to-consumer (DTC) sales, producers are still the bread and butter of the industry. If DTC adoption (or lack thereof) in complex insurance spaces is any indication, human producers aren't going anywhere anytime soon.

Many consumers are comfortable purchasing temporary, standard, and short-term coverage through automated systems—basic rental insurance, auto coverage, or even a short-term life insurance policy can be easy-to-understand, standardized contracts. However, consumers typically want someone to act as an adviser with a personal, human touch when it comes to purchasing coverage for specific or costly risks, such as annuities, Medicare, permanent life insurance, or scaled property and casualty contracts.

Making Compliance a Priority

If producers are such a big part of insurance, why does producer compliance—you know, the basics of onboarding and maintaining individual information—barely get an honorable mention in carrier budgets?

Sometimes it's because low regulatory fines get bundled into "the cost of doing business." And insurance licensing and compliance are back-of-house functions with hidden costs.

But those attitudes are getting left in the dust by tech that not only makes it easier than ever to stay up-to-date with producer licensing and appointments, but also makes it more cost-effective and transparent. Tech-driven progress is changing regulator expectations (such as the Center for Medicare and Medicaid Services' new API requirements). But it's also changing producer expectations, driving home the importance of having a quick, efficient, and non-irritating experience.

As the current aging producer workforce largely retires and evolves into one dominated by Gen-X and millennials, producers increasingly demand digital-first experiences. When you consider the various areas of insurance producer compliance and your current or planned processes to address each key area, keep in mind that software that takes a compliance-as-a-service approach can automate these data points and reduce your risks while wowing your agents.

Managing your distribution channels—Agencies

Whether you call them wholesalers, marketing organizations, or business entities, many insurance carriers work with downstream agencies that promise access to producers and work under one operating contract.

Your agency partners are closer to their producers (after all, that's why you contract them to begin with), but that doesn't mean they're always doing the due diligence you expect.

Regardless of the rules of the relevant jurisdiction that pertain to your relationships with agencies, a responsible carrier will do a thorough due diligence in regard to researching and background checks for DRLPs and other principals of the agency. Further, being familiar with the agency's compliance procedures and operating processes is in your best interest, both for quality control and for basic liability.

Good agency partners will appreciate systems that make compliance a thorough yet painless process.

Onboarding producers

You likely scrutinize producers most thoroughly during their initial onboarding. So onboarding a single producer or a group of producers is a crucial time for containing risk and snuffing out threats before they become an issue.

Most states' rules stipulate that insurance carriers perform due diligence regarding:

- Background check for known regulatory or financial malfeasance
- Having a current, verified license
- Maintaining an errors and omissions (E&O) insurance policy
- Collecting tax information for tax reporting (likely through a W-9)

How do you as a carrier handle these pieces of information today?

Collecting key producer data

Errors and omissions policies are standard for professionals providing any finance-adjacent guidance. For any independent insurance producer, one of the first orders of business is securing an E&O policy to cover them in the event of a mistake or error.

Basic compliance hygiene mandates that insurance carriers have a copy of their producers' E&O policies. I.e., proof or it didn't happen.

Similarly, depending on how payments are structured, it's necessary for carriers to collect tax information on producers, so carriers generally collect a standard W-9 (or, if the producer will be in-house, they'll fill out a W-2).

For carriers that collect this information manually, the process often involves chasing producers. For independent producers, uploading this information over and over across agencies and carriers can be tedious. They often miss basic information, such as which fields to fill out, or whether the E&O policy is current, which puts carrier staff members in the position of returning to the producer to repeatedly ask the same questions.

Protip

Digital transformations in the past few years have enabled portals where producers can upload their own documents. With autofill forms, required fields, and automated alerts for errors when fields don't match, you can red-flag issues early in the process, sometimes even without a staff member ever having to lift a finger.

More from the AgentSync blog

→ Errors & Omissions basics

→ Using tech to reduce E&O threats

→ Reasons producers lose their licenses

Background checks

Many states conduct their own background checks when first licensing producers, complete with fingerprinting and citizenship verification. Yet, by law, due diligence requirements mean carriers and agencies may have to conduct background checks on prospective producers, as well.

Most states have a monthly report they share with other states' departments of insurance to help all states stay on top of producers who've violated state laws. And several states submit data to the National Insurance Producer Registry. However, this still leaves several holes for anyone who handles this manually.

Background checks become a pain point for two reasons: Repeated requests for fingerprinting and personal information can irritate producers, and having a background check service that isn't thorough enough is essentially useless.

Protip

This is an area that gets easier with technology. While some states may have preferred (or required) vendors for fingerprinting, digital and app-based background checks can make this process easier and more thorough.

More from the AgentSync blog

- [SILA discussion on background data]
- [State variations on background checks]
- [VerifiedFirst integration and partnership with AgentSync]

Maintaining contracts

Typically, you want producers working through a downstream agency partner (an IMO, FMO, BGA, etc.) to operate under the agency's contract.

Challenges in contracting often center on making the connection between carriers and agencies. If you updated the contract on your end, how do you know that your agency partner has adopted the correct draft, or that all the producers working under that partner are ready to sell for you?

Frequently, onboarding producers—and keeping them up-to-date regarding their contract—is a beast when an agency isn't on top of its contracts.

Ensuring your agency partners are up-to-date with current contracts is key to keeping your producer onboarding and compliance streamlined. Without updated contracts, the process of paying out claims and doing your diligence gets dicey.

Protip

Work with agencies that have a track record of staying atop contracting obligations, or that use digital means to handle contracts to ensure their contract is always the most current. Chances are, the former will also be the latter.

More from the AgentSync blog

→ AgentSync's Contracting solution

Verifying licensure

Agencies are the front line of licensing, taking the initiative to get agents licensed and handling renewals. Yet carriers must verify licensing as part of the ready-to-sell process. According to the NAIC's Producer Licensing Model Act (which all states have adopted or have a close variation of):

> "An insurance company or insurance producer shall not pay a commission, service fee, brokerage or other valuable consideration to a person for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this Act and is not so licensed."

Often, insurers verify producer licensure when they initially onboard. But after that, it's the Wild West—unless you're proactive about license verification, you may accidentally pay commissions to producers who aren't currently licensed in the state they sold a policy in.

This can have ripple effects in terms of your headline risk, and in terms of your appointment duties—some states terminate appointments automatically upon license lapse. This becomes a snowballing cost, and meanwhile your policyholder is going without valid coverage.

Appointing producers

Broadly, carriers can handle the process of appointing producers via NIPR or with any software that integrates with the NIPR producer database (PDB). That process may be as simple as selecting the producers you'd like to appoint and the states you'd like to appoint them for and giving them the green light and then paying the associated state appointment fees.

However, for carriers that work across state borders, things aren't super tidy:

- Not all states require producers to be reported to the state
- States that don't require appointment reporting still require you to keep an internal registry
- Even these non-appointing states, aka Registry states, still may require appointments for certain lines of business
- Some states require appointments for each agency and each producer working within it
- Some states require appointments for producers only, not agencies
- Some states allow a single agency appointment to cover all producers affiliated with that agency
- Some states require appointments even for producers who otherwise would be considered brokers

When it comes to appointing producers, there are variations on variations. This is one area where it will not work to merely have a single workflow for your entire agency and producer workforce.

Protip

Modern compliance software integrates with NIPR to give you a source of truth for point-in-time checks of producer licensing during onboarding and keeps it up-to-date via daily syncs throughout the entire producer lifecycle.

More from the AgentSync blog

- Defining Insurance Producer Management
- Producer License Verification
- Manual Producer Licensing
- Compliance Library

Our FREE resource for producer compliance information and updates!

Protip

Compliance software makes appointing and terminating easier, and since most states work through NIPR to manage appointments, the myriad rules are somewhat simplified. However, you want to be sure either your solution partner or an in-house staffer is educated about state limitations so you can understand nuances and not be blindsided by the variations in state appointment rules.

All-too-infrequently asked questions

Whether you use an external service provider or internal staff, whoever is responsible for your appointments should understand which states:

- Require appointments
- Require internal registries
- Require a paper component for certain LOAs, and whether you sell in any of those LOAs
- Require certain LOA appointments to go exclusively through state departments of insurance
- Terminate appointments automatically upon licensing expiration or suspension
- Allow carriers to use Just-In-Time appointments
- Allow agency appointments to act as an umbrella for affiliated producers
- Require appointment for every downstream individual producer
- Require carriers to appoint producers who act as brokers

The answers to these questions vary state to state, and can make or break your compliance process.

Registry states

If you operate in a state that doesn't require appointments to be reported directly to the state, that state will still require that your carrier maintain an internal registry of producers.

Some carriers handle this via internal spreadsheets, but this can get tricky when it comes to complying with the state's specific requirements for having information accurate, up-to-date, and accessible in the case of a state audit. Are you willing to bet your audit on the fact that an internal spreadsheet is up-to-date and accurate?

Just-In-Time appointments

Just-In-Time appointments are a provision of certain states' laws that allow carriers to avoid fully onboarding and appointing producers—and paying the associated appointment fees—until that producer is actively writing business in that state.

Producers might onboard only to go silent and never write business for you. Even producers who sell for your business may not be actively selling in every state. So, why appoint them for states they aren't selling in?

With many states charging $15 to $50 or more per appointment (and sometimes per LOA on top of that!), the cost of unnecessary appointments can be substantial.

Yet, insurance carriers often don't make efficient use of Just-In-Time appointments because doing so without risking costly errors requires efficient processes, automated workflows, and consistency across the board. This is why the development of APIs and other digital process upgrades is such a game-changer. Insurers could be a system-upgrade away from saving hundreds of thousands of dollars in unnecessary appointment fees.

Renewals

Carriers maintaining producer appointments goes well beyond the first appointment after onboarding. Depending on the state and the line of business, you may need to pay for appointment renewals annually or biennially.

States generally send carriers an appointment list for operations teams to review prior to renewal. So, most states have termination deadlines in advance of the official renewal date, by which carriers have to have terminated any retired, deceased, or departed producers (or agencies, if applicable). After that, the state will open up a renewal period during which the carriers must pay for their remaining appointed producers.

By the end of the appointment period, if carriers haven't paid for their producer appointments, the state often automatically terminates the appointments.

It's also important to keep in mind that some states allow what they call "perpetual appointments," where the appointment is held indefinitely until a carrier specifically terminates the appointment.

Terminations

Carriers have a bunch of reasons they may want to terminate a relationship with a producer even outside of a state's appointment renewal season.

Some states allow carriers to terminate their producers at will. Others require a specific reason for a termination, and states require carriers to file a formal report if it was a termination "with cause," such as instances where carriers suspect fraud.

Most terminations don't carry fees, but, particularly in states that hold perpetual appointments, carriers may have to pay a fee to terminate a producer's appointment.

More from the AgentSync blog

- [Overcoming obstacles to Just-In-Time appointments]
- [Carriers, MGAs, and appointments]
- [Appointment FAQs by state]
- [Compliance Library]

A word on managing appointments when working with MGAs

Most states that require appointments require someone to appoint producers. Since MGAs and MGUs can sometimes take on the duties of appointments, this can become a compliance pit where balls get dropped, never to be seen again.

Sure, in some states, appointing an MGA and having them treat all downstream agencies and producers as affiliated entities might be sufficient for compliance. But, more likely, a carrier or its partnering MGA is required to appoint downstream agencies and producers and is simply failing to do so.

To ensure compliance, not only is it important to understand state-specific appointment requirements, it's also important to spell out these obligations in your MGA contract—if your carrier expects the MGA to handle downstream appointments, make that clear! Otherwise, if a state finds you or your MGA partner flouted appointment laws, you could both suffer reputational damage.

Continuing education & training requirements

Generally, producers are responsible for their own continuing education (CE), and often proactive agencies work to provide ample CE opportunities for their affiliated producers. However, most states have a few exceptions, where state laws make insurers explicitly responsible for training requirements for producers selling particular products such as annuities or flood insurance.

Some insurers provide these trainings in-house while others wait for producers to procure training from external private service providers. Either way, keeping track of which producers are current with training is a must for carriers that work in these niche segments of the industry.

Protip

Many tech providers now have ways to track CE for relevant producers.

More from the AgentSync blog

- Compliance Library
- Continuing education by state
- AgentSync's Learn solution

- AgentSync and Why We Built on Salesforce
- Federal Regulation of Cyberthreats
- Information Security Best Practices in Insurance

Protecting personally identifying information

Federal laws have opened new scrutiny to how insurers and other institutions respond to cybercrime, even as the industry tries to move into a digital world. This puts special emphasis on insurers' digital compliance practices.

As even searching for a producer using their national producer number (NPN) falls under the Fair Credit Reporting Act, it pays for insurers to be thorough about their procedures for handling sensitive data, including precautions such as:

- Training employees on how to properly handle data
- Investing in two-part verification for digital logins, for both internal and external teams
- Putting data privacy, disclosure, and use stipulations into producer contracts
- Thoroughly examining third-party services and software's data security practices, including reading SOC reports
- Drilling for recognition and response in case of a digital privacy breach

Conclusion

Staying on top of the entire producer management lifecycle requires an intensive knowledge base.

Unfortunately, **a few assumptions** keep carriers from handling this successfully:

- Following one state's rules is more or less following all states' rules
- Compliance always comes at the expense of growth
- Maintaining manual processes and "the way it's always been done" doesn't cost a thing

Likely, if you've made it this far in a whitepaper about licensing and compliance, you don't need to be convinced why those are misplaced assumptions. If you're already ready to learn more about AgentSync already, check out our Solutions page or schedule your own demo.

If you're still thinking, take the short quiz on the following page to help evaluate your own licensing and compliance status.

Answer these 5 questions to evaluate your current licensing and compliance status:

1. Does someone on your staff know and understand what these regulations are and how they vary state to state in the jurisdictions you do business in, or do they have access to solutions that can educate them? Yes/No
2. Do you have a technology or database that keeps track of this information in real time? Yes/No
3. Can your compliance staffers take vacation as needed, or leave for family emergencies for prolonged periods, without your system breaking down? Yes/No
4. Do you have visibility into how this process is handled internally, and where each downstream producer is in the process? Yes/No
5. Can you say with certainty which producers are due for appointment or license renewals on any given day? Yes/No

If you answered "no" or "I don't know" to:

0 questions:

You must have AgentSync. What a compliance nerd! We're so proud.

1 question:

Congratulations, you are a Compliance Hero! Not quite perfect, but a cut above the crowd.

2-3 questions:

You have some work to do to tighten up the ship, but keep trying!

4-5 questions:

Whew. When you're at the bottom, the silver lining is that there's nowhere to go but UP!

For a more robust look at your compliance and distribution channel management practices, take our interactive assessment. →