



Navigating the Compliance Minefield

Presented by



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OBJECTIVES

- **Discuss** legal requirements for agents and brokers
- **Identify** best practices to operate your agency in a compliant manner
- **Share** resources to assist you in maintaining a compliant agency
- **Provide** insights about how agency compliance improvements could enhance your overall business and reduce your liability risks

AGENDA



Introductions



Compliance Basics



Security and Privacy



Consequences of Non-Compliance



Action Steps and Q&A

BROKER COMPLIANCE SPECTRUM



Generally Good

- Licensing
- CE and Pre-licensing Education
- Appointments and Carrier Contracts
- Errors and Omissions
- Broker of Record Requirements



Sometimes Questionable

- The agency's own health benefit plan
- Level of E/O coverage
- Commissions and Fees
- Rebating requirements



Oftentimes Murky

- Record Retention
- Fiduciary Requirements and fund transfers
- Do not fax/call
- Other unique state requirements



“Are you sure we have to do all that?”

- HIPAA/HITECH Privacy Requirements
- GLBA Privacy Requirements
- Cybersecurity

THE BASICS



Licensing



Education



E&O Coverage



Commissions, Fees,
Consulting, Rebating

LICENSING AND EDUCATION

Resident/Non-Resident

Business Entity

Product-Specific

BEST PRACTICE:

Have one person in the agency responsible for tracking licensing and CE requirements



ERRORS & OMISSIONS COVERAGE

Required by
contract and law

Protects
Agency Assets

Provides
employer assurance

POINT TO CONSIDER:

Internal agency compliance procedures and agency documentation practices help make an agency a better E&O risk and can impact premiums.



HOW DO YOU GET PAID?

Commissions/Fees

Consulting

Rebating

POINT TO CONSIDER:

Brokers who understand what they can charge for and when and how can fill in income gaps and get more return on their client service investment.

ADDITIONAL CONSIDERATIONS



Appointments



Agency's ERISA Compliance



Solicitation Rules



Record Retention

BEST PRACTICE

Conduct routine agency-wide self-audits on the compliance basics

HIPAA/HITECH PRIVACY, GLBA PRIVACY AND CYBER SECURITY COMPLIANCE

HIPAA

Requires the protection and confidential handling of electronic protected health information (PHI).

HITECH

Widens the privacy and security protections under HIPAA with more enforcement and potential liability for noncompliance.

GLBA

Establishes financial privacy rules and regulations.

CYBERSECURITY

Potential cybersecurity issues include physical vulnerabilities, unsecured networks, and mobile data.

AGENCY REQUIREMENTS

HIPAA/HITECH - How do I comply?



Documented agency
PHI privacy risk
analysis



Annual HIPAA/HITECH
privacy training



Procedures in place to
ensure encryption of
electronically
transmitted PHI



Signed BAA agreements with
other covered entities and
service providers



Secure All Forms of PHI



Document all of your
privacy procedures and save
your documentation for at
least six years past the most
recent update.

AGENCY REQUIREMENTS

GLBA Financial Privacy - How do I comply?



Written Procedures in place to protect the privacy of PII



Opt out notice procedures if data sharing requires them

Procedures to track if the agency shares or discloses PII in a way that would require an agency to send and track opt-out notifications



Annual privacy notice to clients



Implementation of opt out standards if needed

ASSESSING THE THREAT



Physical Vulnerability

- Make workstations inaccessible to the public
- Lock up routers and servers
- Replace aging physical equipment
- Maintain protection against natural disasters
- Archive data off-site
- Incorporate industry standard protocols, like magnetic doors and keycard access



Unsecured Networks

- Configure your firewalls correctly
- Use strong, proven antivirus and antimalware software
- Keep your software current
- Invisible or password-protected network



Mobile Device Weakness

- Make sure your device doesn't scan for and hook up to open Wi-Fi networks
- Transfer files via secure software, such as file-sharing apps that encrypt data, rather than email
- Enable security features such as remote wipe and automatic file deletion
- Don't lose your phone!

WHAT IF MY AGENCY IS NOT COMPLIANT?

Potential Consequences of Non-Compliance



**License
Consequence**



**Negative
Press**



**E&O
Claims**



**Legal
Liability**

ACTION STEPS

Get Your Agency On Track

step **1**

Identify State and Federal laws applicable to your agency

step **2**

Assign one person to be responsible for agency-specific compliance

step **3**

Perform an internal audit

step **4**

Make adjustments and implement policies and procedures to ensure future compliance

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1. A 20% discount for 'premium' memberships on the SHRM Broker Finder platform – powered by Elevate Benefits
 - Discount code: **NAHUBROKER20** (expires 4/13/18)
2. All attendees who sign up for SHRM Broker Finder will receive an Agency Compliance Checklist – courtesy of Forward Health Consulting



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