



## Facts to Know When Considering Assignment of Your Errors & Omissions (E&O) Policy

Agency ownership transfers are at an all-time high. Utica National is frequently asked about “assigning” their in-force policy to the buyer of the agency.

Remember, the assignment of the policy must be agreed upon by all three parties: the seller, the buyer, and the insurance carrier.

Here are some scenarios highlighting the potential downside of assignment of the policy:

- The buyer lets coverage lapse, at that point the seller has waived his or her right to purchase extended reporting, or tail coverage, and sits exposed with no coverage in place for a claim brought against them arising during the time they owned the agency.
- The buyer sells the agency and does not purchase tail coverage, then the previous owner/seller has no ability to purchase extended tail coverage. Once again, they are exposed with no coverage for a claim brought against them.
- A claim arises from an error and omission caused by the previous ownership. The new owner and his or her policy are responsible for the loss, and it will reflect in the experience.



Simplicity is probably the biggest advantage. No new application is needed and coverage continues “as is.” That’s the upside, but it has to be weighed against the downside scenarios noted above.

Below is the relevant policy language from our Insurance Agents and Brokers’ Errors and Omissions Insurance Policy coverage form (14-P-EOA Ed 9-2012):

### Section VI-Conditions

#### 13. Sale, Transfer, or Assignment

The controlling interest of any insured under this policy shall not be assignable to any other person without our written consent. In the event of the death or incompetency of the insured, this policy shall cover the insured’s legal representative as an insured as respects any liability of that insured which is covered by this policy.

Coverage under this policy ends on the date ownership of (or stock which comprises a controlling interest in) any Named Insured is sold, transferred, or assigned unless our written consent is obtained before said date.

*This summary represents an outline of coverages available from the companies of Utica National Insurance Group. No coverage is provided by this summary. All coverages are individually underwritten. Coverage availability, terms and conditions are dictated by the policy and may vary by state. In the event of a loss, the terms of the policy issued will determine the coverage provided.*

*This information is provided solely as an insurance risk management tool. It is provided with the understanding that the member insurance companies of the Utica National Insurance Group are not providing legal advice, or any other professional services or advice. Utica National shall have no liability to any person or entity with respect to any loss or damages alleged to have been caused, directly or indirectly, by the use of this information. You are encouraged to consult an attorney or other professional for advice on these issues.*