Duties of Unlicensed Personnel

The state of Florida has strict rules as to what unlicensed personnel can and can’t do in an agency. Let’s take a look at the rules.

Rule 69B-222 of the Florida Administrative Code sets out policy as to insurance related activities which may and may not be engaged in by persons who hold no licensure under Chapter 626, Florida Statutes.

The following actions are allowable by unlicensed personnel at any time:

1. Serving in the capacity of switchboard operator, receptionist, or secretary, when merely taking incoming calls and visitors and routing them to licensed staff or taking messages.
2. Explaining claims procedures or advising claimants as to the procedural status of claims, so long as this merely requires reading from agency records and files and does not require application of judgment or interpretation.
3. Answering incoming calls from existing clients as to purely administrative matters, so long as it merely requires the unlicensed staffer to read from agency records and files and does not require application of judgment or interpretation. Good examples that do not require judgment or interpretation include "Do your files show receipt of my June premium?" or "What do your files show as the current expiration date on my homeowners policy?"
4. At the direction of the agent, solicitor, or customer representative, an unlicensed personnel is able to:
   a. Call back a specific person who had called the agent or customer representative or solicitor and set up a solicitation meeting between the person and the agent, customer representative, or solicitor.
   b. Convey information to existing clients or claimants, such as "Agent Smith wanted me to call you and tell you he received your paperwork on your new car and it is covered under your existing policy effective immediately," or "Agent Smith asked me to let you know your claim has been allowed in full and you should get your check within 30 days."

The following types of conduct by unlicensed staff are allowable as long as they are done only on a basis "incidental" to the employee's main duties:

1. Taking an application for insurance in the agent's office for a person who has called or come into the office.
2. Giving quotes in the agent's office to persons calling or coming into the office and asking for a quote.
3. Receiving premium at the agent's office. Receiving premium does not include the handling of premium by mail room personnel or other unlicensed personnel who handle mail.

Unlawful Activities by Unlicensed Insurance Agency Personnel

The following actions are never allowable by unlicensed personnel.
(1) Comparing insurance products; advising as to insurance needs or insurance matters; or interpreting policies or coverages.
(2) Binding new, additional, or replacement coverage for new or existing customers; or binding coverage on or recording additional property under existing policies.
(3) Soliciting the sale of insurance by telephone, in person, or by other communication.

The following definitions are applied by the Office of Insurance Regulation (OIR):

"Giving a quote" refers to the basic tasks of obtaining certain basic underwriting answers from the inquirer, and then consulting written underwriting materials that state the rate. Giving a quote does not involve application of judgment, processing, binding, policy interpretation, signing an application, procedure explanation, or insurance advice and counsel, or similar activity.

"Incidental" means conduct by insurance agency personnel qualifies as "incidental" only if it meets the following three criteria:
1. All the work done under the "incidental" exception, in terms of the amount of time the unlicensed employee spends doing it, and is 10 percent or less of the employee's time compared to time spent on other tasks;
2. The exact amount and timing of the work is unpredictable; and,
3. On an agency-wide aggregate level, all the work done by unlicensed employees under the "incidental" exception is 10 percent or less of such work as compared to the amount of such work done by agents, solicitors, and customer representatives in that office.

Absent evidence of abuse of the "incidental" exception, the OIR will evaluate "incidental" by looking at the operation of the agency over a six to 12-month period. For example, if it were shown that over the course of a year an agent's receptionist spent just 20 minutes a day doing work under the incidental exception, except that for four weeks during the year while the agent was hospitalized or on vacation the receptionist spent almost full-time taking applications and giving quotes, then this activity would still qualify as "incidental". Note that an agent's illness or vacation does not expand the types of activities unlicensed staff may conduct.

"Taking an application" means filling in the blanks on an application form in response to information provided by the applicant, and then passing the application to an agent or customer representative for further application of judgment, processing, binding, policy interpretation, procedure explanation, or insurance advice and counsel, or similar activity. Taking an application does not include application of judgment, processing, binding, policy interpretation, signing an application, procedure explanation, or insurance advice and counsel, or similar activity.

Finally, it is unlawful for unlicensed insurance agency personnel to receive any type of pay which is formally tied to the production of insurance or insurance applications. Such payment for services rendered constitutes illegal sharing of commissions. However, a small "bonus" paid once a year to all unlicensed staff, which is purely gratuitous and which they had no legal right to demand payment of, and is given because the agency had a good year, would not be improper, e.g., a Christmas Bonus.

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