



Records Retention Recommendation

Swiss Re, IIABW's endorsed E & O carrier, has changed its recommendations for records retention. Due to changes in technology from paper files to virtual files and cloud computing, and changes in privacy laws (Gram Leach Bliley Act, HIPAA, the Patriot Act and its successors), federal and state specific laws regarding notifications necessary due to data breaches, individual state laws regarding document retention, and individual agency/carrier agreement requirements, a "one size fits all" method of document retention is no longer conducive to good business practice.

With the advent of digitized electronic documentation, the ability to store a vast amount of records in a relatively small electronic space has dramatically changed the ability to retain records. However, along with the ability to store documents electronically comes the vulnerability that people from outside your agency could obtain access to your records for purposes such as identity theft and corporate espionage.

As to insurance agents E & O claims, the retention time period for agency file documentation that could relate to an E&O claim is simple: as long as possible. There are many factors that could have an effect on how long documents could be necessary to help in the defense of claim, including, but not limited to, statute of limitations or an extension of that limitation. At the same time the longer you retain such documents, the greater your exposure in the event of a data breach.

Each agency must determine for itself the time period for its documents to be retained based upon their location, type of business and all of the factors previously mentioned. We recommend that you consult with legal counsel in developing your agency's document retention policy.

In Washington State, RCW 48.17.470 dictates record retention "shall be kept available and open to the inspection of the commissioner at any business time during the five years immediately after the date of the completion of such transaction."