

Is Commission Protection Needed for Agencies too?

Agencies with partners, and especially those with family members, need to know why commission protection is vital to their business planning. This has become a larger part of our work. In all cases we strive to help active brokers protect their commissions. In 2023, we are seeing an increase in requests for information moving from solo brokers to family agencies and agency owners with subagents.

While we enjoy helping all brokers, it is great when a parent can mentor their child and accept them into the family business. Working with family members has many advantages. In addition, working with agencies is also encouraging. In some cases, a long-term employee is like a family member, so the similarities are significant. When it comes to a health insurance agency, finding ways to work with family members, and key employees, is a great way to grow over time. And when looking at the end game, an agency owner certainly has a head start on succession planning with family and long-term employees.

Our work begins to unravel the fact that even with a family focused agency there is an issue with commission planning. In most cases, families working together forget how commissions are treated. There is time spent on the fun part of growing and running an agency. Time is spent teaching, learning, growing, and managing the business. With hard work leading to success there is time to celebrate. In many cases celebrations are short and the work continues for the next renewal and open enrollment.

While all of this work is a high priority, there comes a time to shift the focus on doing the planning work for the future. One of the top items to address is how to deal with the facts about protecting agency revenues.

Our recent work with Jay, an agency owner who has two sons working in the business, centered on protecting commissions between family members “partners”. Jay read our book, ***“The Health Broker’s Guide How to Protect, Grow and Sell Commissions.”*** Our first conversation followed a familiar path of discovery about the perceived risk of losing commissions. Jay knew agency planning is about addressing issues critical to success and the risk of losing commissions was at the top of his to do list. Jay moved commission protection to the top when we explored his first question, “Doesn’t my LLC protect my commissions?” After we came to an understanding on how insurance carriers treat commissions, Jay realized that he needed to address this risk. The reason this often-hidden risk is such a problem is due to how the carrier producer agreements are written. Carriers work with persons who are actively health insurance licensed, contracted with the carrier via a producer agreement, and sometimes annually certified (MAPD and PDP). The carrier only work with human beings as producers as no corporate entity can sign a carrier contract or health plan application. No corporation can get certified annually. And no corporation can earn CEs to remain licensed. Jay, like most agency owners, had assigned personal commissions to be paid to their agency or LLC. This is a smart move for managing business expenses, but we explained how assignment of commissions is temporary. The fact that a licensed and broker of record can assign commissions and then change that assignment demonstrates how assignment of commissions to an LLC is temporary. Assignment of commissions does not protect the commissions in any situation.

After Jay realized his LLC was not a solution, as no LLC, or any corporate structure, serve to protect an individual's commissions. We began working on Jay's issue to develop a plan. Jay's sons write business and so does Jay. We explained that in his agency the writing agent, the one who is appointed, licensed, and signed the enrollment application, is paid commissions and should any broker in his agency no longer able to stay active due to death or disability, that the commissions are at risk. To solve this issue commissions must be transferred to someone who meets the carrier's requirement. Failure to do this transfer results in 100% loss of commissions. The timing and mechanics of installing a commission protection plan with Jay and his two sons was our next step.

Jay knew that since he worked for 15 years building his book of business, that most of the commissions were in his name. We went over our Commission Protection agreement and addressed how Jay was the Active Broker and each son was his co-Successors. A Successor agrees to be appointed with the same carriers the Active Broker is and stays in good standing each year. Then we outlined how a Successor is in waiting mode only and that he as the Active Broker, would be in charge of deciding when to retire and start the commission transfer process. Equally important Jay's Successors have a step-by-step guide on how the commission would be handled should he pass away while Active. Jay's sons were next. They had worked for a few years and were gaining new commissions. Jay wanted to for each son to have a plan in place should something happen to them. We developed separate agreements for each son, with son #1 as an Active Broker and son #2 in as an Active Broker. Each son had a separate **Commission Protection** agreement. In each agreement Jay and one son would be co-Successors. The value of the **Active Broker's** commissions was addressed by family using a guide we provided on commission split and payout time period. In a final step we implemented a process to address the carrier requirements for commission transfers from an Active Broker to their chosen Successor.

With the three **Commission Protection** agreements in place each family member had resolved concerns about what happens to my commissions if, dad passes, I am in an accident, and how do we transfer the commissions with each carrier so the agency can continue.

If you have an agency with key employees producing business, or family members, and would like to learn more about how we help, please contact us.



Phil Calhoun

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Phil's book, "The Health Broker's Guide: To Protect Grow and Sell Commissions" is available free at www.healthbrokersguide.com.

He offers complementary 15-minute coaching sessions. To schedule a phone call ["Click Here"](#)

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