**Duty of Care = Notes**

**Notes = Duty of Care**

**Quality note protocol = substantially more arbitration proof practice**

Today’s best practice addresses questions/thought processes since the initial Thursday Tip regarding Duty of Care documentation.

As previously indicated, our office requires a Duty of Care or equivalent notes submitted with all paperwork.  However, if you adopt the mindset that the Duty of Care enables you to standardize your note process you will be able to improve the efficiency in your office.

Some of you will have noted in the Reg BI FAQ document that the Duty of Care Worksheet must be completed and provided as part of the Trade Monitor alert.  The Duty of Care worksheet will not negate any obligations to provide requested documents like an ALIL form or Letter of Non-solicitation.  What it will do is document the rationale behind the execution of any and all transactions.

For example, a client calls with a request for funds.  In reviewing their portfolio the best option to fill their request is by selling a UIT that has not yet matured.

Complete a Duty of Care worksheet to document the conversation with the client and how you arrived at selling the UIT/why it was in the client’s best interest.

Put a copy in your client file.  Establish an inter-office procedure based on who bears responsibility for addressing Trade Monitor alerts.  By completing the Duty of Care at the time of transaction, it can be simply/quickly uploaded as response to Trade Monitor alert flags to minimize time needed to address these.

We are also suggesting a customized supplemental page to the Duty of Care worksheet.

Within your practice you have standard procedures.  You may have your client complete a Riskalyze profile to determine their suitability.  You might generate a Financial Plan for every prospect.  When considering a Variable Annuity you review a Morningstar hypothetical on the proposed product or do a side-by-side comparison of features of existing policy and recommended new policy.  By customizing a supplement page you could easily indicate what you reviewed with client and/or uploaded with paperwork for supervisory review.  This adds three additional levels of efficiency to this document.

If you indicate something is uploaded and it hasn’t made it to the OSJ queue we know to start in the vault rather than calling you.

If you indicated you reviewed something with client that would facilitate the review process it can be requested.

The checklist becomes a reassurance to a future regulator that you had a consistent, documented procedure for recommendations.

As with any customized supplemental information you aren’t restricted to a static checklist.  It could be fillable, enabling you to reference product/transaction specific disclosures provided to client like FINRA 1345 disclosure, or delivery of fund family prospectus.

If you would like help building a customized supplemental page specific to your practice, Sean is happy to work with you.

Is there information that didn’t fit in a Duty of Care worksheet category that you consider pertinent to arriving at your recommendation?  The supplemental page is a great way to capture the unique items that you want to make sure are considered in the review process.