

Happy New Year!



January 2006  
Council Report

# Insurance Council of Manitoba

Suite 466 - 167 Lombard Avenue, Winnipeg, Manitoba R3B 0T6  
Tel: (204) 988-6800 Fax: (204) 988-6801  
website: [www.icm.mb.ca](http://www.icm.mb.ca) e-mail: [contactus@icm.mb.ca](mailto:contactus@icm.mb.ca)

ICM Staff  
welcomes back  
Sandi Saluk as  
Licensing Officer.

Sandi returned from her maternity leave on Monday, October 31, 2005. She is available for questions concerning licensing and continuing education and can be contacted at [ssaluk@icm.mb.ca](mailto:ssaluk@icm.mb.ca) or by phone at (204) 988-6800.

## Address Changes

All insurance licensees must notify Council of any residential or business address change.

To make a change to your contact information, send Council a letter or fax requesting the change along with the particulars of the new information, including postal code, telephone or fax numbers. For ease of reference, there is an "Address Change Form" available on our website under Printable Forms.

## Council Executive



### Congratulations to Miles Barber

Congratulations to Miles Barber on his appointment as Chairperson of the Administrative Council.

### Congratulations to Don Manson

Congratulations to Don Manson on his appointment as Chairperson of the Life Insurance Council.

## Welcome to our new Life Council Member

Council would like to welcome Joan Prevalnig, CFP, CLU, CH.F.C. as a recent appointment to the Life Insurance Council effective October, 2005.

Following her attainment of a Bachelor of Commerce degree, Joan was employed with the Great-West Life Assurance Company for many years. Throughout her tenure with GWL she held a variety of positions which included most notably Vice-President of the Resource Centre Operations; Vice-President of Agencies; Director of Agency Operations; and Director of Human Resources.

Joan is a proponent of education and received her CLU designation in 1996, and her CH.F.C. and CFP designation in 1997. She had previously attained her FLMI with distinction and her Certificate in Group Health Insurance with honors, and currently holds a Mutual Funds licence through the Manitoba Securities Commission.

Ms. Prevalnig has sat on the Canada Pension Plan Advisory Board, and was the former Chair of the Standing Audit Committee of this Board. She has also contributed to the textbook "Customer Service in Insurance – Principles and Practices" copyright 1991 LOMA (Life Office Management Association Inc.)

We welcome Joan to Council and indeed look forward to working with her.

## Council Members

### Life Council

Don Manson  
Randy Viray  
Zbigniew Gryz  
William Stewart  
Bonnie Radcliffe  
Joan Prevalnig

### General Council

Ernie Gilroy  
Ellen Duncalfe  
Janet Sabourin-Gatin  
Arthur Jonasson  
Claude Forest  
Gerald Corrigan

### Adjusters Council

J. Miles Barber  
Leann Hathaway  
Pauline Sackvie  
Susan Thain  
Don Jodoin  
Victor Dumesnil

## Disciplinary Decisions

**Sandra Adams** - Council determined that former licensee is unsuitable to hold a General Insurance Agent/Broker Licence based on multiple infractions of the Insurance Act of Manitoba, Sections 113(1) and 375(1).

**Robert Bartram** - The Life Insurance Council of Manitoba determined that Accident & Sickness Insurance Agent is unsuitable to hold a licence due to forgery of client signatures and failure to disclose material information on applications.

**Gerald Butler** - Council determined that Life and Accident & Sickness Insurance Agent be suspended for two (2) weeks and assessed partial investigation costs of \$750.00 for violation of Section 2 of the Life Insurance Agent Code of Conduct regarding confidential information.

**Herman Hildebrand** - Council determined that Life and Accident & Sickness Insurance Agent be suspended for four (4) weeks and assessed partial investigation costs of \$1,500.00 for violations of Sections 113 and 375(1) of the Insurance Act of Manitoba and Sections 1 and 6 of the Life Insurance Agent Code of Conduct.

**H. Douglas Homenick** - Council determined that Life and Accident & Sickness Insurance Agent pay a fine in the amount of \$250.00 and partial investigation costs of \$250.00 for an unsuitable recommendation with regard to insurance/amount of insurance to a client in violation of Section 1 of the Life Insurance Agent Code of Conduct.

**Barbara Joseph** - Council determined that Accident & Sickness Insurance Agent is unsuitable to hold a licence pursuant to Section 371(1) of the Insurance Act of Manitoba based on multiple infractions of the Insurance Act of Manitoba resulting from inappropriate handling of client funds.

**Clifford Packer** - Council determined that Life Insurance Agent pay a fine in the amount of \$500.00 and costs in the amount of \$500.00 due to failure to properly complete a disclosure statement, and to review the existing policy contract prior to completion of a disclosure statement.

**Henry Penner** - Council determined that Life and Accident & Sickness Insurance Agent pay a fine in the amount of \$250.00 and partial investigation costs of \$250.00 for replacing a policy of insurance within one year from this agent's termination from the existing insurer.

**Marc-Yvan Poulin** - Council determined that Life Insurance Agent pay a fine in the amount of \$750.00 and costs in the amount of \$500.00 for replacing a policy of insurance while not reviewing the prior policy.

**Joseph Reich** - Council determined that General Insurance Agent/Broker pay a fine in the amount of \$2,500.00 and costs in the amount of \$1,250.00 for failure to adequately meet the responsibilities in the management and supervision area of a general insurance agency. This decision was appealed to the Provincial Licensing Appeal Board. The Board upheld the decision of Council, and awarded additional costs in the amount of \$1,250.00, bringing the total costs payable to \$2,500.00.

**Al Shell** - Council determined that Life and Accident & Sickness Insurance Agent pay a fine in the amount of \$1,000.00 and partial investigation costs of \$500.00 for charging a fee on a policy for which a commission was payable. (Section 113(1) of the Insurance Act and Sections 3 and 12 of the Life Insurance Agent Code of Conduct).

**Robert Summers** - Council determined that Life and Accident & Sickness Insurance Agent pay a fine in the amount of \$500.00 and partial investigation costs of \$500.00 for replacing a policy of insurance without properly reviewing information from the prior policy.



**Warning** - The use of any information in this Council Report to discredit another licensee, or any other person, is not permitted and may result in disciplinary action against a licensee using the information in such a manner.

### Warning - Notice of Unauthorized Adjuster

On May 19, 2005, the Provincial Court of Manitoba released written Reasons for Decision with respect to the four charges before the Court concerning Mr. Laurie Tomlinson. Convictions were entered on all four charges.

The convictions involved section 385(8) of *The Insurance Act*, for "acting as an adjuster without a licence by directly negotiating, investigating, adjusting, or settling a loss or claim, for compensation or reward or the hope or expectation thereof" on behalf of four separate "clients".

This outcome validates the consistently held historical position of the Insurance Council of Manitoba with respect to unlicensed activity in the insurance industry. All licence holders are hereby reminded of the need for ongoing vigilance in monitoring and reporting unlicensed activity, in the interest of broader consumer protection. Any information or awareness in that regard should be brought to the attention of the Insurance Council of Manitoba at (204) 988-6800.

## Carry Forward of Credit Hours

This years audit showed there is still some confusion in the number of credit hours that can be carried forward and from how far back.

Manitoba's licensing year runs from June 1 to May 31 requiring every holder of a licence to accumulate in each year of the licence the prescribed number of credit hours for the class of licence held.

**General agents/brokers** are required to accumulate eight (8) credit hours annually and may carry forward a maximum of four (4) credit hours from the previous licensing year.

**Life agents** are required to accumulate thirty (30) credit hours annually and may carry forward a maximum of ten (10) credit hours from the previous licensing year.

**Accident & Sickness Only agents** are required to accumulate 15 credit hours annually and may carry forward a maximum of five (5) credit hours from the previous licensing year.

**Life and Accident & Sickness agents** are required to accumulate thirty (30) credit hours annually and may carry forward a maximum of ten (10) credit hours from the previous licensing year.

In addition, credit hours that have been accredited for more than one class of licence can not be split between the licenses. For example, an agent/broker who holds a life and general licence participates in a course accredited for both life and general may only apply the credit hours to one class of licence and not both.

### All Level 1 Life Insurance Agent Licensees

The Advocis Level II self-study course and the Insurance and Financial Advisor Training Course (IFATC) are no longer being offered since September 30, 2005.

As a result, the Life Insurance Agent Level 2 Qualifying Examination, which was available through the Council office, is no longer available since December 31, 2005. Effective January 1, 2006, the only method that will be available for an individual to upgrade their licence is the Life Licence Qualification Program (LLQP).

**NOTE:** Licensees should be aware that other licensing jurisdictions may not continue to recognize the Level II examination as an acceptable Level II qualifier.

## Reduction in Credit Hours

**LIFE and ACCIDENT & SICKNESS AGENTS** - A reduction of 50% in credit hours will be given for maternity/paternity leave.

**GENERAL AGENTS/BROKERS** – A reduction in credit hours will be pro-rated in accordance with the date the maternity/paternity leave commences and return date.

**ADJUSTERS** – A reduction in credit hours will be pro-rated in accordance with the date the maternity/paternity leave commences and return date.

A reduction in credit hours will only be granted if the agent/broker advises the Council in writing within the first 30 days of going on maternity/paternity leave and receives written consent from the Council.

New agents or adjusters who are issued a licence in the month of December will be granted a 50% reduction in credit hours for the current licensing year.

## **General Insurance Agents Licensing Rules, amendment**

The General Insurance Agents Licensing Rules have been amended to authorize the Auto Broker Only Licence to sell extension automobile insurance issued by insurers other than The Manitoba Public Insurance Corporation.

**Subsection 3.1(2)** of the General Insurance Agents Licensing Rules is replaced with the following:

**3.1(2)** The holder of a Level 1 Auto Only Broker licence is authorized to sell only the following insurance products:

- (a) basic compulsory and optional extension automobile insurance issued by The Manitoba Public Insurance Corporation;
- (b) extension automobile insurance issued by other insurers.

The holder of the licence may sell that insurance only inside the office of a general insurance agency under the supervision of the holder of a licence authorized to carry on the activities permitted under section 4.

## **Termination of Sponsorship**

It has become apparent that termination of sponsorship notices are being received weeks after the fact. As the regulatory body responsible for the licensing and discipline of insurance agents, brokers and adjusters terminations of sponsorship notices must be received in a timely fashion.

This requirement is noted in Section 373(2) of the Insurance Act of Manitoba which states where the agency or employment contract on the basis of which the agent's licence was issued is terminated, the principal or employer shall **immediately** notify the superintendent in writing of the termination, and the licence of the agent is suspended until:

- (a) another principal has agreed to be represented by the agent or another employer has agreed to employ the agent;
- (b) the agent provides the superintendent with approval for the reinstatement of the agent's licence as required under subsection (2.1); and
- (c) the superintendent approves the reinstatement of the agent's licence.

In addition, the Council would like to remind the Designated Representatives and Insurance Companies that when an agent/broker ceases to be in their employ the Council must be notified in writing with the effective date and reason.

## **Notice to the Property and Casualty Insurance Industry:**

It has been brought to our attention that individuals and companies may be carrying out adjusting activities without holding the required licence to do so. As a reminder, the *Insurance Act of Manitoba* defines adjuster as:

“a person who

- (a) for or on behalf of an insurer or an insured, for compensation or reward or the hope or expectation thereof, solicits the right to negotiate the settlement of, or investigate, a loss or claim under a contract, or under a fidelity, surety, or guaranty bond issued by an insurer, or directly or indirectly negotiates, investigates, adjusts, or settles, any such loss or claim, or
- (b) holds himself out as an adjuster, investigator, consultant, or adviser, with respect to the adjustment, negotiation, or settlement, of such losses or claims,

but does not include a member of The Law Society of Manitoba entitled to practice as a solicitor in the province acting for or on behalf of a client in the course of, and as part of, his practice as a solicitor; (« expert »)”

**Adjusters must meet specific licensing criteria.**

## Conducting Business with Out of Province Clients

The Life Insurance Council of Manitoba has received a number of inquiries recently concerning licensing requirements for conducting business with out of province clients.

The position of the Life Insurance Council of Manitoba is that you must be licensed in the jurisdiction in which the business is conducted. If the out of province client travels to Manitoba, your Manitoba licence authorizes you to conduct business with him or her during this visit. Alternately, if you are licensed in the province in which your out of province client resides, you are authorized to conduct business with him or her. However, if you are not licensed in the jurisdiction in which your client resides, and he or she does not travel to Manitoba, you are not licensed to conduct business. Your options under these circumstances are to become licensed in the jurisdiction in which the client resides, or alternatively arrange with an agent duly licensed in that jurisdiction to conduct the business.

If you have any questions in this regard, please contact Erin Pearson, Assistant General Manager and Compliance, of the Insurance Council of Manitoba.

## Question and Answer Section

*Q. If I am a non-resident Life Insurance Agent and require less than thirty (30) continuing education credit hours in my home province, am I required to obtain the full amount of thirty (30) continuing education credit hours required in Manitoba in order to satisfy my Manitoba renewal?*

**A.** Yes. Each Life Insurance Agent is required to obtain the full amount of thirty (30) continuing education credit hours.

*Q. If I attend a seminar that has been accredited for both life and general credit hours can I split the credit hours between my life and general licence?*

**A.** No. Credit hours can only be assigned to one (1) class of licence.

## CCIR-CISRO Industry Practice Review

Since late 2004, a number of U.S. regulators and state governments have investigated and taken legal action against several insurance companies, brokerages and individuals, alleging fraudulent, coercive and dishonest practices in the sale of insurance products. These practices include the alleged rigging of bids for insurance and concerns about the payment of contingent commissions and other sales incentives.

The Canadian Council of Insurance Regulators (CCIR) and the Canadian Insurance Services Regulatory Organization (CISRO), are associations of insurance regulators and of insurance intermediary licensing and regulatory authorities in Canada.

In October 2004, CCIR and CISRO established the Industry Practices Review Committee (IPRC) to examine the financial relationships between insurance companies and their sales intermediaries (e.g. contingent commissions, ownership and financial links, and sales incentives) that have the potential of creating conflicts of interest.

The IPRC's general policy objective is to reduce the opportunity for actual and potential conflicts of interest in the marketplace while working to promote consumer confidence. An IPRC consultation paper outlines a range of possible policy options which the IPRC feels have the potential to balance the business objectives of market participants and the interests of consumers, thus promoting market confidence.

The paper did not make specific recommendations but asked for feedback on a number of policy options. The policy options considered in the consultation paper were:

1. Codify the priority of client's interest;
2. Restrict performance linked benefits offered to intermediaries; and
3. Enhance transparency of compensation, ownership and other financial interests.

Summary of responses can be found on our website at [www.icm.mb.ca](http://www.icm.mb.ca) or at the CCIR/CCRRA website at <http://www.ccir-ccrra.org/CCIR/index.htm>.

## **CCIR - CISRO Reciprocal Licensing**

The Canadian Council of Insurance Regulators (CCIR) and the Canadian Insurance Regulators Services Organizations (CISRO) requested that stakeholder organizations nominate one or two individuals to work collaboratively with regulators to research and develop proposals to improve inter-jurisdictional licensing in Canada. Two joint stakeholder regulator committees were established, one to focus on life licenses and the other on general licenses.

These three areas of harmonization - applications, continuing education and errors and omissions insurance - are the basis of a Reciprocal Licensing Model under consideration. This model could incorporate a reliance approach, wherein a host jurisdiction relies on the requirements of the agent's or broker's home jurisdiction, but can also request that the agent meet additional requirements specific to the host jurisdiction.

Currently, British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and Quebec have continuing education (CE) requirements for life insurance agents. General insurance agents and brokers in all of these provinces, with the exception of Ontario general agents, are required to complete CE.

The need to introduce greater streamlining and harmonization of CE has been identified as a priority. Industry representatives indicated to the Reciprocal Licensing Standards Committee that it is costly to monitor and comply with different CE requirements across jurisdictions.

One way to harmonize CE standards is to adopt the following approach:

*Do not impose further CE requirements on a non-resident licensee who has met the mandatory CE requirements of any Canadian jurisdiction.*

All jurisdictions that currently have CE requirements, with the exception of British Columbia, Manitoba and Quebec, have agreed to adopt this approach to non-resident licensees. British Columbia and Manitoba intend to provide equivalency for CE credits taken in another jurisdiction. However, agents or brokers will be required to make up the difference in number of hours between their home and host jurisdiction to maintain a licence in British Columbia or Manitoba.

Four jurisdictions (Saskatchewan, Manitoba, Quebec, Newfoundland and Labrador) require errors and omissions (E&O) insurance for all agents. Ontario requires life insurance agents and general insurance brokers licensed by the Registered Insurance Brokers of Ontario to have E&O insurance. British Columbia is introducing E&O insurance for all agents in January 2006.

During discussions of the joint stakeholder/regulator working groups and in meetings with E&O providers, stakeholders identified problems in the E&O sector which included a small number of insurers. Stakeholders recommended that regulators exercise care in setting requirements for E&O to avoid disrupting the market, but suggested that the harmonization of regulations might encourage more firms to enter the E&O market.

Although there are a number of E&O requirements that could be harmonized, the committee felt that it would be the most useful without being disruptive to the market to focus on standards related to maximum deductibles.

This would mean adopting the following approach:

*Jurisdictions that currently limit the maximum policy deductible, will accept a policy where the first dollar of any claim is to be paid directly to the claimant to be equivalent to a zero deductible.*

The benefits of this approach are:

- E&O providers could use deductibles as an underwriting tool;
- Claimants would still be fully protected in the event of a claim;
- E&O providers and insurers would not face as many different rules in the various jurisdictions; and
- E&O providers could offer this as a standard condition to simplify their product across Canada.

Currently only three jurisdictions limit the size of the policy deductible. Ontario, Newfoundland and Labrador have agreed to adopt this approach; Quebec is considering the E&O proposal.

We will keep you posted on these and other developments. Check our website often for updated information.