

# FALL 2013

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## Council Report

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Access information on licensing requirements, application forms,  
important notices, news and much more!

**[www.icm.mb.ca](http://www.icm.mb.ca)**

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**REPORT YOUR CONTINUING EDUCATION CREDITS ONLINE!**

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**A FULL LIST OF ICM  
STAFF AND THEIR  
POSITIONS IS  
LOCATED ON THE  
ICM WEBSITE**

## How can we help you?

If there are any issues or questions that you would like to see addressed in the Council Report, please write or email us at:  
**[contactus@icm.mb.ca](mailto:contactus@icm.mb.ca)**

## ICM Taking Applications for New Council Member Appointments

The Insurance Council of Manitoba participates in the selection of licensed members from the industry by making recommendations for appointments to the Minister. The Council selects candidates for recommendation by considering objective criteria including industry experience and expertise, evidence of commitment to public service and professionalism, reputation and integrity of the applicant, and overall representation on Council.

Those licensees interested in putting their names forward as members of the ICM should forward a resume, "Personal and Confidential" to the attention of Erin Pearson, Executive Director of the Insurance Council of Manitoba.

## Request for Nominations to The Insurance Agents' and Adjusters' Licensing Appeal Board

The Insurance Agents' and Adjusters' Licensing Appeal Board hears appeals of decisions by the Insurance Council of Manitoba that impact an agent or adjuster's license.

The Board is comprised of:

- persons with suitable legal qualifications, preferably with a background in administrative law
- lay persons serving as public representatives
- persons representative of various sectors of the insurance industry

A member is appointed for a three-year term but for no more than ten years in total. Board hearings are infrequent, perhaps two per year. Member compensation is currently set at \$109 for hearings that last up to three-and-one-half hours and \$192 daily for longer hearings, plus out-of-pocket expenses.

Persons who wish to be considered for nomination to the Board under any of the above categories can submit their name and contact information, as well as a brief biography, to:

Co-ordinators of The Licensing Appeal Board  
910 – 386 Broadway  
Winnipeg, MB R3C 3R6

If you would like additional information, please contact the co-ordinators at (204)945-3757.

Submissions for nomination will be kept confidential.

## On-Line Renewal 2013

The Insurance Council of Manitoba is happy to report that the first on-line renewal of insurance agent and adjuster licenses was very successful, with almost 98% of licenses renewed on line.

This system has greatly improved the efficiency of the renewal process, in both the time it takes for the licence holder to receive confirmation that their licence has been issued, and the ability of the ICM licensing department to quickly review and process renewal applications that require manual intervention.

The response to the ICM on-line renewal process has been overwhelmingly positive, and on-line renewal will be mandatory for the next renewal period. The ICM is continuing to review ways in which the on-line and application process may be improved and is always interested in your comments.

Remember, you can still use the on-line portal to make changes to your contact information during the year. Ensuring that you continue to update your continuing education on-line will help to ensure that your renewal is a fast and convenient process.

## LLQP Curriculum

Work is continuing by the Canadian Insurance Services Regulatory Organizations (CISRO) to establish a harmonized national life insurance agent licensing program that will see the participation of every jurisdiction in Canada.

The CISRO website contains information concerning the curriculum of this program. Exam question development is expected to begin in early 2015. For further information, visit the CISRO website at [www.cisro-ocra.com](http://www.cisro-ocra.com)

## Incidental Sale of Insurance

The ICM is continuing its work with the Superintendent of Insurance in the review of draft Regulations for the regulation of intermediaries involved in the sale of “incidental” insurance products. An incidental seller of insurance means a person that, in the course of selling or providing goods or services to the person’s customers or clients, sells, negotiates or arranges insurance, or offers to sell, negotiate or arrange insurance, that relates to those good or services.

This regime would allow for the issue of a restricted insurance agent licence under subsection 380.1(2) of the *The Insurance Act*. Stakeholder submissions have been received and considered by the Financial Institutions Regulations Branch, and it is anticipated that final recommendations to the government will be made in 2014.

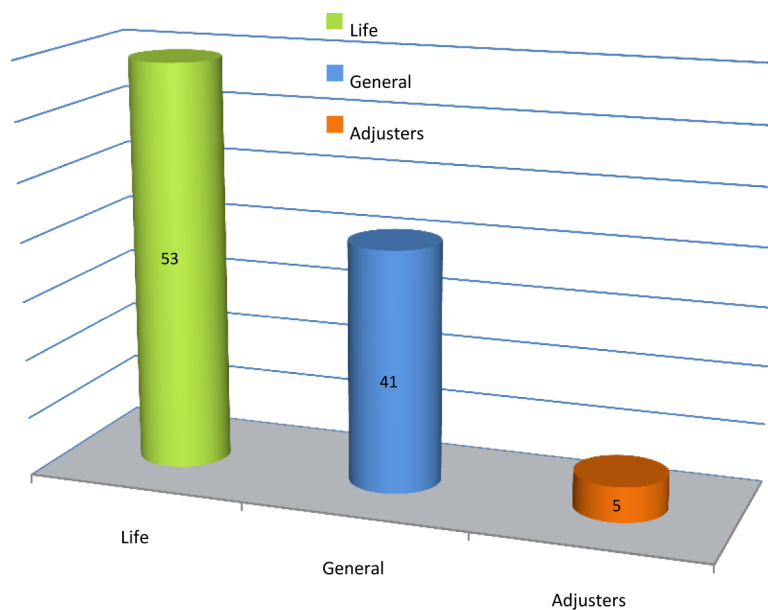
## Raising the Profile of the ICM with Consumers

One of the strategic priorities identified in the 2013-2015 ICM Strategic Plan was to increase consumer awareness of the ICM. In keeping with this priority, the ICM has implemented a number of projects, including newspaper and radio ads, consumer oriented brochures, participation in the Financial Literacy Forum “Money Matters” calendar, and bus board advertisements. The focus of these advertisements is to bring awareness to the public of the consumer protection mandate of the ICM, and to advise the public that the ICM can provide important information about the professional standards, licensing status, and compliance of insurance agents and adjusters. The ICM will continue to explore all options in this very important initiative.

# Complaint Statistics - April 1, 2012 - March 31, 2013

|  |    |
|--|----|
| Total number carried forward from previous year                            | 34 |
| Total number of complaints opened between April 1, 2012 and March 31, 2013 | 99 |
| Total number of complaints dealt with in 2012/2013                         | 99 |
| Total number of complaints outstanding at March 31, 2013                   | 34 |

| New Complaints Per Council | 2013      | 2012      |
|----------------------------|-----------|-----------|
| Life                       | 53        | 56        |
| General                    | 41        | 31        |
| Adjusters                  | 5         | 4         |
| <b>Total</b>               | <b>99</b> | <b>91</b> |



## Disciplinary Action Taken

| Action                     | Life      | General  | Adjusters | Total     |
|----------------------------|-----------|----------|-----------|-----------|
| Unsuitable for licensing   | 2         | 1        | 0         | 3         |
| Fines and costs            | 7         | 4        | 1         | 12        |
| Suspension, fine and costs | 1         | 0        | 0         | 1         |
| <b>Grand Total</b>         | <b>10</b> | <b>5</b> | <b>1</b>  | <b>16</b> |



# Licenses Active at March 31, 2013

## Life Insurance Council

|                     |       |       |
|---------------------|-------|-------|
| Life                | D/R   | 688   |
| Life                | Agent | 2,560 |
| Accident & Sickness | D/R   | 559   |
| Accident & Sickness | Agent | 2,392 |

**TOTAL LIFE INSURANCE COUNCIL LICENSES: 6199**

## General Insurance Council

|                         |            |       |
|-------------------------|------------|-------|
| General                 | D/R-Level3 | 453   |
| Auto Only Broker        |            | 78    |
| General Insurance Agent | Level 1    | 1,907 |
| General Insurance Agent | Level 2    | 1,084 |
| General Insurance Agent | Level 3    | 821   |
| Automobile              | Agent      | 1     |

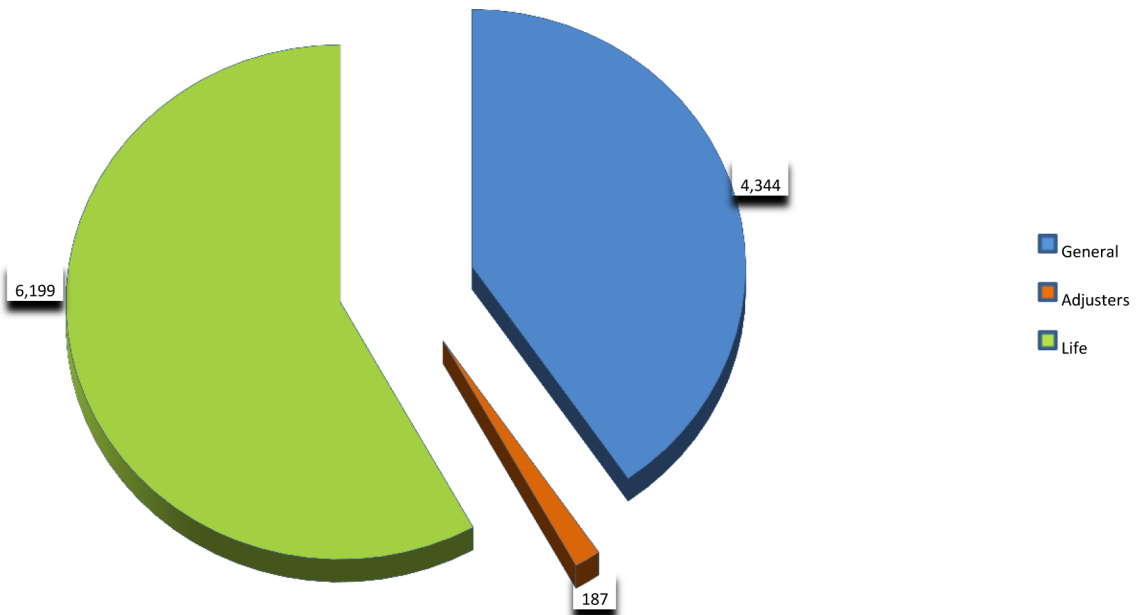
**TOTAL GENERAL INSURANCE COUNCIL LICENSES: 4,344**

## Insurance Adjusters Council

|          |             |     |
|----------|-------------|-----|
| Adjuster | D/R         | 27  |
| Adjuster | Independent | 107 |
| Adjuster | Assistant   | 53  |

**TOTAL INSURANCE ADJUSTER LICENSES: 187**

**Total Licenses - 10,730**



## Mandatory Continuing Education Requirements

Continuing education requirements are a mandatory condition of holding an insurance agent or adjuster licence in the province of Manitoba. These requirements serve to demonstrate and support ongoing competence, help to ensure that licence holders stay current in their field, and illustrate the high level of professionalism associated with holding an insurance agent or adjuster licence. Mandatory continuing education as a condition of licensing is a requirement in most jurisdictions in Canada.

The educational and other standards that an insurance agent/adjuster licence holder must meet and maintain, including annual continuing education required as a condition of licence renewal, is prescribed by the Insurance Councils of Manitoba. **It is essential, as a licence holder, that you are aware of not only the number of annual credits you are required to meet, but also what is considered acceptable content and whether or not carry forward of credits obtained in a prior licence year may be permitted.**

The definitions of acceptable content, number of credit hours, allowance for carry forward and accredited course providers is located on the Continuing Education section of the Insurance Council of Manitoba website. You can also search to determine if a course has been accredited and obtain information on the process to obtain individual course approval. Individual courses not offered by accredited course providers must be submitted for review by the Insurance Council of Manitoba at least two weeks in advance of taking the course.

Please take the time to review the continuing education requirements now, so that you do not find that you are unable to renew your licence due to misunderstanding or misinformation.

## Onsite Agency Reviews

As part of its mandate, the Insurance Council of Manitoba will be initiating random on-site agency visits. The purpose of these meetings is to aid license holders in understanding and complying with regulatory requirements, providing a proactive approach to identifying issues or deficiencies which can be corrected before becoming a potential complaint and/or disciplinary action.

In return Council will benefit by keeping current with industry practices and issues, making it more timely and effective in its response to the marketplace.

Consider the review as you would an annual physical checkup providing the agency with an opportunity to ask questions or express concerns regarding compliance issues.

The Operating Agent/Designated Representative will be contacted and presented with an initial list of items to be reviewed in advance. Following this a time will be set for the visit. Note that it is not Council's intention to disrupt the ongoing operation of the agency.

At the end of the review, the Operating Agent/Designated Representative will be advised of the results. Feedback will be provided for areas of minor non-compliance or concerns, along with possible solutions or corrective action that can be taken.

## Case Study - Witnessing Policy Documents

Having never met with the client, a life insurance agent signed as a witness to client signatures on a life insurance application and declared that they completed the application in person with the client.

Section 375(1)(a) of the *Act* prohibits deceit, dishonesty and/or misrepresentations. Council concluded the agent violated section 375(1)(a) of the *Act* by falsely witnessing client signatures and falsely reporting that the application was completed in person with the client.

It is mandatory that an agent collect sufficient information to determine client identity and ensure all transactions are lawful. Having not met the client, the agent was unable to fulfill mandated protocol and was therefore in violation of section 3 of the *Code of Conduct* – Legitimate Business Interests.

Furthermore, false witnessing of signatures and false declarations also violates section 4 of the *Code of Conduct* – Professionalism, where agents must act in a manner that is honest, fair, and diligent.

The Life Insurance Council of Manitoba has reviewed a number of instances where agents have signed, as a witness, an application for insurance when they have not in fact observed the client sign the document. The definition of “Witness” is to attest to the documents authenticity or to approve its execution.

Signing as a witness indicates that you were present and observed the person executing the documents actually sign his/her name. If you sign as witness to a document which you have not in fact observed signed, you are misrepresenting material fact to those subsequently relying on the document. This is knowingly submitting a false document. Council views this conduct seriously.

## Guiding Principles Handbook - Designated Representative / Operating Agent

As individual general insurance licence holders conduct insurance under the authority and contracts of the agency, the agency is responsible for the activities of its licensees and employees. The designated representative who holds the Level 3 Operating Agent licence is responsible to manage the general insurance agency, and is accountable for the actions of the agency and insurance activities under their supervision and management. From time to time, there are questions as to what is involved or expected in the management of a general insurance agency from a regulatory perspective.

In order to help clarify these expectations, and assist operating agents in their supervisory responsibilities, the General Insurance Council of Manitoba convened a committee consisting of Cheryl Madden, Wendy Gilroy and Brent Gilbert to develop a Guiding Principles Handbook for designated representatives of general insurance agencies. The purpose of the Handbook is to provide guidance and establish professional standards from a regulatory perspective. The Handbook addresses such issues as supervision, errors and omissions insurance, unlicensed activity, books and records, and education.

The Handbook will be distributed to all Level 3 Operating Agents, and will be available on the ICM website. The ICM hopes the handbook will be regarded as a useful resource, and welcomes any questions or comments that you may have.

The General Insurance Council of Manitoba wishes to thank Cheryl Madden, Wendy Gilroy and Brent Gilbert for the development of this handbook.

## Written Comparative Analysis Requirements

The Insurance Council of Manitoba has received inquiries concerning the requirements when replacing a life insurance contract. Effective December 1, 2009, the Life Insurance Replacement Declaration form ("LIRD") and written comparative analysis ("WCA") is the only format acceptable for use when replacement of an existing life insurance policy is intended or contemplated.

Section 113(1)(e) of the *Act* prohibits any incomplete comparison of any policy or contract of insurance with that of any other insurer for the purpose of inducing, or intending to induce, an insured to lapse, forfeit or surrender a policy or contract.

In accordance with section 7 – Disclosure and Documentation of the *Code of Conduct*, an agent has the responsibility to ensure that the client is fully informed of all relevant information before the client makes a decision. The client is entitled to disclosure of the risks and benefits of the financial products being considered, and this disclosure must be appropriately documented.

In addition to the LIRD, a written comparative analysis must be completed where the replacement of a life insurance contract is intended or contemplated.

The format of the WCA is left to the discretion of the agent. However, in all cases the written analysis must be complete and comprehensive by accounting for all relevant benefits, advantages and disadvantages of the existing and replacement policies.

Further, Council will not consider the WCA complete unless the document is dated and signed by the client.

The agent must provide a copy of the WCA to the client and keep a copy on file. Should Council request a copy for review, the WCA must be provided without delay.

As per sections 8 and 9 of the Licensing Rules, an agent who is required to be supervised must not complete the replacement of a contract of life insurance unless he or she ensures that his or her supervising agent or supervising agent's designate countersigns the written comparative analysis. In countersigning the WCA, the supervising agent accepts responsibility for the document.

Failure to complete the WCA as required, or incomplete disclosure, may result in disciplinary action including the revocation of an agent's Supervision Status, a fine, assessment of investigation costs and/or revocation of an agent's life license.

For expanded commentary regarding the replacement of life insurance and completion of the WCA, the document titled *Direction and Guidance Notes* is located on the ICM website, [www.icm.mb.ca](http://www.icm.mb.ca) in the Compliance and Enforcement section.

## National Disciplinary Action Database

A national data base of disciplinary decisions will soon be available. The Canadian Insurance Regulators Disciplinary Actions (CIRDA) database is tentatively scheduled to launch December 1, 2013.

CIRDA is the result of a joint effort by the Canadian Insurance Services Regulatory Organization (CISRO) and the Canadian Council of Insurance Regulators (CCIR). It will enable the public and the industry to better make informed decisions, and improve the ability of regulators to communicate regulatory action across jurisdictions. CIRDA will include disciplinary actions going back five years, and new decisions will be added on an ongoing basis. The decisions will include both insurers and intermediaries. The information available will vary and is dependent on what is currently public in each jurisdiction.

Links to the national database will be available on the CCIR, CISRO and other websites including ICM.



# DISCIPLINARY ACTIONS

**Aikman, K. Murray**

Former Life Insurance and Accident & Sickness Insurance Agent was fined \$750.00 and assessed partial investigation costs of \$750.00 in violation of Section 375 (1) (a) Misrepresentation, of *The Insurance Act* of Manitoba; Sections 13 (1) (a) (b) and 13 (2) Continuing Education, of the Life Insurance Agents and Accident and Sickness Insurance Agents Licensing Rules and Section 4 – Professionalism and Section 9 – Dealing with the Insurance Council of Manitoba, of the Life Insurance and Accident and Sickness Agent's Code of Conduct.

**Aldorfer, Colin**

Life and Accident and Sickness Insurance Agent was fined \$1,000.00 and assessed partial investigation costs of \$1,000.00 in violation of sections 113(1)(c)(d)(e) and 113(2) Unfair or deceptive acts or practices in the business of insurance, 375(1)(a) Misrepresentation, of *The Insurance Act* of Manitoba and sections 1 – Interests of the Client, 3 – Legitimate Business Interests, 4 – Professionalism and 7 – Disclosure and Documentation, of the Life Insurance and Accident and Sickness Agent's Code of Conduct.

**Bolintineanu, Monica**

Former Accident & Sickness Insurance Agent was fined \$750.00 and assessed partial investigation costs of \$750.00 in violation of Section 375(1)(a) Misrepresentation, of *The Insurance Act* of Manitoba and Section 9 – Dealing with the Insurance Council of Manitoba, of the Life Insurance and Accident and Sickness Agent's Code of Conduct.

**Funk, Cynthia**

Former General Insurance Agent was unsuitable to hold a licence due to contraventions of *The Insurance Act* of Manitoba; Section 375 (1) (e) demonstrated untrustworthiness, and General Insurance Agent Code of Conduct Section 5 – Confidentiality.

**Heidebrecht, Sheldon**

Licence Applicant found unsuitable to hold a Life and/or Accident and Sickness Insurance Agent's Licence(s) in the Province of Manitoba.

**Kilgour-Bell Insurance Agencies Ltd.**

Agency fined \$2,000.00 and assessed partial investigation costs in the amount of \$2,000.00 for violations of *The Insurance Act* of Manitoba, Section 371 (1.1) Liability insurance required and Section 378 (3) Certain agreements respecting premiums prohibited; Regulation 389/87R Section 13 – Liability insurance – general insurance; and General Insurance Agent Code of Conduct Section 1 – Integrity, Section 3 – Quality of Service, Section 7 – Manner of Service, and Section 10 – Conduct Towards Others.

**Owczarek, Zaneta Marta**

Agent fined \$500.00, assessed partial investigation costs in the amount of \$250.00 and agent's licence was suspended for one week for violation of *The Insurance Act* of Manitoba; Section 375 (1)(e) untrustworthiness and General Insurance Agent Code of Conduct Section 1 – Integrity, Section 5 – Confidentiality and Section 10 – Conduct Towards Others.

**Peyawary, Mahmood**

Former Accident & Sickness Insurance Agent be fined \$2,500.00 and assessed partial investigation costs of \$2,500.00 for multiple complaints in violation of Section 113 (1) (d) (e) Unfair or deceptive acts or practices in the business of insurance, Section 375 (1) (a) (e) Misrepresentation, Fraud, Deceit or Dishonesty, Untrustworthiness, of *The Insurance Act* of Manitoba; and Section 1 – Interests of the Client, Section 2 – Needs of the Client, Section 4 – Professionalism, Section 7 – Disclosure and Documentation, Section 8 – Client Redress and Section 9 – Dealing with the Insurance Council of Manitoba, of the Life Insurance and Accident and Sickness Agent's Code of Conduct.

**Scantland, Jimmy**

Life and Accident and Sickness Insurance Agent must be under the direct supervision of a life and accident and sickness insurance agent, approved by Council. This agent was not licensed at the time of the final decision, therefore the licensing condition will take effect should he re-apply for a life and/or accident and sickness licence(s).



# DISCIPLINARY ACTIONS

## **Vermette, Raymond**

Life and Accident and Sickness Insurance Agent was fined \$250.00 and assessed partial investigation costs of \$250.00 in violation of Section 4 – Professionalism and Section 7 – Disclosure and Documentation, of the Life Insurance and Accident and Sickness Agent's Code of Conduct.

## **Western Financial Group (Network) Inc.**

Agency fined \$2,000.00 and assessed partial investigation costs in the amount of \$1,000.00 for allowing an unlicensed individual to transact insurance business in contravention of *The Insurance Act* of Manitoba, Section 369 (1) and the General Insurance Agent Code of Conduct Section 9 – Unauthorized Practice of the Profession, and for violations of Sections 4 and 5 of the General Insurance Agents Licensing Rules. The Operating Agent was required to provide assurances to Council that the branch office managers would hold a valid Level 3 General Insurance Agent's Licence.

## **Western Financial Group (Network) Inc.**

Agency fined \$4,000.00 and assessed partial investigation costs in the amount of \$1,000.00 for allowing an unlicensed individual to transact insurance business in contravention of *The Insurance Act* of Manitoba, Section 369 (1) and the General Insurance Agent Code of Conduct Section 9 – Unauthorized Practice of the Profession.

## **Weston, Gary**

Life Insurance Agent was fined \$500.00 and assessed partial investigation costs of \$500.00 in violation of sections 113(1)(c) Omission, 375(1)(a) Misrepresentation and 375(b), of *The Insurance Act* of Manitoba and section 3 – Misrepresentation, of the Life Insurance Agent Code of Conduct (pre-2009).

## **White, Robert**

Life and Accident and Sickness Insurance Agent be fined \$500.00 and assessed partial investigation costs in the amount of \$1,000.00 for violation of *The Insurance Act* Section 113(1)(c) unfair or deceptive acts or practices, and violations of Life Insurance and Accident and Sickness Agent's Code of Conduct (pre 2009): Section 1 Priority of Policyowner Interests, Section 2 Confidential Information, Section 3 Misrepresentation, Section 6 Replacement and (current): Section 1 Interests of the Client, Section 2 Needs of the Client, Section 5 Confidentiality, and Section 7 General Information Disclosure and Documentation.

## **Woodhall, Samantha**

Former General Insurance Agent was unsuitable to hold a licence due to contraventions of *The Insurance Act* Section 375 (1) (e) demonstrated incompetency; and General Insurance Agent Code of Conduct violations: Section 3 – Quality of Service, Section 4 - Advising Clients, Section 8 - Maintain Integrity of the Profession, and Section 10 – Conduct Towards Others.

## **Yatsko, Nicole**

Agent fined \$500.00, assessed partial investigation costs in the amount of \$250.00, and agent's licence was suspended for one week for violation of *The Insurance Act* Section 375 (1)(e) untrustworthiness and General Insurance Agent Code of Conduct Section 1 – Integrity and Section 5 – Confidentiality.

## **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.

## ICM Staff Changes

### ICM Welcomes Kristin Denkova

The Insurance Council of Manitoba is pleased to welcome Kristin Denkova as our newest addition to the Licensing Department. Kristin has extensive experience in the financial and customer service industry, and was formerly licensed as a life insurance agent. In addition, Kristin speaks several languages, and has a Business Communications educational background. We wish Kristin much success in her career with the ICM.

**IT'S GOOD  
TO KNOW**

**[www.icm.mb.ca](http://www.icm.mb.ca)**

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