

FALL 2014

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Council Report

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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

WELCOME To New Council Members

THE INSURANCE COUNCIL OF MANITOBA would like to welcome the following Council Members as recent appointments to the Life Insurance Council, General Insurance Council and the Insurance Adjusters Council.



Harvey Armstrong was born and educated in the Nipawin-Carrot River area, which is in the Parkland Region of Saskatchewan. He received his post-secondary education in Saskatoon at the Saskatchewan Institute of Applied Arts and Sciences (SIAAS).

Harvey worked for United Grain Growers for 27 years in various management positions. During this time, he took numerous business management courses at the Banff School of Management, the Canadian Institute of Management and the University of Manitoba.

A successful entrepreneur, Harvey is currently an owner and managing partner of five motels across Manitoba, including Super 8 motels in Dauphin and Swan River.

He has served on a number of boards, most notably Assiniboine Community College Board of Governors. Harvey served on the board from 2005 to 2012, including six years as its chair. During his time on the board, the College saw major development and revitalization. In 2014 Harvey was awarded with an Honorary Diploma in Business Administration. Assiniboine Community College awards an honorary diploma to an individual who demonstrates high standards of excellence in their personal and professional achievements. He has also served on Dauphin and District Economic Development, Dauphin and District Chamber of Commerce and Tourism Dauphin. His volunteer efforts include involvement with Scouts Canada, 4-H, Junior Achievement, Manitoba Summer Games, the 2010 Royal Bank Cup and the 2014 Western Canada Cup.

Richard Fillion is a Certified Management Accountant, a Certified Financial Planner and a member of The Financial Advisors Association of Canada. He has been a financial advisor with Sun Life Financial Inc. since 1999. Previously, he operated his own accounting business serving individuals and business owners in MB. He also worked as an accountant in the transportation and agricultural industries. As a past board member with both Open Access Resource Centre and Mount Carmel Clinic, he held positions as treasurer and head of the finance committees, member of the executive committees and member of the human resource committee.



ANNOUNCEMENTS



Robert Filuk is a retired Chartered Accountant, who excelled as an auditor and obtained a Fellow of the Chartered Accountants designation with extensive board and community service experience.

Mr. Filuk was a founding member of the board of the Thomas Sill Foundation and assumed the role of president in 2003 until his retirement in 2008. He was a key volunteer on several boards including the Friends of Elmwood Cemetery, Royal Winnipeg Ballet, Winnipeg Blue Bombers, Manitoba Theatre Centre, Winnipeg Rotary Club, Manitoba Badminton Association, Balmoral Hall School for Girls, Junior Achievement and Philanthropic Foundations Canada.

Mark James earned a Certified Risk Management (CRM) designation in 2014 from the University of Winnipeg and also completed the Chartered Insurance Professional program (CIP) in 2006.

Through Mark's background as an independent adjuster for 12 years he has specialized knowledge in construction, property damage, settlement negotiation, business interruption and many more applicable expertise.



Gary McPherson, BA, is retired following 35 years of service with the Royal Canadian Mounted Police. Mr. McPherson's senior manager positions included Manager of Implementation (West) for the Integrated Police Information Reporting System, Chief of Operations in the United Nations Peace Keeping Mission in Kosovo, Yugoslavia, and Officer Commanding the Manitoba West Service Area in Dauphin, Manitoba. His experience also includes Officer in Charge of the Human Resources Department and the Strategic Planning Department at the R.C.M.P. H.Q. in Winnipeg. Since retirement, Mr. McPherson has taught English grammar, been an Assistant Returning Officer and, for a period of time, was appointed to the Manitoba Judicial Nominating Committee that establishes criteria for selection of candidates for appointment as Judges to the Provincial Court. He has served on the Board Directors of the College of Registered Nurses of Manitoba, the Community Legal Education Association, and on the WHRA St. Vital/St. Boniface Community Advisory Committee.

Kristopher Moffat has been licensed as a General Insurance Agent since 2002 and he is also Life Licensed as well. He started out in the insurance industry at Horizon Insurance (now known as HUB International) where he worked as an office manager for one of their retail Personal Lines offices. In 2007 he moved to BSI Insurance where he currently works as a Senior Insurance Advisor. He now focuses on Commercial Property & Casualty Insurance, Life Insurance and Employee Benefit Packages. Kris has both his CAIB and CPIB Designations.



Maurice Therrien brings extensive experience to the General Insurance Council of Manitoba, from his executive positions in government, the cooperative movement, and the financial sector. He has also contributed as a board member to many non-profit organizations. His prior career experience includes his position as Executive Director of the Co-operatives Secretariat for the Government of Canada in Ottawa, General Manager of La Fédération des Caisses du Manitoba and Executive Director of the Consumers Bureau, Province of Manitoba. He recently chaired Sara Riel, an organization that assists people with mental health challenges and chaired the Manitoba Hearing Aid Board, the Conseil canadien de la coopération and has been Vice-Chair of the Manitoba Lotteries Corporation. Other board involvement include the Manitoba Heart and Stroke Foundation, the Board of Governors of the Collège universitaire de Saint-Boniface (now known as Université de Saint-Boniface) and the federal Employment Insurance Appeal Board. An active member of his community at all levels, Maurice Therrien was awarded the Distinguished Cooperator Award by the Manitoba Cooperative Council as well as the Prix Riel, the francophone community's highest award for community involvement.

Amendments to The Insurance Act and Regulations

As of September 1, 2014, amendments to *The Insurance Act* (Act) and its Regulations went into effect. These changes are outlined in a Fact Sheet dated August 26, 2014 prepared by the Financial Institutions Regulations Branch, and located on the ICM website.

Further to the information outlined in the Fact Sheet, Act/Regulation changes permit the Insurance Council of Manitoba to:

- Licence and administer the regulatory framework for Incidental Sellers of Insurance. This will be done through a Restricted Insurance Agent Licence, with eligible organizations required to be licensed prior to June 1, 2015. **Please note, these changes do not take effect until January 1, 2015, therefore the Manitoba Laws website will not reflect the amendments until that time.** Further communication with respect to restricted insurance agent licenses will appear on the ICM website in due course.
- Charge a fee of \$50.00 for review of individual continuing education courses. Courses that have already been approved will not be subject to an additional fee. This fee is applicable and non-refundable whether or not the course is approved. Further information is available in the Continuing Education section of the ICM website.
- Charge a fee of \$200.00 to consider accredited course provider status. Accredited course providers who have already been approved will not be subject to this fee unless their status is revoked, in which case future review will result in a \$200.00 fee. This fee is applicable and non-refundable whether or not accredited course provider status is approved. Further information is available in the Continuing Education section of the ICM website.
- Publish full decisions of disciplinary actions. Decisions will only be published once all rights to Hearing and Appeal have been exhausted or waived, and the decision is final. This will apply to decisions assessed after September 1, 2014 and will not be retroactive.
- Permit agents and brokers to charge a fee for certain insurance transactions for which a commission is also payable, provided the contract does not insure an owner occupied residence or seasonal residence, or a rented property used as a residence or seasonal residence. The fee must be disclosed to the consumer in advance and in writing.
- Permit agents and brokers to offer reasonable customer inducements such as loyalty reward programs to a maximum of \$25.00 per year. Contests or promotional events that do not require the consumer to make an application for insurance are generally still permissible.

In addition, changes to the Act and Regulations will:

- Clarify the role and certain processes of the Insurance Agents' and Adjusters' Licensing Appeal Board.

The Manitoba Government website has now been updated to reflect most of the recent changes. The current version of *The Insurance Act*, its Regulations and amendments, excluding those to take effect January 1, 2015, may also be accessed through the Legislation section of the ICM website.

For further information, visit the Insurance Council of Manitoba website at www.icm.mb.ca, or contact the ICM at contactus@icm.mb.ca

Supervision of Agents and Adjusters

Agents or adjusters who have not yet acquired the level of industry experience and/or education necessary to independently conduct insurance business require supervision by senior personnel.

Several licence levels require supervision to practice as noted in the applicable agent/adjuster Licensing Rules. In general, supervision might be described as the reasonable and prudent oversight of insurance transactions.

The onus remains with the supervisor or a designated representative, if required, to ensure proper supervision. In the event of an investigation, it will be the responsibility of the supervising licensee to substantiate that supervision existed and that the supervision was sufficient to ensure public safety.

Part of that criteria could be the establishment of documented practices and procedures for the handling of insurance transactions, the recorded monitoring of the activity against that standard, and the correction of actions where necessary. Supervised licensees must know the name of their supervisor(s) and in return the supervisor must know for whom the supervisor is responsible. Off-site supervision may be acceptable in certain circumstances, provided that safeguards such as continuous accessibility to the licensed supervisor by the supervised agent/adjuster by a satisfactory means of communication such as telephone or email is provided.

General insurance agents should reference the Guiding Principles Handbook – Operating Agent – Designated Representative which provides information with respect to this responsibility. Each branch office of an insurance agency must have a designated Level 3 manager.

While on-site supervision is required for general insurance Level 1 agents and Auto Only Brokers, off-site supervision is permitted while the Auto Only Broker or Level I agent is transacting automobile insurance only. This is subject to those agents having the experience of being continuously licensed and employed for more than one year.

Level 1 and 2 insurance adjusters are required to have all reports and correspondence reviewed and countersigned by a Level 4 or Level 5 adjuster. Each branch office of the firm will have a managing Level 4 adjuster.

Newly licensed life insurance agents are required to complete and file a Supervision Certificate naming the supervising agent. Once an individual accepts the responsibility as a supervising agent, the supervisor is accountable for the supervised agent. Possible fines and/or revocation of the supervisor's life insurance license could be imposed if the supervisor fails to fulfill the duties. The supervising agent cannot simply abnegate responsibilities but must inform the Council in writing, if withdrawing as the supervisor, to be relieved of the responsibilities.

If unsure as to whether or not you should be supervised, whether you are eligible to supervise, or what duties a supervisor is required to fulfill, visit the applicable Licensing Rules for your class(es) of licence.

Continuing Education (CE) Credit Hour Reporting Online - Reminder

Licenses are required to complete the mandatory CE requirements prior to renewing their licence(s) and are responsible for ensuring compliance with the **Continuing Education requirements** as licenses cannot be renewed without sufficient credit hours.

The Insurance Council of Manitoba (ICM) would like to remind you to report your CE hours in the **online module**, and encourages you to report them as they are obtained. Your web User ID and password are required to access the site. If you have forgotten this information, it can be obtained by selecting "Forgot your User ID?" or "Forgot your password?" in the online module.

When searching for your completed course(s), begin searching by the ICM or Manitoba course number found on your certificate of attendance. If you are unable to locate your completed course by course number, search options by name of the course are available. It is important to note that not all courses offered by an ICM Accredited Course Provider (ACP) are assigned ICM or Manitoba credit hours. It is up to the attendee to receive confirmation from the ACP on whether the course is approved for ICM CE hours before registering for the course.

Courses must be completed within the licensing year and cannot be repeated/reported unless there has been a significant change in the course material, which would be determined by the ACP.

Should you have any questions or concerns, please contact the ICM office at contactus@icm.mb.ca.

ICM Review of Courses of CE Credits

As listed on the ICM website, there are currently several hundred course providers that have been awarded accredited status. Accredited status means the educational organization has the ability and responsibility to assess the number of continuing education credits for each course that they offer. This assessment, however, **must** be based on meeting ICM criteria for allowable content and in accordance with the course provider agreement. It is important to note that ICM does not review courses offered by accredited course providers, except under exceptional circumstances.

Courses that are taken through organizations that do not hold accredited status must be reviewed and approved by the ICM to be allowed for mandatory CE credit. Courses must be provided to ICM with sufficient time to assess **prior to indicating to licence holders that these courses are available, or assigning credit hours**. The time period required by ICM to assess the applicability of a course is dependent on a number of factors including whether the description of the course provided by the course provider or organization is sufficiently detailed, whether this review occurs administratively or at a meeting of Council, and whether partial credits are being requested for a course that does not entirely meet the continuing education criteria.

Most individual courses are reviewed and a determination should be made by ICM within 2-3 days, however a minimum of 30 days after submission of a request should be allowed for Council to determine if a specific course or seminar meets established and published content criteria. Course providers should take in to consideration the anticipated start date and advise Council as soon as possible as 30 days may not be sufficient if Council review is required. **Non-accredited course providers should not be offering or advertising credits prior to having received Council approval.**

Effective September 1, 2014, a non-refundable fee of \$200.00 will be assessed for review of an application for accredited course provider status. A \$50.00 non-refundable fee for requests to review individual courses will also be assessed.

Incidental Sale of Insurance - ISI

Changes to The Insurance Act of Manitoba proclaimed September 1, 2014 and the Insurance Agents and Adjusters Regulation 389/87 will offer new protection for consumers, and provide a regulatory framework for Incidental Sellers of Insurance that is similar to existing requirements currently in place in Alberta and Saskatchewan.

Following consultation with stakeholders, legislation has been enacted which provides sellers of certain insurance products with the ability to become licensed on a restricted basis. To qualify as a restricted insurance agent (RIA), applicants must meet the definition of an Incidental Seller of Insurance in the Act and may sell only insurance that relates to other goods or services already offered to its customers.

Effective June 1, 2015, organizations who meet this definition must hold a Restricted Insurance Agent (RIA) licence approved and issued by the Insurance Council of Manitoba (ICM).

Applications must be signed by a designated official under the licence who is responsible for receiving notices and other documents on behalf of the applicant, and for supervising the insurance activities of the applicant under the restricted licence. An RIA applicant must be sponsored by an insurer who has entered in to an agency contract with the applicant, and is licensed to undertake the class of insurance the applicant has applied for. Applicants must provide evidence of liability coverage that satisfies the requirements of Section 371 (1.1) of the Act, unless they are a member of the Canada Deposit Insurance Corporation or are a credit union incorporated under *The Credit Unions and Caisses Populaires Act*. RIA licenses must be renewed prior to June 1 annually.

The changes to the Insurance Act with respect to Incidental Sellers of Insurance will take effect January 1, 2015, at which time the Manitoba Laws and ICM website will be updated. Further particulars of the requirements related to Restricted Insurance Agent Licenses are contained in Amendment 215/2014 to Regulation 389/87.

Council intends to communicate with stakeholders and organizations that have been identified as requiring an RIA licence in early December. This communication will outline specifics of the licensing regime including classes of insurance for which an RIA licence may be issued, eligible organizations, how and when to apply for a licence, and cost of licenses.

Please continue to visit the ICM website for further information.

Publication of Disciplinary Decisions

The requirement to publish the names of persons who have been subject to disciplinary action by the Insurance Council of Manitoba is a mandatory element of the disciplinary powers delegated to ICM by the Government of Manitoba.

Effective August 25, 2014 the Government of Manitoba registered amendment Regulation 216/2014 to Regulation 227/91. This amendment includes expanded authority for the Insurance Council of Manitoba to publish disciplinary decisions and any other information about the decision that the ICM considers necessary for it to be properly understood by members of the public.

This amendment provides greater clarity and transparency of disciplinary actions taken by the ICM, and is consistent with the publication protocols of other Canadian insurance regulators and other regulatory bodies.

The ICM will now be publishing full decisions on its website and on the Canadian Insurance Regulators Disciplinary Actions (CIRDA) national registry located at www.cisro.ocra.com. Disciplinary decisions will no longer be included in the ICM Council Report.

Continuing Education Credits

With the Insurance Council of Manitoba's on-line licence renewal program, licensees are unable to renew their licenses if the continuing education requirement has not been met at the time of application. Please visit Council's website (www.icm.mb.ca) for the continuing education definitions applicable to your licence, and the newly streamlined on-line continuing education credit reporting process.

The requirements and timelines are as follows:

- Life insurance and accident & sickness agents – fifteen credits between June 1 and May 31.
- Level 1 – Auto Only Broker general insurance agents – four credits between June 1 and May 31. Two credits may be carried forward from the previous year.
- Level 1, 2, or 3 - General insurance agents – eight credits between June 1 and May 31. Four credits may be carried forward from the previous year.
- Insurance adjusters - eight credits between July 1 and June 30. Four credits may be carried forward from the previous year.

The responsibility to complete accredited courses rests with the licensee. Council's website lists the accredited course providers which are responsible to ensure that their accredited course selection meets Council's criteria.

Continuing education credits will not be accepted for repeated/duplicate coursework. Ensure that you check the course number and subject to avoid potential issues with rejected credits.

Providing inaccurate or false information that coursework has been completed is considered a material misstatement and may be subject to disciplinary action.

Where there are insufficient credits, the licensee is subject to automatic suspension of the licence until the continuing education licensing requirements have been met and Council has been satisfied.

Council randomly audits the reported continuing education credits submitted by agents and adjusters and suggests that you examine the Certificate of Completion received from the provider for accuracy; that you enter the credits immediately upon receipt; and that you keep a copy of your Certificates of Completion in an area where they can be readily retrieved should Council audit you. These certificates should be maintained for a minimum of two years.

A licensee may also submit a program or course which is not offered by an accredited course provider for Council's review. Effective September 1, 2014 the application to request approval must be accompanied by a non-refundable fee of \$50.00 per course. In addition, the course should be submitted to Council at least 30 days prior to its commencement for consideration.

On-site Agency Reviews

As part of its mandate, the Insurance Council of Manitoba will be initiating random on-site visits to general insurance agencies. The purpose of these meetings is to aid licence 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.

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.

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. This interactive process will also assist Council in keeping current with industry practices and issues, making it more timely and effective in its response to the industry.

Council Presentation Available - LIRD and Written Comparative Analysis

The LIRD came into effect on June 1, 2009. While the process has been operating well, the Life Insurance Council of Manitoba continues to receive questions concerning the requirements when the replacement of a life insurance policy is intended or contemplated.

Direction and Guidance Notes are available on the Council website under Compliance and Enforcement – Replacement of Life Insurance Policies. For those who wish additional support and information concerning proper replacement practices, the Council has developed a presentation available to groups of 5 or more people. This presentation is free of charge, and qualifies for one (1) continuing education credit for life insurance agents. If you are interested in arranging a presentation, please contact Lee Roth at lroth@icm.mb.ca.

Lapse of Errors and Omissions Liability Insurance

Every Life and/or Accident and Sickness license(s) issued under *The Insurance Act* of Manitoba ("the Act") is conditional upon the existence and continual maintenance of a Liability Insurance Policy (Errors & Omissions – "E&O") pursuant to s. 371(1.1) the Act and in accordance with s. 12(1) of the Insurance Agents and Adjusters Regulation 389/87.

Continuing to act without the mandated coverage is a violation of s. 372.1(1) of the Act.

Pursuant to s. 372.1(2) of the Act, any licensed insurance agent whose liability insurance lapses, or is cancelled by the agent or the insurer, must notify the Insurance Council of Manitoba ("Council") of the lapse in coverage without delay. Agents agree by way of their licensing application to notify Council within 15 days of a material change.

Council has reviewed ongoing instances where Life and/or Accident and Sickness agents allow their E&O to lapse; fail to notify Council of the lapse in coverage, and continue to carry on the activities of an agent without the mandated coverage.

E&O providers often communicate E&O renewal and lapse notices by email. Council has seen numerous instances exist where agents fail to update their email address with their E&O provider resulting in the agent never receiving the E&O notices. Agents should ensure their contact information on file with their E&O provider is accurate. Failure by a licence holder to receive notification of cancellation or lapse of coverage does not impact on the licence holder's obligations. Violation of ss. 371(1.1), 372.1(1) and 372.1(2) of the Act are subject to disciplinary action.

Non-Recourse Loans Financed by Life Insurance Policies

The Insurance Council of Manitoba has recently become aware of a scheme whereby consumers obtain life insurance in order to secure a loan from a third party. Once the client has obtained the life insurance, the lender advances funds and pays the premium on behalf of the client. The principal amount of the loan, the premiums and interest are to be secured by life insurance proceeds in the event of death. Upfront fees are required in order to participate.

A number of life insurance companies have determined that these types of transactions are inappropriate, and policies arising from these arrangements may be terminated. If an agent is involved in the transaction, they may be impacted by charge-backs and cancellation of their agent contract.

Trafficking in life insurance policies is an offense in Manitoba, prohibited by Section 90 of *The Insurance Act of Manitoba*. Agents who participate in or facilitate the trafficking of policies may be subject to disciplinary action.

Ensure Proper Licensing / Current Information with ICM

Establishing Correct Licensing with the ICM – “Holding Out”

Section [391](#) of *The Insurance Act* of Manitoba references the Holding Out requirement. This section of the *Act* ensures that the public is properly informed of the required identifying information of a licence holder.

Licensees are required to hold themselves out to the public in the manner in which they are licensed. To clarify, agents must ensure that all references to their business activities, services and products are clear, descriptive and not misleading. An agent must inform the client of the types of activity he or she is licensed or registered for, as well as the business name(s) of any organization under which he or she is authorized to operate.

Simply stated, all letterhead, business cards, website information, signage and advertising must properly reflect the name(s) shown on the licence. Holding Out in any other manner could result in disciplinary action against the licensee and/or Operating Agent or Designated Representative of an agency or firm, including suspension of a licence.

Termination/Cancellation Notice required within fifteen (15) days

Should an agent’s authority to represent an insurance company or agency cease, written notification must be provided to the ICM within fifteen (15) days.

Written notification is only accepted from one of the below authorized persons:

- the authorized appointee with the sponsoring insurance company who has sponsored the Insurance Agent licence; or
- the Operating Agent with the General Insurance Agency who is sponsoring the insurance agent/broker licence; or
- the Designated Representative with the Adjusting Firm who is employing the insurance adjuster.

This written notification must include the agent’s name, effective date of termination and reason for termination. Ideally, if an agent leaves the employ of an organization, immediate written notification should be communicated to the ICM office to remove that agent from the attachment to your organization. Once the termination has been effectively communicated to the ICM, the ICM will update the licensee status, which in turn updates the [ICM website](#) in real time.

The fastest method to provide notifications to the ICM office is via email to contactus@icm.mb.ca.

Current Information

Keeping accurate licensing records is one of the major roles for the licensing department within the Insurance Council of Manitoba (ICM). The challenge comes with keeping these records accurate and up-to-date.

Any adjustments in licensing maintenance must be provided to the ICM office by written notification within fifteen (15) days. The following list is a reminder of some important items that should be kept up-to-date with the ICM on an ongoing basis:

- Current E&O Insurance that meets all requirements as referenced in [Regulation 389/87](#). Existence and continual maintenance of E&O insurance is a requirement in maintaining your insurance agent, broker or adjuster licence. Cancellation or termination in coverage, or non-renewal of a policy must be reported to the ICM promptly.
- Current business address including current email address for Council correspondence. This ensures that the ICM has the current contact information for important Council correspondence such as annual licence renewal notices.
- Current resident address. Notwithstanding that this information is essential in establishing required identity, this information also assists the ICM in items such as determining whether continuing education (CE) requirements are applicable in the particular jurisdiction that you are a resident of.

Notification to the ICM regarding a Material Change to a licence

All material changes to a licence which affect the manner in which a licence holder is “holding out” to the public or receiving fees and/or commissions, must be reported to the Insurance Council of Manitoba (ICM) within fifteen (15) days. An amendment fee of \$70.00 is required in most cases.

Business address changes and contact information (email, telephone, etc.) do not require a fee, and can simply be processed by sending an email to the ICM office. Residential address changes and/or email address changes can be completed by the licensee directly in the [online portal](#) by logging in with the User ID and email address that was filed with the ICM office.

While tracking/entering your CE information in the [online portal](#) on an ongoing basis is not part of the day-to-day maintenance of your licence, it is required for the annual renewal of your licence. Entering CE information on an ongoing basis will ensure that the agent is aware of how many CE hours they currently have and how many additional CE hours they may require to obtain by the annual deadline (May 31 for agents and June 30 for adjusters). Leaving the entry of CE hours until the renewal period could create an onerous renewal process and potentially delay the processing of the annual renewal licence.

As always, the fastest method to report any changes in licensing information, or submit an inquiry to the ICM office, is via email to contactus@icm.mb.ca.

Case Study - Unlicensed Activity

An applicant submitted a Life and Accident and Sickness licensing application to the Insurance Council of Manitoba ("Council"). Before receiving confirmation that a licence had been issued, the applicant proceeded to act as an agent by completing a life insurance application on a proposed insured.

Council determined that the applicant had engaged in unlicensed activity and that disciplinary action was warranted in the form of a fine and partial investigation costs.

Pursuant to s. 369(1) Not to act without licence, of *The Insurance Act* of Manitoba, no person shall act, or offer or undertake to act, as an insurance agent in this province without having first obtained a licence under this *Act*.

An applicant for an insurance agent licence must not assume their licence has been issued on the basis of submitting a licensing application to Council. Many items may delay a licence from being processed immediately. These items include:

- Incomplete application forms;
- Missing documentation (e.g. errors and omissions insurance, supervision certificate; criminal record check);
- Ensuring the correct business name, as specified on the application, reflects the full legal name and/or trade name(s) in which the applicant will present him/herself to prospective clients and hold out to the public;
- Ensuring any additional occupation or other employment is outlined to Council with confirmation that the applicant will abide by the provisions of the *Conflict of Interest Guidelines for Additional Occupations*; and,
- Ensuring the applicant's employment history is complete and accurate.

As part of the application process, Council asks Appointees and Supervising Agents to remind new applicants that they must not act as an agent until Council has confirmed the issuance of their license(s).

Unlicensed Activity

A high number of unlicensed agent concerns continue to be brought before the General Insurance Council. Section 369 of *The Insurance Act* of Manitoba requires an individual to obtain a licence prior to acting as an agent.

A User ID issued by Manitoba Public Insurance for Autopac is not an insurance licence. While the User ID allows the individual to use the IWS system for practice and completion of course material, it is not a licence. The holder of the User ID is not authorized to act as an agent i.e. ask insurance questions of a customer, provide advice to a customer, or transmit an application. Any transaction with the customer must be completed in full by a licensed agent.

An unlicensed individual might shadow automobile activity or other types of insurance transactions. Shadowing means viewing the transaction but not being engaged independently at any time in the activity.

Further, completion of the educational requirement for a licence and submission of an application to the Council does not automatically authorize an individual to act as an agent. Upon receipt of the application and documentation from the applicant, Council reviews criteria including education, areas of past employment and criminal records. When the applicant meets the licensing requirements, a licence is issued. When that licence is issued, the individual is authorized to act as an agent.

Operating Agents and supervising branch office managers can be subject to disciplinary action if an individual acts as an agent without first obtaining a licence. It is important that the rules regarding licensing are clearly transmitted to, and understood by, any unlicensed individual, and that proper procedures are in place to prevent unlicensed activity.

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