

Council Report

2009
ISSUE
02

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DECEMBER 2009

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WELCOME To New Council Members

THE INSURANCE COUNCIL OF MANITOBA would like to welcome the following Council Members as recent appointments.

General Council



Janine Oliver is an active volunteer in our community, currently with Villa Rosa and previously with the Human Resource Management Association of Manitoba and the Learning Disabilities Association of Manitoba. Janine also served as the President of the Broadway Speakers Forum Toastmaster Club as well as Area Governor of the Club.

Previously Janine spent 35 years with the credit union financial services industry. She started as a teller in the Dauphin Plains Credit Union and retired as Chief Operating Officer of Buffalo Credit Union when it merged with Assiniboine Credit Union in 2008.

Janine enriched her career through continuing education and has achieved the Certified Financial Planner, Associate of the Credit Union Institute of Canada and Certified Human Resource Professional designations.

Janine has three children and two grandchildren. She loves golf, yoga, spending time with her family and travelling.

Adjusters Council



Shelley Werner, B.I.D. is owner of Smartfurniture for Business Inc. where her team specializes in *making people comfortable at work* through furniture that fits the job function. She graduated from the University of Manitoba with the gold medal in interior design, and has twenty-five years experience as a commercial interior designer on projects that include Red River College Downtown Campus and Ceridian Canada Ltd. She demonstrates a keen sense of the elements necessary to create a successful work environment. Her company provides ergonomic office furniture at a variety of price ranges, and excels at installation and service with the added value of interior design expertise.

Shelley is also an experienced speaker and regularly presents to professional organizations, such as the Human Resource Management Association of Manitoba. She has appeared on television numerous times, including the "WorkRight" series on Shaw cable, CTV feature on workplace comfort, and as a recurring panelist on CBC Canada Now.

She is actively engaged in community service, including 6 years as a Board Member with the Women's Enterprise Centre of Manitoba, including 2 years as Chair, Children's Hospital Foundation and the Manitoba Institute for Child Health, where she currently serves as the chair of their 17 million dollar expansion committee.

Founder of the "Imaginary PTA" in support of Marymound School and a member of the Massad Alumni choir, she is committed to projects that reflect her personal values.

ANNOUNCEMENTS

Staff Changes

The Insurance Council of Manitoba is pleased to welcome three new employees: Stacey Aubrey as Licensing & Administration Officer, Anita Horvat as Receptionist, and Brenda Knight as Administrative Assistant.

Stacey previously worked for our office for 8 years and returned in April 2009. She brings a valuable combination of education and work experience in respect to management, human resources, computer programs, and website design.



Anita joined our office in August 2009 and brings to her position an Administrative Assistant Diploma and office experience in the insurance industry.



Brenda joined our office in October 2009 and has a wide variety of industry experience. Her compliance and marketing background will be a valued asset to our organization.

Please join us in welcoming Stacey, Anita and Brenda to the Council. They've all been a great addition to our team.

Council Executive

Congratulations to **Cheryl Madden**, appointed as Chair of the General Insurance Council; **Bonnie Radcliffe**, appointed as Chair of the Life Insurance Council; **Donna Winstone**, appointed as Vice-Chair of the Life Insurance Council and **Elaine McCracken**, appointed as Chair of the Administrative Insurance Council.

FOR A FULL LIST OF COUNCIL MEMBERS, PLEASE REFER TO THE INSURANCE COUNCIL OF MANITOBA WEBSITE.

Farewell to Valued Council Members

Effective July 17, 2009, **Gerry Corrigan** completed his second and final term with the Insurance Council of Manitoba. During his two terms with Council, Gerry served both the General and Administrative Councils, most recently as Chairperson. Gerry's contributions resulting from his industry experience, business perspective, good humour and common sense were of great and lasting value to the ICM. Gerry has continued to contribute to Council, following the expiration of his appointment by his participation in committee work. We are grateful for his ongoing commitment to Council.

Effective December 1, 2009, **Nemesio Juan** has withdrawn from the Life Insurance Council of Manitoba. Nemesio was a dependable and reliable member of the Life Insurance Council of Manitoba, and served with integrity and commitment. The ICM wishes Nemesio well in his future endeavours.



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

NEW MINISTER

The Insurance Council of Manitoba, through its delegated authority, is now associated with the Minister of Family Services and Consumer Affairs. The Councils would like to welcome the Honourable Gord Mackintosh to his position, and extend our congratulations on this appointment.

Guidelines - Sale of Segregated Funds

The Life Insurance Council of Manitoba recently established a committee to review the sale of segregated funds. This committee was chaired by Donna Winstone of the Life Insurance Council of Manitoba, and included industry representatives Don Manson and Jim Wilson.

The committee has developed guidelines for the sale of segregated funds in the province of Manitoba, and these guidelines are available for consultation on the Insurance Council of Manitoba website at www.icm.mb.ca referenced under “Consultations.”

Please forward your comments in writing to the Insurance Council of Manitoba prior to January 30, 2010.

The Life Insurance Council of Manitoba wishes to express its appreciation to **Donna Winstone, Don Manson and Jim Wilson** for their participation and assistance in this project.

Auto Only - Blue Cross

The Insurance Council of Manitoba has received inquiries resulting from an article in the April Council Report which indicated Auto Broker Only licensees may not enroll customers in “Blue Cross.”

Manitoba Blue Cross is not deemed to be an insurer within the meaning of *The Insurance Act* of Manitoba. Products offered through Manitoba Blue Cross that do not contain a distinct insurance component that is underwritten by an **insurer**, including travel insurance, would not be applicable under *The Insurance Act* of Manitoba and therefore, related insurance licensing restrictions would not apply. Products issued through the Blue Cross Life Insurance Company of Canada, a licensed insurer in the province of Manitoba and distinct from Manitoba Blue Cross, are subject to licensing requirements and restrictions in accordance with *The Insurance Act* of Manitoba.

If further clarification is required, please contact the Insurance Council of Manitoba directly.

Level 1 / Auto Only Licensee - Picture Taking

The General Insurance Council of Manitoba is considering guidelines which outline situations in which a Level 1 or Auto Only licensee might be permitted to take pictures in connection with an insurance risk.

Further details are available on the ICM website at www.icm.mb.ca under “Consultations.”

LIRD Delayed Completion

When making an informed decision to replace an insurance policy that is presently in force, the consumer must be fully advised of all of the advantages and disadvantages prior to making this decision. This fundamental right is well established in *The Insurance Act* of Manitoba and the Life Insurance and Accident and Sickness Agent's Code of Conduct through the completion of the Life Insurance Replacement Declaration and written comparative analysis.

However, there will be occasions when there is a valid expectation that the replacement policy being applied for may be rated, declined or modified.

A process and document has been developed by the Life Insurance Council of Manitoba to allow a delay in the completion of the LIRD and written comparative analysis until such time as a decision by an insurer has been received, and relevant information is available for comparative purposes.

The proposed document and process:

- Advises the consumer of the requirements to protect his right to be fully advised of the differences between the existing policy and replacing policy before making the final decision.
- Reminds the consumer not to cancel the existing policy until the replacement policy is in force and has been accepted.
- Allows the agent to discuss the proposed replacement in light of full knowledge when the information is available, and not rely on presumptions.

The proposed document and an outline of the process is available for review on the Insurance Council of Manitoba website at www.icm.mb.ca.

Should you have any comments about the proposed process for a delayed LIRD and comparative analysis, please provide your comments to the Insurance Council of Manitoba in writing prior to January 30, 2010.

Life Insurance Replacement Declaration "LIRD"

Effective December 1, 2009, the LIRD and written comparative analysis is the only format acceptable for use when replacement of an existing life insurance policy is intended or contemplated.

This format has been in use in Manitoba since June 1, 2009 and representatives of the Council have attended a number of industry and agency meetings in order to assist and answer questions during the transition period. Council will continue to answer any questions and provide support and assistance where requested with respect to the LIRD and written comparative analysis; however, a number of common questions have now been highlighted on the website. These questions and answers will be updated on an ongoing basis, and you are encouraged to visit the website should you require additional information or guidance.

Licence Names

The Insurance Council of Manitoba has had numerous questions relating to the proper identification of an agent/broker and his agency/business name(s) on an insurance licence. In hopes of clearing up any confusion, we've developed a few brief points that all agents/brokers must abide by as follows:

All agents/brokers must present themselves to the public in the manner in which they are licensed. In other words, you may not hold out to the public in any name that does not appear on your licence. You need not, however, hold out in every name which appears on your licence. This includes all corporate and trade names that you are entitled to and have standing to use.

If you are a general insurance broker and are working for more than one agency with different corporate ownership, sponsorship and designated representatives, you must hold a separate licence for each agency with whom you are employed. Sponsorship and licensing through one agency does not encompass licensing with multiple agencies. Separate licenses are not required for satellite offices of an agency with one designated representative and agency name.

If you are operating and/or holding out as a corporation, you must have a separate licence for each corporation. The Council must receive copies of the articles of incorporation if you intend to hold out and be licensed in this manner. Any additional names (trade or given) may also be included on your licence, provided you have standing to use these names in association with the corporation. If you intend to operate in a business or trade name, these names must be registered with the Manitoba Companies Office and Council must be provided with evidence of this registration.

An abbreviated form of an agency name cannot be used unless it is registered with the Manitoba Companies Office in the abbreviated form, recorded and authorized by ICM and indicated on your licence. The exception to this requirement is the use of Inc., Ltd., or Corp. as interchangeable with the full applicable versions.

We want to minimize confusion when you, as a licensed insurance agent/broker, present yourself to the public. One very important way to do this is to add the word "Insurance" or "Assurance" to your business cards, advertising, letterheads, etc., if it's not already included in the licensed business name. In doing so, this ensures that the client can identify you as being engaged in the business of insurance.

If you have any questions or require clarification, please contact the Licensing Department of the Insurance Council of Manitoba.

Licensing Application Forms & Submitting Applications

To ensure a licence is issued as quickly as possible when completing an application for an insurance licence you must ensure that all questions are fully completed and full written disclosure and supporting documents are provided. Answering questions with "as previously filed with the Council" or "as known to ICM" will cause delays in issuing licenses as staff must follow up to obtain required information that was not provided on the application.

Council would like to remind you to obtain all forms and applications from our website under "Printable Forms" as documents are continuously being updated. The application forms on our website also include step by step instructions on how to complete them.

In addition, please ensure that all application forms are fully completed **prior** to obtaining a signature from your sponsor/authorized appointee.

Adjuster Licensed Activities

The *Insurance Act* of Manitoba defines an “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 guarantee 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 advisor, with respect to the adjustment, negotiation, or settlement of such losses or claims.

Certain exemptions apply as outlined in the *Act*.

Exclusively clerical duties in an adjusting firm which do not directly involve the negotiation, settlement or investigation of a loss or claim do not typically require a licence. If you have specific questions with regard to licensing requirements, please contact the Licensing Department of the Insurance Council of Manitoba.

Eligibility for Assistant Adjuster Licence Level 1

The entry level licensing eligibility requirements for an assistant adjuster requires that an applicant take and pass a qualification examination through Council. There is no specific prerequisite education required, however, a Level 1 assistant adjuster must, within 18 months, successfully complete either Principles and Practice of Insurance or two General Insurance Essentials (G.I.E.) courses. If the requisite courses are not completed, the licence will be cancelled upon the expiry of 18 months.

Supervision of Auto Only and Level 1 General Agents

The General Insurance Council of Manitoba is currently examining its policy with respect to on site supervision of Level 1 and Auto Only general insurance agents. Council acknowledges that in today’s technologically advanced environment, it is possible that “supervision” as required in accordance with the General Insurance Agents Licensing Rules may be effectively accomplished in a variety of ways. While newly licensed agents may require the physical presence of a Level 2 licensee at all times, those who have obtained an acceptable level of experience may professionally serve the public provided off site supervision is constant, accessible, and has the pre-approval of Council. Ultimately the designated representative is accountable to ensure adequate supervision is maintained at all times.

The General Insurance Council of Manitoba welcomes your comments in this regard. Please visit the “Consultations” section of the ICM website for additional information and details of deadline for submissions.

The existing policy, requiring the physical presence of a Level 2 or higher licensee to provide direct, on site supervision of Level 1 or Auto Only agents, remains in effect pending the consideration of stakeholder comments and the General Insurance Council deliberation and determination.

Adjusters Council Consumer Awareness Committee

Complaints to the Insurance Council of Manitoba with respect to insurance adjusters often originate from a lack of understanding by consumers of the role of an adjuster. The Adjusters Council of Manitoba has formed a subcommittee to develop information for consumers advising what to expect from an insurance adjuster. The Committee work is currently in its preliminary stages, however, watch for further information and the opportunity to provide your comments on the “Consultations” section of the Insurance Council of Manitoba website.

DISCIPLINARY ACTIONS

Dorion Insurance Agency

Agency fined \$3,000.00 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 378(1) and the General Insurance Agent Code of Conduct, Section 9. The Designated Representative was required to sign an Undertaking that he had read and understood specific sections of *The Insurance Act*, Regulation 389/87, General Insurance Agents Licensing Rules, and the General Insurance Agent Code of Conduct.

Robert Callis

Adjuster fined \$250.00 and assessed partial investigation costs of \$250.00 in violation of the Insurance Adjusters Code of Conduct, Section 3 “Quality of Service”, due to unacceptable delays in adjusting the insurance loss. This matter was appealed to The Insurance Agents’ and Adjusters’ Licensing Appeal Board which upheld the decision of the Insurance Council and assessed additional costs of \$250.00.

Douglas Janczyn

Agent fined \$5,000.00 and assessed partial investigation costs of \$2,500.00 for contravention of *The Insurance Act* of Manitoba, Sections 113(1) and 113(2) unfair or deceptive act or practice in the business of insurance, and Section 375(1)(e) demonstrated incompetency or untrustworthiness; and Life Insurance and Accident and Sickness Agent’s Code of Conduct, Sections 1, 3 and 10. This former life insurance agent was determined to be unsuitable to hold a Life Insurance Agent Licence.

Martin DeCorby

Agent fined \$250.00 and assessed partial investigation costs of \$250.00 for contravention of *The Insurance Act* of Manitoba, Section 375(1)(a) misrepresentation, fraud, deceit or dishonesty; and Life Insurance and Accident and Sickness Agent’s Code of Conduct, Sections 6 and 11.

Kildonan Insurance Agency Ltd.

Agency fined \$1,000.00 and assessed partial investigation costs in the amount of \$500.00 for allowing an unlicensed individual to transact insurance business in contravention of *The Insurance Act* of Manitoba, Section 378(1) and the General Insurance Agent Code of Conduct, Section 9.

H. Richard J. Symbol

Agent fined \$750.00 and assessed partial investigation costs of \$750.00 for contravention of *The Insurance Act* of Manitoba Section 113, by failing to follow the client’s investment profile and instructions, and in violation of the Life Insurance and Accident and Sickness Agent’s Code of Conduct, Sections 1 and 3.

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.

DISCIPLINARY ACTIONS - continued

Moby Christoffersen

Agent fined \$250.00 and assessed partial investigation costs of \$250.00 for contravention of *The Insurance Act* of Manitoba, Section 113, by failing to properly complete a disclosure form and in violation of the Life Insurance and Accident and Sickness Agent's Code of Conduct, Section 6.

Peter Rhoden

Agent fined \$1,000.00 and assessed partial investigation costs of \$500.00 for contravention of *The Insurance Act* of Manitoba Section 113, by failing to obtain information regarding the existing policy to complete the Disclosure Form, and in violation of the Life Insurance and Accident and Sickness Agent's Code of Conduct, Sections 3 and 6.

Tasha Ryszytylo

This former general insurance agent was determined to be unsuitable to hold a General Insurance Agent's Licence due to contraventions of *The Insurance Act* of Manitoba, including deceit or dishonesty, withholding cash payments, and demonstrated untrustworthiness; and to the General Insurance Agent Code of Conduct, Section 1.

Liability (Errors and Omissions Coverage) Mandatory

Errors and omissions insurance is a mandatory requirement of licensing for agents, brokers and adjusters in Manitoba in accordance with Section 371(1.1) of *The Insurance Act* of Manitoba. Every insurance agent/adjuster licence issued under the *Act* and every renewal of a licence is conditional upon the existence of and continual maintenance by the agent/adjuster of coverage in the form, upon the terms and for not less than the amount required in Regulations. Failure to maintain coverage on a continuous basis is a violation of Section 372.1(1) of the *Act*.

The Insurance Council of Manitoba must be advised immediately upon the termination or lapse of errors and omissions coverage, in accordance with Section 372.1(2) of *The Insurance Act* of Manitoba. Conducting business without valid liability insurance is an offense and subject to disciplinary action.



The Insurance Council of Manitoba



*join in wishing you a Happy Holiday Season and a
healthy and prosperous 2010!*

Consultations

The Insurance Council of Manitoba now features a section on its website entitled "Consultations." This area will be a fixed feature of the website, and will list issues for which the Council is seeking industry and stakeholder comments. Please check this area of the website often for updates, and take advantage of the opportunity to provide the Council with your comments.

Reminder: As previously noted in our April 2009 Council Report, all Council Reports and other important notifications will only be sent by email. This may include renewal applications for as early as April 2010. Please ensure that email address changes are kept up-to-date with the Council to ensure you receive all electronic transmissions from our office. Amendments can be sent to contactus@icm.mb.ca.

ISSUE 02 DECEMBER 2009

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