

# LIFE INSURANCE COUNCIL OF MANITOBA

## LIFE INSURANCE AND ACCIDENT AND SICKNESS AGENT'S CODE OF CONDUCT

### **INTRODUCTION:**

This Code of Conduct is approved pursuant to the delegated power and authority of the Life Insurance Council to establish ethical, operational and trade practices for agents, in accordance with s. 396.1(7) of *The Insurance Act* (C.C.S.M. c.140) and sections 7(4) and 7(5) of the Insurance Councils Regulation (140-M.R. 227/91).

### 1. INTERESTS OF THE CLIENT

**The client's interests take priority over the agent's interests and must not be sacrificed to the interests of others.**

#### **Commentary:**

This is the fundamental principle from which all remaining principles and practices are derived.

To achieve this principle, the agent must place the interests of policyholders and prospective purchasers of insurance ahead of his or her own interests. The agent is expected to:

- Not knowingly prejudice the interests of a consumer for personal gain or the gain of any third party.
- Not take advantage of a client's or an insured's inexperience, ill health or lack of sophistication.
- Be both candid and honest in advising the client or consumer.
- Act with integrity, competence and the utmost good faith.

Examples of this principle include, but are not limited to, carrying on the business of insurance with honesty, integrity, decency of purpose and a sincere intention to act in a manner consistent with the client's best interest; and remaining faithful to the duties and obligations of an insurance agent.

### 2. NEEDS OF THE CLIENT

**An agent must obtain or confirm information about the needs of the client and, when making recommendations, must reasonably ensure that any product or service that is offered is suitable to fulfill the needs of the client.**

#### **Commentary:**

To meet the obligations of this principle, the agent must:

- Consider the financial significance, complexity and appropriateness of the product or service being recommended or sold to a client. Examples of the information that an agent would obtain through a needs analysis done prior to making an insurance recommendation include: family and financial situation (dependents, income, personal and family obligations); other life insurance coverage (individual and group); objectives that the client wishes to meet through insurance; other financial resources available to meet those objectives.
- Refrain from replacing a contract with a new contract, or from inducing a client to replace a contract with a new contract, unless it appears that due to a change in

circumstances an existing contract cannot be amended or changed (including ratings or exclusions) but should instead be replaced with another contract, and that such replacement is in the best interest of the client.

- Adhere to all applicable Insurance Council of Manitoba policies and procedures relative to recommending the replacement of life insurance, including the completion of all Insurance Council of Manitoba prescribed forms as required.
- Protect the interests of the client (purchaser) when recommending the transfer of a group insurance policy, and ensure that all insurers making a new proposal are provided with all pertinent facts relating to the involved claims experience and rates being charged.
- Protect the interests of the client (purchaser) with respect to existing contract(s) when recommending the transfer of a pension plan, and ensure that the rights of existing participants in the pension plan are not prejudiced in any way.
- Understand, when recommending investment products (e.g. segregated funds), the principles of investing, asset allocation, involved maturity and guarantee benefits, and applicable tax implications.

### 3. LEGITIMATE BUSINESS INTERESTS

**An agent must collect enough information about the client and the transaction to reasonably determine the identity of the client and that the transaction is lawful. The agent must not act on behalf of a client when there are reasonable grounds to believe that the transaction is of an unlawful nature.**

#### Commentary:

The agent must not continue to act for the client and his or her business if it is known or should be known that the transaction is unlawful. In some circumstances, the agent will be required to report the transaction to regulatory authorities. Examples of such reporting obligations are the requirements derived from legislation involving money laundering and terrorist financing.

An agent should decline to act if a client requests that information material to the risk be concealed from an insurer.

### 4. PROFESSIONALISM

**An agent must act in good faith at all times. He or she must acquire an appropriate level of knowledge relating to his or her particular business and meet professional ethical standards. He or she must act with honesty, integrity, fairness, due diligence and skill.**

#### Commentary:

Professionalism means that agents will adhere to all standards required under law and by and through regulation, while striving to achieve insurance industry best practices.

Examples of professionalism include, but are not limited to, the following:

- Education: In a rapidly changing financial services marketplace, agents must keep abreast of changes in products, regulations and other factors that will affect their ability to provide high standards of service to clients. Education, including continuing education, is a necessary component of professional skill.
- Holding Out: 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 of any firm under which he or she is authorized to operate.

- Advertising and other Client Communications: Agents must ensure that all references to their business activities, services and products are clear, descriptive and not misleading.
- Business Operations: Agents must ensure that their financial records are properly maintained and that they follow sound business practices.
- Fair Practices: Agents must not engage in practices that mislead the client or place the interests of others ahead of the client's interests. Unfair practices are contrary to the underlying spirit of this Code of Conduct. The agent must refrain from practices that contravene, directly or indirectly, the spirit or intent of any of the principles or practices set out in this Code of Conduct. Without limitation, any use of coercion, undue influence or intimidation to secure insurance business; defamation of an insurer or individual; or any other action that may undermine the reputation or public professional image of insurance; must not occur.
- Financial Accountability: An agent should have appropriate resources in place to compensate clients who suffer a loss as a result of an error, omission or fraudulent activity that is caused by the agent or someone for whom he or she is responsible. The agent must ensure that all financial obligations are met and should strive to exceed all existing requirements for professional liability insurance and errors and omission insurance.
- Sharing a Commission: An agent must not share compensation earned from the sale of insurance products with any person who does not hold an agent's license in the same class of licence.

## 5. CONFIDENTIALITY

**Agents must protect clients' personal information by complying with applicable law and by taking all reasonable steps to ensure that personal information is not divulged and is only used for the purpose for which it is collected.**

### Commentary:

An example of this principle is the requirement for agents to ensure that proper care and security measures are taken when handling documents that contain personal information. Personal information is only to be used for the purpose for which it was originally collected, unless the client has given express authorization for it to be used for another reason. Adequate file records of relevant and material information concerning clients must be maintained. Agents must not use personal information to the detriment of the client. The damage to the client is the same regardless of whether personal information is divulged to someone willfully or as a result of careless handling of files.

## 6. CONFLICTS OF INTEREST

**An agent must avoid situations where the underlying circumstances could prejudice or compromise the advice he or she provides. Conflicts of interest can be a matter of actual fact or perceptions and appearances. In the case of a conflict of interest, the client must be made aware of the nature of the conflict before the transaction takes place.**

### Commentary:

Commercial relationships between an agent and a particular insurer can give rise to an actual or potential conflict of interest. Agents should ask themselves this question: "Would a reasonable person in possession of all of the facts conclude that the agent could have divided loyalties in making a recommendation to place a contract with a particular insurer?"

If a situation arises where a conflict of interest may exist, and it cannot be avoided, the condition can only be mitigated by objective, plain-language disclosure of the nature and impact of the conflict. The client must be given an opportunity to halt the transaction, to seek other professional advice, or to knowingly proceed with the transaction. It is recommended that such disclosure to the client be in writing.

## 7. GENERAL INFORMATION DISCLOSURE AND DOCUMENTATION

**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.**

### Commentary:

There are two aspects to disclosure and both must be satisfactorily taken into account.

The first concerns product information. This includes applicable terms and features and the risks and benefits associated with the involved purchase or transaction. In addition to the agent clearly describing the product or service for the client and the ways in which the transaction will fulfill the needs of the client, product information includes the disclosure of important assumptions underlying any illustrations or examples that have been provided to the client along with confirmation that actual results may differ significantly from those shown. The agent must avoid using examples or illustrations which he or she knows, or ought to know, are based on unusual results or a reporting period that generated much better than normally anticipated performance.

Examples of how to achieve the intent of this principle include:

- Demonstrating that a product recommendation to a client fulfills the need that has been identified and an explanation of why this particular product was chosen over other products available in the marketplace. Product recommendation should only be made after the agent completes a needs assessment appropriate to the circumstances of the client's specific situation.
- Demonstrating that the product being recommended or chosen is competitively priced when measured against comparable products in order to add to the transparency of the process. These comparisons should be fully explained and should include any risks and variances that could impact the contract.
- Demonstrating, with respect to investment products, that the product meets the client's investment time horizon, risk tolerance, investment objective, and current circumstances, and that the client's investment knowledge has been assessed. Appropriate documentation to substantiate the recommendations made to clients must be maintained.

The second aspect of disclosure concerns information about the nature of an agent's commercial relationships which may be important to the client.

An example of this principle is disclosure of the name of the agency, firm or employer that the agent represents. The agent should also be prepared to provide the name of the insurance companies that the agent has contracts with or places business with. If asked by the client the agent should, as applicable, disclose how he or she is compensated.

**8. CLIENT REDRESS**

**An agent must deal directly with all formal complaints or disputes, or refer them to the appropriate person or process, in a timely and forthright manner. In situations where a dispute cannot be resolved agents should provide to clients, preferably in writing, a summary of the available redress mechanisms applicable to the product and type of complaint involved.**

**9. DEALING WITH THE INSURANCE COUNCIL OF MANITOBA**

**An agent must respond promptly and honestly, with full disclosure, to inquiries from the Insurance Council of Manitoba**