



General Insurance Council
Code of Conduct

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INTRODUCTION

The underlying principle of the business of insurance is utmost good faith. When purchasing insurance, a client is purchasing a “promise” that they will be indemnified against loss or liability for loss in the event of a specified peril. It is therefore essential to the business of insurance that its participants command and maintain the confidence and respect of the public. This can only be achieved by maintaining a reputation for integrity, competence and good faith.

In establishing this Code of Conduct the General Insurance Council is identifying for insurance agents the minimum standard of conduct expected of them as well as identifying for the public at large the standard of conduct they should expect from their agent.

The willingness and commitment of all licensed insurance professionals to achieve widespread compliance with this Code of Conduct is a more powerful enforcement mechanism than any sanction imposed by a regulatory body. Insurance agents are the public face of the industry and as such are expected to strive to maintain the highest possible standard of ethical conduct and to encourage others to do so as well.

EXECUTIVE SUMMARY

1. TRUSTWORTHINESS

1.1 Principle

In an industry where trust is the foundation of all dealings, the agent must meet rigorous standards of personal integrity and professional competence. These characteristics speak to the essence of what an agent does. Failure to adhere to the standards reflects not only on the agent, but also on the profession. Trustworthiness is a fundamental element of each requirement in the Code.

2. GOOD FAITH

2.1 Principle

The exercise of good faith by certificate holders in the practice of insurance is essential to public confidence in the industry. Good faith is a fundamental aspect of an agent's conduct and a key element in each of the Codes requirements.

3. COMPETENCE

3.1 Principle

Clients rely on the knowledge and advice of agents. Accordingly, competence on the part of agents is an essential requirement of the practice of insurance. Incompetent conduct can result in significant prejudice to others, and it follows that an agent should not undertake to perform any insurance services beyond their level of competence.

4. FINANCIAL INTEGRITY

4.1 Principle

As an insurance agent, clients and insurers entrust money, property and financial instruments to you to facilitate transactions or claims on their behalf. An agent's integrity in this regard is essential to their practice as an agent.

5. DEALING WITH CLIENTS

5.1 Principle

Under the code, a client includes anyone who might reasonably be expected in the circumstances to rely on an agent's professional advice or actions in relation to his or her insurance. Agents are required to put the best interests of the client first.

6. DEALING WITH INSURERS

6.1 Principle

Agents act as intermediaries between clients, insureds and insurers in a contractual relationship. The insurers' ability to meet their contractual duties is based on the agent's honesty and competence in providing advice and information.

7. DEALING WITH AGENTS

7.1 Principle

Insurance agents represent the insurance industry to the public. The public views the industry as a single entity, so by discrediting a fellow licensee, an agent is bringing their own reputation and that of the industry into public disrepute. Treating colleagues with honesty, courtesy and respect enhances an agent's reputation and the public's confidence in the insurance industry.

8. DEALING WITH THE PUBLIC

8.1 Principle

Insurance agents provide services upon which the well-being of individuals and businesses will often depend. Therefore, it is incumbent upon all agents to take their responsibility to the public seriously. An agent's actions and conduct reflects on other agents and the industry as a whole. Accordingly, it is in the interest of all agents to conduct themselves in a manner that promotes public confidence in the industry.

9. CONDUCT SPECIFIC TO AGENTS ACTING AS INSURANCE ADJUSTERS

9.1 Principle

In some circumstances agents are entitled to act as insurance adjusters subject to the limitations as provided by the Act and Regulations. Accordingly, the following sets out additional, specific duties applicable to agent's when engaged in the role of insurance adjusting. This does not limit

applicable duties under the other requirements in the Code. Agents must also refer to and comply with each requirement identified in the Code in the course of their practice.

10. DEALING WITH THE ALBERTA INSURANCE COUNCIL

10.1 Principle

Agents, industry and the public benefit from a degree of peer review under the Act and Regulations. This privilege requires the cooperation and support of agents.

11. COMPLIANCE WITH GOVERNING LEGISLATION AND THE CODE

11.1 Principle

Agents are expected to adhere to all statutory and regulatory requirements of the Code. Violations of these requirements may subject agents to disciplinary proceedings.

INTERPRETATION

This Code consists of an introduction, executive summary, interpretation and definitions sections followed by a number of sections which each address a specific principle.

Each statement of principle expresses the expected conduct of the agent. Each principle is further clarified with a stated requirement and accompanied by guidelines and examples of misconduct.

The Code provides a benchmark against which an agent can measure their conduct and against which a member of the public can measure the conduct of an agent.

This Code applies to all holders of Certificates of Authority to transact insurance business in Alberta no matter which province, state or country the agent may reside in.

The Code is written in plain language to be clear and concise as it is a document not only for industry participants but for the public at large. The Code cannot be considered in isolation as it is intended to be read in conjunction with the Insurance Act and Regulations.

The Alberta Insurance Council is the body responsible to provide administrative and investigative support to three industry specific Councils. The Life Insurance Council, the General Insurance Council and the Insurance Adjusters Council are the regulatory bodies responsible for licensing and discipline of insurance agents and adjusters in the Province of Alberta.

The Councils are formed under the Insurance Act and derive their authority under a delegation from the Minister of Finance and Enterprise, for the Province.

Further information may be obtained at www.abcouncil.ab.ca.

DEFINITIONS

Unless otherwise qualified in this Code, read:

- ❖ “Act” as the *Insurance Act*;
- ❖ “agent” as an individual that holds a certificate of authority to transact insurance business as defined in the Act;
- ❖ “agency” as a corporation or partnership, or an individual sole proprietorship agent, holds a certificate of authority to transact insurance business and meets the requirements as set out in the Act;
- ❖ “client” as a person who may reasonably be expected to rely on an insurer, agency or agent’s advice or actions in relation to insurance;
- ❖ “Code” as this Code of Conduct;
- ❖ “Council” as the General Insurance Council;
- ❖ “Designated Representative” as an individual that holds a certificate of authority and is responsible for the management and supervision of the business/agency;
- ❖ “person” as a corporation, partnership, society, association or other organization or legal entity;
- ❖ “principal” as a person on whose behalf an agent has undertaken to perform adjusting services;
- ❖ “transaction” as a situation in which an agent provides an insurance product or service to any person.

CODE OF CONDUCT PRINCIPLES

1. TRUSTWORTHINESS

1.1 Principle

In an industry where trust is the foundation of all dealings, the agent must meet rigorous standards of personal integrity and professional competence. These characteristics speak to the essence of what an agent does. Failure to adhere to the standards reflects not only on the agent, but also on the profession. Trustworthiness is a fundamental element of each requirement in the Code.

1.2 Requirement

The agent must be trustworthy, conducting all professional activities with integrity, reliability and honesty. The principle extends beyond insurance business activities. The agent's conduct in other areas may reflect on their trustworthiness and call into question their suitability to hold an insurance certificate of authority.

1.3 Guidelines

1.3.1 Conduct that would reflect on the agent's trustworthiness includes:

- ❖ Dishonestly dealing with money or property;
- ❖ Improper use of the agent's position or knowledge as an agent;
- ❖ Intentionally misleading clients, insurers, the Council or the Alberta Insurance Council through false statements or by withholding material information;
- ❖ Knowingly prejudicing the interests of a client for personal gain; and
- ❖ Conduct in the nature of theft or fraud.

1.3.2 Activities outside the agent's professional life may reflect on their suitability to hold an insurance agent's certificate of authority.

1.4 Examples of Misconduct

1.4.1 While acting in a position of trust for a volunteer organization, an agent misappropriated funds from the organization.

1.4.2 An agent used confidential client information for purposes other than intended.

1.4.3 Made or assisted in making a false insurance claim.

1.4 Examples of Misconduct – continued

1.4.4 Made false declarations to an insurer.

1.4.5 “Witnessed” a signature when he did not see the individual sign the document.

1.4.6 Made false and misleading statements to the Council.

1.4.7 Incidents of harassment or unlawful discriminatory practices are examples of untrustworthiness.

1.4.8 An agent requested an insurer cancel a client’s insurance policy for non-payment of premium, when the premium had been paid, in order to apply the pro-rata premium against an outstanding debt owed by the client.

2. GOOD FAITH

2.1 Principle

The exercise of good faith by certificate holders in the practice of insurance is essential to public confidence in the industry. Good faith is a fundamental aspect of an agent's conduct and a key element in each of the Code's requirements.

2.2 Requirement

The agent must carry on the business of insurance in good faith. Good faith is honesty and decency of purpose and a sincere intention on your part to act in a manner which is consistent with your client's best interests, remaining faithful to your duties and obligations as a holder of an insurance agent's certificate of authority.

The agent owes a duty of good faith to insurers, insureds, fellow agents, regulatory bodies and the public.

2.3 Guidelines

2.3.1 Conduct that would reflect adversely on your intention to practice in good faith includes:

- ❖ disregard of duties and obligations under the Act, Regulations and the Code;
- ❖ misrepresentation or failure to disclose material information;
- ❖ unauthorized access, use of or disclosure of confidential information concerning a client's business, interests and affairs;
- ❖ making improper use of your position as an insurance agent;
- ❖ employing or remunerating an unlicensed person to act as an agent; and
- ❖ taking advantage of a client's inexperience, ill health or lack of sophistication.

2.4 Examples of Misconduct

2.4.1 Signed as witness on documents but had not in fact seen them signed.

2.4.2 Directed an unlicensed employee to act as an agent.

2.4.3 Submitted applications that were known to have been completed by an unlicensed person.

- 2.4.4 Used premium money for personal use.
- 2.4.5 Backdated a client's automobile insurance and subsequently lied about when and how the transaction was processed.
- 2.4.6 Counseled a client to misrepresent material information to an insurance company.
- 2.4.7 Accessed confidential client information without authority.
- 2.4.8 Drafted and signed a false certificate of insurance or proof of insurance where coverage did not exist.

3. COMPETENCE

3.1 Principle

Clients rely on the knowledge and advice of agents. Accordingly, competence on the part of agents is an essential requirement of the practice of insurance. Incompetent conduct can result in significant prejudice to others, and it follows that an agent should not undertake to perform any insurance services beyond their level of competence.

3.2 Requirement

An agent must conduct all insurance activities in a competent manner. Competent conduct is characterized by the application of knowledge and skill in a manner consistent with the usual practice of the business in the circumstances.

An agent must continue his or her insurance education to remain current.

3.3 Guidelines

3.3.1 An agent's practice and level of service to clients should be consistent with that which a reasonable and prudent agent in similar circumstances would exercise. Not all errors necessarily constitute a failure to adhere to the Code.

3.3.2 Conduct that would reflect on your competence includes:

- ❖ failing to properly place insurance coverage as instructed;
- ❖ failing to provide evidence of insurance coverage when requested;
- ❖ failing to advise a client of a lapse or change in insurance coverage;
- ❖ failing to conduct an adequate fact finding and assessment of the client's insurance needs;
- ❖ failing to properly handle and account for money or property;
- ❖ failing to maintain proper and adequate books and records of insurance transactions and related financial affairs;
- ❖ failing to provide for the safekeeping and confidentiality of records
- ❖ failing to advise an insurer or client of their risk or claim
- ❖ failing to properly document communications and instructions from a client to ensure mutual understanding and provide a record of the transaction; and

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- ❖ practicing in an area where you lack sufficient expertise, training or experience.

3.3.3 Designated Representatives are responsible for all activities of the insurance agency and must ensure the agency and its employees are properly supervised and operate in accordance with the conditions and restrictions on their certificates.

3.3.4 Agents who have supervisory duties must fulfill those duties competently. Improper practice by supervised employees may bring a supervisor's competence into question if the conduct occurred due to inadequate supervision, including lack of policies, procedures and training.

3.3.5 Agents must refrain from giving advice in areas beyond their expertise as an insurance agent. For example, an agent should refer matters that would be more properly dealt with by other professionals.

3.4 Examples of Misconduct

3.4.1 Sold an insurance policy that was inappropriate given the client's stated objectives and circumstances and that a prudent and competent agent would not have recommended.

3.4.2 Failed to properly manage the business and financial aspects of an agency, including the proper handling and remittance of premium money to insurers.

3.4.3 Compensated an unlicensed individual for acting in a licensed capacity.

4. FINANCIAL INTEGRITY

4.1 Principle

As an insurance agent, clients and insurers entrust money, property and financial instruments to you to facilitate transactions or claims on their behalf. An agent's integrity in this regard is essential to their practice as an agent.

4.2 Requirement

An agent must demonstrate financial integrity. This means an agent can be relied upon to properly safeguard and account for money and property entrusted to them and to promptly deliver them in accordance with the circumstances.

4.3 Guidelines

4.3.1 Conduct outside an agent's professional life may reflect on their financial integrity. i.e. outstanding judgments, pending legal proceedings or bankruptcies may reflect on your integrity.

4.3.2 Where an agent collects or receives funds on behalf of an insurer, they must:

- ❖ not encumber the funds without the prior written consent of the insurer;
- ❖ not use or apply the funds for purposes other than as described in the agreement with the insurer;
- ❖ pay to the insurer all funds collected or received less any deductions authorized by the insurer; or
- ❖ pay to clients all funds due to them.

4.4 Examples of Misconduct

4.4.1 Failed to account for unauthorized transactions from a bank account over which the agent held a power of attorney .

4.4.2 Failed to refund all money due to a client in accordance with the cancellation provisions set out in the client's insurance contract and as agreed to in the agent's contract with the insurer.

5. DEALING WITH CLIENTS

5.1 Principle

Under the Code, a client includes anyone who might reasonably be expected in the circumstances to rely on an agent's professional advice or actions in relation to his or her insurance. Agents are required to put the best interests of the client first.

5.2 Requirement

When dealing with clients an agent must:

- ❖ Protect clients interests and privacy
- ❖ Appropriately evaluate the client's needs; and
- ❖ Disclose all material information.

5.3 Guidelines

Conflict of Interest

- 5.3.1 An agent should not place themselves in a conflict of interest with a client unless the client has first approved of their conduct after full disclosure of the conflict. A conflict of interest would be where the agent has an incentive not to act in the best interests of the client.
- 5.3.2 Where there is an irreconcilable conflict between an agent's duty to a client and their other duties as an agent, they should decline to act in the transaction.
- 5.3.3 The client's interests take priority over the agent's interests and should not be sacrificed to the interests of others.

Disclosure

- 5.3.4 What information is material and should be provided to a client depends on the circumstances of the transaction. An agent should disclose any information relevant to the client's insurance needs that a reasonable and prudent agent would disclose in the same circumstances.
- 5.3.5 No agent may charge or collect a fee for providing a service to a person who is or is in the process of acquiring insurance through the agent unless the person has agreed in writing before the service is provided to pay the fee.

- 5.3.6 An agent must inform clients about the material aspects of the insurance products they purchase.
- 5.3.7 An agent must make full and fair disclosure of all material information to enable clients to make informed decisions regarding their insurance.
- 5.3.8 An agent must not use sales materials or advertisements that are misleading or unnecessarily confusing.
- 5.3.9 An agent must not use terms such as “guaranteed” without appropriate qualification or evidence to support the statement.

Confidentiality

- 5.3.10 An agent must hold in confidence all information acquired in the course of their professional relationship concerning the personal and business affairs of a client, and must not divulge or use such information other than for the purpose of that transaction or for a similar subsequent transaction between the agent and the same client, unless expressly authorized by the client or as required by law.

Withdrawal of Services

- 5.3.11 If an agent chooses to terminate their business relationship with a client the agent must do so in a manner that avoids prejudice and allows for the orderly transfer of the clients insurance business elsewhere. An agent must provide the client with adequate notice of their intention to withdraw their services, as well as comply with any applicable statutory and professional obligations.
- 5.3.12 Clients should be notified in a reasonable time if an agent is unable to renew their insurance on the same terms and conditions.

Protecting Client’s Interests

- 5.3.13 An agent must report all claims promptly.
- 5.3.14 An agent must deliver insurance policies or evidence of insurance coverage within a reasonable time.
- 5.3.15 An agent must deal with all formal and informal complaints or disputes in good faith and in a timely and forthright manner, including, when necessary, referring that complainant to other more appropriate people, processes and/or organizations.

5.4 Examples of Misconduct

- 5.4.1 An agent failed to fully assess a client’s needs and objectives and neglected to advise the client of changes to the insurance plan as a consequence of a medical condition.
- 5.4.2 An agent provided a copy of a client’s insurance policy to other customers as an example of the product being offered.

6. DEALING WITH INSURERS

6.1 Principle

Agents act as intermediaries between clients, insureds and insurers in a contractual relationship. The insurers' ability to meet their contractual duties is based on the agent's honesty and competence in providing advice and information.

6.2 Requirement

An agent has a duty to insurers with whom you are transacting business to:

- ❖ Make reasonable enquiries into the risk;
- ❖ Provide full and accurate information;
- ❖ Promptly deliver all insurance documents and monies due;
- ❖ Represent the insurer's products fairly and accurately;
- ❖ Adhere to the authority granted by the insurer; and
- ❖ Promptly report all claims.

6.3 Guidelines

6.3.1 An agent has a duty to fully and accurately disclose any information material to the insurer's decision to issue a contract of insurance.

6.3.2 Where an agent is placing insurance on behalf of another agent who is acting for the insured, they should disclose this to the insurer.

6.3.3 Where there is an irreconcilable conflict of interest between an agent's duty to an insurer and their other duties as an agent, where permitted by law, they should decline to act in the transaction.

6.3.4 Insurers rely on agents for information to make the underwriting decisions. Therefore you must make reasonable enquiries into a risk. This means making inquiries that a reasonable and prudent agent would make in the same circumstances.

6.4 Examples of Misconduct

6.4.1 An agent failed to remit to the insurer all premiums collected or received in accordance with the terms of the agency's agreement with the insurer.

6.4.2 Offered and bound terms under a policy that were not authorized by the insurer.

7. DEALING WITH AGENTS

7.1 Principle

Insurance agents represent the insurance industry to the public. The public views the industry as a single entity, so by discrediting a fellow licensee, an agent is bringing their own reputation and that of the industry into public disrepute. Treating colleagues with honesty, courtesy and respect enhances an agent's reputation and the public's confidence in the insurance industry.

7.2 Requirement

An agent must act in an honest, courteous and respectful manner when dealing with other agents.

7.3 Guidelines

Communications between agents should be characterized by honesty, courtesy and respect.

8. DEALING WITH THE PUBLIC

8.1 Principle

Insurance agents provide services upon which the well-being of individuals and businesses will often depend. Therefore, it is incumbent upon all agents to take their responsibility to the public seriously. An agent's actions and conduct reflect on other agents and the industry as a whole. Accordingly, it is in the interest of all agents to conduct themselves in a manner that promotes public confidence in the industry.

8.2 Requirement

In dealing with the public, agents must honestly represent themselves and the services and products they provide.

8.3 Guidelines

Representation

- 8.3.1 Agents must represent themselves in the same name as on the Certificate of Authority they hold.
- 8.3.2 Agents must not represent themselves as having specific expertise in a given area of practice or as holding industry designations unless they are suitably qualified by virtue of their experience, training or both.
- 8.3.3 In dealing with the public, an agent's statements must be honest.

Advertising

- 8.3.4 An agent must not engage in misleading advertising by offering prices, products or services that cannot be provided or that are subject to undisclosed qualifications.

8.4 Examples of Misconduct

- 8.4.1 Advertising a premium that is subject to undisclosed requirements.
- 8.4.2 An agent must not defame or discredit the industry.

9. CONDUCT SPECIFIC TO AGENTS ACTING AS INSURANCE ADJUSTERS

9.1 Principle

In some circumstances agents are entitled to act as insurance adjusters subject to the limitations set out in the Act and Regulations. Accordingly, the following sets out additional, specific duties applicable to agents when engaged in the role of insurance adjusting. This does not limit applicable duties under the other requirements in the Code. Agents must also refer to and comply with each requirement identified in the Code in the course of their practice.

9.2 Requirement

Duties to Principals

An agent must:

- ❖ Protect your principal's interests;
- ❖ Disclose all information material to the loss or claim;
- ❖ Decline to act where you have an undisclosed conflict of interest or financial interest in a loss or claim; and
- ❖ Act within authority and instructions of the agent's principal.

Duties to Insureds or Claimants

An agent must:

- ❖ Properly identify yourself, your principal and your role as the agent adjusting the claim;
- ❖ Adjust claims promptly and fairly; and
- ❖ Fully disclose information material to the insured's policy coverage, rights and obligations.

9.3 Guidelines

9.3.1 Where there is an irreconcilable conflict between the agent's duty to a principal or an insured and the other duties as an adjuster, an agent should decline to act in the matter.

9.3.2 An agent must take reasonable steps to keep the insured informed of the status of a claim and respond promptly to the insured's communications.

9.3 Guidelines – continued

- 9.3.3 An agent must not attempt to influence a claim through coercion, false or misleading statements or other improper means.
- 9.3.4 An agent must not seek to discourage legitimate claims or cause undue delay in adjusting a claim.
- 9.3.5 An agent must not take advantage of inexperienced or unsophisticated insureds.
- 9.3.6 An agent must not accept any financial inducement in exchange for utilizing the services of a contractor, unless it is fully disclosed to the principal and insured.
- 9.3.7 An agent must fully and promptly inform insureds of material information regarding policy coverage, limitation periods, claim denials and their rights and obligations in the claims process, as required in the circumstances.
- 9.3.8 An agent must not mislead anyone as to their role in adjusting a claim. This includes who is your principal. For example, when acting on behalf of an insurance company, the insured should be aware that the agent acts for the insurer in the claim and that the insured is responsible for the hiring and work of contractors, even if facilitated by the agent.
- 9.3.9 An agent must refrain from giving legal advice or discouraging insureds from seeking legal advice.
- 9.3.10 An agent must only act on an adjustment when they have authority from the principal, and then according to the principal's instructions.
- 9.3.11 An agent must not obtain medical information about an individual without the consent of that person.

10. DEALING WITH THE ALBERTA INSURANCE COUNCIL

10.1 Principle

Agents, industry and the public benefit from a degree of peer review under the Act and Regulations. This privilege requires the cooperation and support of agents.

10.2 Requirement

An agent must interact with the Alberta Insurance Council and act within the regulatory framework described under the Act.

10.3 Guidelines

10.3.1 An agent, or former agent, served with a request from the Alberta Insurance Council must provide the information in accordance with the request.

10.3.2 It is a violation of the Code to make a material misstatement on an application for a certificate or in the response to a request from the Alberta Insurance Council.

10.4 Examples of Misconduct

10.4.1 Failing to reply within the time specified to a request from the Alberta Insurance Council.

10.4.2 Making material misstatements in reply to a request from the Alberta Insurance Council.

10.4.3 Swearing a false affidavit advising the Alberta Insurance Council that insurance activities had not been conducted while unlicensed.

10.4.4 Providing false and misleading information on licensing applications to conceal not having sufficient credits to meet the continuing education requirements.

10.4.5 Submitting altered or false continuing education certificates.

11. COMPLIANCE WITH GOVERNING LEGISLATION AND THE CODE

11.1 Principle

Agents are expected to adhere to all statutory and regulatory requirements of the Code. Violations of these requirements may subject agents to disciplinary proceedings

11.2 Requirement

An agent must be aware of and comply with the duties and obligations under the Act, Regulations and the Code.

11.3 Guidelines

11.3.1 An agent is required to read, understand and remain current on the applicable regulatory requirements that apply to them under the Act and Regulations. This information is readily available from a variety of sources. As necessary, the Alberta Insurance Council publishes guidelines and directives for agents on specific issues through its notices, bulletins, *Insight* and web site, www.abcouncil.ab.ca. Alternatively, information may be obtained by contacting one of the Alberta Insurance Council's offices.

11.3.2 An agent needs to be aware of all legislation which may impact their practice.