



Life 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 Life 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 and broker.

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 and brokers 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. INTEGRITY AND TRUSTWORTHINESS

1.1 Principle

In an industry where trust is the foundation of all dealings, insurance agents must meet rigorous standards of personal integrity and professional competence when advising clients. These characteristics speak to the essence of what an agent does. Failure to adhere to the standards adversely impacts the entire profession. Integrity and trustworthiness are fundamental elements of each requirement in the Code.

2. GOOD FAITH

2.1 Principle

The insurance industry is based on fiduciary relationships. Accordingly, 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.

3. COMPETENCE

3.1 Principle

Clients rely on the knowledge and advice of insurance agents. Accordingly, competence on the part of agents is an essential requirement of the practice of the business of insurance. Incompetent conduct can result in significant prejudice to clients and insurers 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, documents and financial instruments to facilitate transactions or claims on their behalf. An agent's reliability in these dealings is essential.

5. DEALING WITH CLIENTS

5.1 Principle

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

6. DEALING WITH INSURERS

6.1 Principle

Agents act as intermediaries between insurance clients and insurers. An insurer's ability to meet its contractual duty is based on the agent's honesty and competence in gathering information and providing advice.

7. DEALING WITH AGENTS

7.1 Principle

In many respects, insurance agents represent the insurance industry to the public and the public views the industry as a single entity. As such, an agent should treat other agents with courtesy and respect so as to enhance the public's confidence in the insurance industry.

8. DEALING WITH THE PUBLIC

8.1 Principle

The insurance industry provides services upon which the well being of individuals and businesses will often depend. It is in the interest of all certificate holders to conduct themselves in a manner that promotes public confidence in the integrity and reliability of the industry.

9. DEALING WITH THE ALBERTA INSURANCE COUNCIL

9.1 Principle

Agents, industry and the public benefit from a degree of peer review under the act and regulations. This privilege requires the co-operation and support of agents.

10. COMPLIANCE WITH GOVERNING LEGISLATION

10.1 Principle

Agents are expected to adhere to all statutory and regulatory requirements. Violations of these requirements are a violation of the Code and may subject agents to disciplinary action under the Act.

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/broker. 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/broker can measure his or her conduct and against which a member of the public can measure the conduct of his or her agent/broker.

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/broker 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, brokers 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 a body corporate, partnership or sole proprietorship.
- ❖ “client” as a person who may reasonably be expected to rely on an agent’s advice or actions in relation to insurance.
- ❖ “Code” as this Code of Conduct.
- ❖ “Council” as the Life Insurance Council.
- ❖ “Designated Representative” as an individual that holds a certificate of authority and has the responsibility for the management and supervision of the business.
- ❖ “good faith” (“uberrima fides” literally, of the utmost good faith) The basis of all insurance and reinsurance contracts. Both parties to the contract are bound to exercise good faith and do so by a full disclosure of all important material to the proposed contract.
- ❖ “transaction” is a situation in which an agent provides an insurance product or service to any person.

CODE OF CONDUCT PRINCIPLES

1. INTEGRITY AND TRUSTWORTHINESS

1.1 Principle

In an industry where trust is the foundation of all dealings, insurance agents must meet rigorous standards of personal integrity and professional competence when advising clients. These characteristics speak to the essence of what an agent does. Failure to adhere to the standards adversely impacts the entire profession. Integrity and trustworthiness are fundamental elements of each requirement in the Code.

1.2 Requirement

Agents must be trustworthy and must conduct all professional activities with integrity, reliability and honesty. The principle extends beyond insurance business activities. Conduct in other areas may reflect on an agent's trustworthiness and call into question whether they are suitable to hold a certificate of authority.

1.3 Guidelines

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

- ❖ Appropriately dealing with money or property;
- ❖ Proper use of the position or knowledge of 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; or
- ❖ Conduct in the nature of theft or fraud.

1.3.2 Acts of dishonesty outside an agent's professional life may reflect on the trustworthiness of an agent and the ability to hold a 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 a purpose other than that intended by the client.

1.4.3 Made or assisted in making a false insurance claim.

- 1.4.4 Made false declarations to an insurer.
- 1.4.5 “Witnessed” a signature when the agent did not see the individual sign the document.
- 1.4.6 Made false or misleading statements to Council.
- 1.4.7 Raised capital without disclosing to the clients what they were investing in and without providing material information to them.

2. GOOD FAITH

2.1 Principle

The insurance industry is based on fiduciary relationships. Accordingly, 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

An agent must carry on the business of insurance in good faith. Good faith is honesty and decency of purpose and a sincere intention to act in a manner consistent with a client's best interests.

Agents are also expected to act in good faith with insurers, insured persons, fellow agents, regulatory bodies and the public

2.3 Guidelines

2.3.1 Conduct that would suggest a lack of good faith includes:

- ❖ Willful disregard of duties and obligations under the Act and Regulations;
- ❖ Misrepresentation or failure to disclose material information;
- ❖ Unauthorized access of, use of or disclosure of confidential information;
- ❖ Making improper use of the knowledge of an insurance agent;
- ❖ Employing or remunerating unlicensed persons to conduct insurance business; or
- ❖ Taking advantage of a client's inexperience, ill health or lack of sophistication.

2.4 Examples of Misconduct

2.4.1 Using a position of community standing to pressure a consumer to buy

2.4.2 Using confidential information as the basis to make a secondary sale.

2.4.3 Making recommendations to a client to purchase a type of insurance for the primary purpose of generating commission for the agent.

3. COMPETENCE

3.1 Principle

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

3.2 Requirement

Insurance agents 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 what a reasonable and prudent agent in similar circumstances would exercise.

3.3.2 Conduct that would reflect on an agent's competence includes:

- ❖ Properly placing insurance coverage;
- ❖ Conducting an adequate fact finding and assessment of the client's insurance needs;
- ❖ Properly handling and accounting for money or property;
- ❖ Maintaining proper books and records of insurance transactions and related financial affairs;
- ❖ Provide for the safekeeping and confidentiality of records;
- ❖ Properly advising a client of the features of a contract offer including restrictions, ratings and exclusions;
- ❖ Properly documenting communications and instructions from a client to ensure mutual understanding.

3.3.3 Designated Representatives are responsible to the Alberta Insurance Council for all activities of the agency for which they act as a Designated Representative. As such, they 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. Failure to provide adequate supervision could reflect on the competence of the supervisor especially if the conduct occurred due to a lack of policies, procedures and training.
- 3.3.5 Agents must comply with the continuing education requirements under the regulations. These requirements should be seen as the minimum standard and may not be sufficient if an agent works in specialized areas.
- 3.3.6 Agents must refrain from giving advice in areas beyond their expertise as insurance agents. For example, agents should refer matters that would be more properly dealt with by other professionals to those professionals.

3.4 Examples of Misconduct

- 3.4.1 Sold or replaced an insurance policy that was inappropriate given the client's stated objectives and circumstances.
- 3.4.2 Failed to properly handle and remit premium money to insurers.
- 3.4.3 Directing the client to take specific legal or accounting actions without the specific training required to do so.
- 3.4.4 Promoting a concept such as creditor proofing without ensuring the requirements such as "Preferred Beneficiary Designation" are clearly spelled out.

4. FINANCIAL INTEGRITY

4.1 Principle

As an insurance agent, clients and insurers entrust money, documents and financial instruments to facilitate transactions or claims on their behalf. An agent's reliability in these dealings is essential.

4.2 Requirement

Insurance agents must exhibit financial integrity. This means that an agent can be relied upon to properly safeguard and account for money and documents 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 an agent's financial integrity. For example, outstanding judgments, pending legal proceedings or bankruptcy may reflect on an agent's financial 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 consent of the insurer;
 - ❖ Not use or apply the funds for purposes other than as described in the agreement with the insurer or the client; or
 - ❖ Pay to the insurer all funds collected or received.

4.4 Examples of Misconduct

- 4.4.1 Unauthorized transactions from a bank account over which the agent held a power of attorney.
- 4.4.2 Failure to invest a client's money as instructed.
- 4.4.3 Contrary to a client's interest and for personal gain an agent solicited clients to invest the cash value of their life insurance policies in a company that the agent had an interest in without disclosing his interest and the true risks involved.

5. DEALING WITH CLIENTS

5.1 Principle

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

5.2 Requirement

When dealing with clients an agent must:

- ❖ Protect the client's interests and privacy;
- ❖ Evaluate the client's needs;
- ❖ Disclose all material information; and
- ❖ Act with integrity, competence and good faith.

5.3 Guidelines

Conflict of Interest

- 5.3.1 An agent should not place themselves in a conflict of interest position with their client.
- 5.3.2 Where there is an irreconcilable conflict between an agent's duty to a client and the agent other duties, the agent should decline to act in the transaction. For example, if the client insists that the agent conceal information from an insurer, that was material to the risk, the agent should decline to act.
- 5.3.3 No agent may charge or collect a fee for providing a service to a client unless, prior to providing the service, the client has agreed in writing to pay the fee.
- 5.3.4 Agents must inform clients about the insurance products they purchase including any changes that occur during underwriting or during the term of the policy.
- 5.3.5 Agents must make full and fair disclosure of all material facts to enable clients to make informed decisions regarding their insurance.
- 5.3.6 Agents must not use sales materials or illustrations that are misleading.
- 5.3.7 Agents must not use terms such as "guaranteed" without appropriate qualification or evidence to support the statement.

Duty of Care

- 5.3.8 The client's interests take priority over the interests of the agent and should not be sacrificed to the interests of others. An agent must not engage in practices that place the interests of others ahead of the client's interests.

Confidentiality

- 5.3.9 An agent must hold all information acquired in the course of their professional relationship concerning the personal and business affairs of a client in strict confidence. Agents 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 client unless expressly authorized by the client or as required by law.

Withdrawal of Services

- 5.3.10 If an agent chooses to terminate their business relationship with a client they must do so in a manner that avoids prejudice and allows for the orderly transfer of the client's insurance business elsewhere.

Protecting Client's Interests

- 5.3.11 An agent must report all claims promptly.
- 5.3.12 An insurance policy or evidence of insurance coverage must be delivered within a reasonable time.
- 5.3.13 An agent must deal with all formal and informal complaints or disputes in good faith and in a timely and forthright manner. This includes, when necessary, referring that complainant to other more appropriate people, processes or organizations.

5.4 Examples of Misconduct

- 5.4.1 Failure to attempt to assess the client's needs and objectives.
- 5.4.2 Neglect to advise the client of changes in the insurance plan as a consequence of a medical rating.
- 5.4.3 Provide 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 insurance clients and insurers. An insurer's ability to meet its contractual duty is based on the agent's honesty and competence in gathering information and providing advice.

6.2 Requirement

An agent owes a duty to insurers with whom they transact business to:

- ❖ Realize that when taking an application, they are working as agents for the insurer;
- ❖ 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 potential claims.

6.3 Guidelines

- 6.3.1 An agent must fully and accurately disclose any information material to the insurer's decision to issue a contract of insurance.
- 6.3.2 Where there is an irreconcilable conflict between an agent's duty to an insurer and other duties as an agent, the agent should decline to act in the transaction.
- 6.3.3 Insurers rely on agents for information to make their underwriting decisions. All agents must make enquiries into the areas of risk that a reasonable and prudent agent would make in similar circumstances.
- 6.3.4 Where an agent collects or receives insurance premiums on behalf of an insurer, the agent must:
 - ❖ 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 in a timely fashion and;
 - ❖ Be observant of all regulations regarding money laundering.

- 6.3.5 Insurance should be sold or conserved based on the merits of the particular policy as it relates to the needs of the client. Attempts to discredit insurance companies are not the proper practice of the business of insurance. This requirement is not meant to prevent agents from providing information that is relevant to the client's ability to make an informed decision about their insurance.

6.4 Examples of Misconduct

- 6.4.1 Failure 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 Offering and binding terms under a policy that were not authorized by the insurer.
- 6.4.3 Failure to disclose to the insurer the complete and relevant risk details offered by the client.

7. DEALING WITH AGENTS

7.1 Principle

Along with fellow agents, an agent represents the insurance industry to the public and broader community. They view the industry as a single entity. Treating colleagues with courtesy and respect enhances an agent's own reputation and the public's confidence in the insurance industry.

7.2 Requirement

An agent must not defame or discredit other agents.

7.3 Guidelines

7.3.1 Insurance should be sold or conserved based on the merits of the particular policy as it relates to the needs of the client. Attempts to discredit another agent are not the proper practice of the business of insurance. This principle is not meant to prevent agents from providing information that is relevant to the client's ability to make an informed decision about his or her insurance.

7.4 Example of Misconduct

7.4.1 Discrediting an agent because of the insurance company he or she acts for.

7.4.2 Making accusations either verbally or in written form that are not based on fact and are intended to discredit the other agent.

8. DEALING WITH THE PUBLIC

8.1 Principle

The insurance industry provides services upon which the well being of individuals and businesses will often depend. It is in the interest of all agents to conduct themselves in a manner that promotes public confidence in the integrity and reliability of the practices evident within the industry.

8.2 Requirement

Agents must represent themselves and products and services they provide in an honest and courteous manner.

8.3 Guidelines

Holding Out

- 8.3.1 Agents must hold themselves out in a manner consistent with what appears on their certificates of authority.
- 8.3.2 Agents must not represent themselves as having specific expertise in a given area of practice or having industry designations unless they are suitably qualified by virtue of experience or training.

Advertising

- 8.3.3 Agents must not make any false or misleading statements in the solicitation of, or negotiation for insurance.
- 8.3.4 No agent may, by means of misleading or false statements, procure or induce or attempt to procure or induce any client to forfeit, surrender or allow the lapse of any policy of insurance.

9. DEALING WITH THE ALBERTA INSURANCE COUNCIL

9.1 Principle

Agents, industry and the public benefit from a degree of peer review under the Act and regulations. This privilege requires the co-operation and support of all agents.

9.2 Requirement

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

9.3 Guidelines

- 9.3.1 An agent, or former agent, served with a request from the Alberta Insurance Council must provide the information in accordance with the request.
- 9.3.2 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.

9.4 Examples of Misconduct

- 9.4.1 Failing to reply to a request from the Alberta Insurance Council.
- 9.4.2 Making material misstatements in reply to a request from the Alberta Insurance Council.
- 9.4.3 Swearing a false affidavit advising the Alberta Insurance Council that insurance activities had not been conducted while unlicensed.
- 9.4.4 Providing false and misleading information on licensing applications to conceal not having sufficient credits to meet the continuing education requirements.

10. COMPLIANCE WITH GOVERNING LEGISLATION

10.1 Principle

Agents are expected to adhere to all statutory and regulatory requirements. Violations of these requirements are a violation of the Code and may subject agents to disciplinary action under the Act.

10.2 Requirement

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

10.3 Guidelines

- 10.3.1 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.
- 10.3.2 An agent needs to be aware of all legislation which may impact their practice.