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INSURANCE
CONTINUING EDUCATION
COURSE**

ETHICS AN OVERVIEW

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INTRODUCTION

ETHICS-AN OVERVIEW

An increasing amount of States now require insurance professionals to be tested as part of their continuing education requirement in the area of ethics. The purpose of this is twofold. One, licensed professionals are held to a higher level of legal responsibility to the general public and more specifically to their clients. Two, by standardizing ethics practices the insurance agent will run into less risk of unethical practice suits by the general public.

Ethics is not an issue of knowing what's right; it's a question of doing what's right.

Agents must understand the motivation behind their actions to properly counsel and advise their prospects and clients. Is the motivation due to the need to earn a commission or is the counseling based on meeting the best needs of the client?

CHAPTER I

STANDARDS AND PRACTICES

I. PERCEPTIONS OF ETHICS

- A. Ethics is "the discipline that deals with what is good and bad or right and wrong or with moral duty and obligation."

Ethics can be approached from two levels:

1. The philosophical level-dealing with the possibilities
2. The practical level - dealing with the reality of every day experiences

- B. Ethics is a person's perceptions or convictions about what is right or wrong.

- C. Living by the Golden Rule is often the role model for sound religious ethics.

Society, through laws and accepted behavior patterns, imposes guidelines on how to deal with other people.

II. ETHICS FOR INSURANCE AGENTS

An insurance agent is anyone who solicits insurance or who aids in the placing of risks, delivery of policies or collection of premiums on behalf of an insurance company. There are four areas of ethical responsibility for an insurance agent:

- Responsibilities to the agent's insurer are covered under the concept of agency. The agent owes his or her insurer the duties of good faith, honesty and loyalty.

The agent's day-to-day activities are a direct reflection of the insurer's "image" within the community.

- Responsibilities to policy owners require the agent to meet the needs of the client, provide quality service, maintain loyalty, confidentiality, timely submission of applications and prompt policy delivery.
- Responsibilities to the public require the agent to maintain the highest level of professional conduct and integrity in all public contact in order to maintain a strong positive image of the industry.
- Responsibilities to the state require the agent to adhere to the ethical standards mandated by his or her state.

III. ETHICS FOR INSURANCE BROKERS

A broker's primary responsibility is to his or her client, meaning that, the broker is charged with the responsibility of finding the appropriate insurance coverage and markets to meet a client's needs.

Brokers are held to the same standards of care as agents in terms of their responsibilities to the general public and the state.

IV. CHARACTERISTICS OF A PROFESSIONAL

The word "profession" means an open or public declaration, but has come to mean any calling requiring academic training and specialized knowledge.

Insurance agents and real estate agents are considered professionals because their business meets the following six commonly accepted characteristics of a profession:

1. Commitment to high ethical standards;
2. Concern for the welfare of others;
3. Mandatory licensing and training;

4. Formal participation in an association or society;
5. Acting with integrity and objectivity; and
6. Public acknowledgement as a profession.

FOOD FOR THOUGHT

To better understand the issues discussed take a few minutes to think about or perhaps on a separate piece of paper outline your perceptions of the following thought provoking issues.

- How can an insurance agent maintain a high level of ethical conduct in the face of competition from within his or her agency and from agents of other insurance companies?
- Why do the ethical responsibilities to an agent's policyholders differ from his or her ethical responsibilities to the public?

CHAPTER II

FIDUCIARY RESPONSIBILITIES

The two fundamental principals of an agency relationship are power and authority and the high standards of conduct expected of the agent as a fiduciary

THE CONCEPT OF AGENCY

Agency is a legal term used to describe the relationship between two parties, in which the *principal* authorizes the *agent-to*, perform certain legally binding acts on the principal's behalf.

The main components of an agency relationship are:

- An agent is an agent of the principal, not the third party with whom the agent deals.
- An agent has the power to bind the principal to a legal contract and its terms.
- The acts of the agent, within the scope of authority, are the acts of the principal.

Agency can be created by:

- Appointment or Explicit contract;

EstoppeI -

the principal allows someone to act in a way that would induce a third party to believe that a person was an agent of the principal;

Ratification -

the principal later sanctions the actions of an authorized principal.

Before an individual can act as an agent he or she must have the *power* and *authority* to take action. There are three types of agency authority:

Express authority

is the authority the principal intentionally and expressly gives the agent.

Implied authority

is the authority that the principal intends for the agent to have, but does not expressly give.

Apparent authority

arises when a principal permits an agent to perform acts neither expressly or implicitly authorized.

The limits to an insurance agent's authority are usually defined in his or her agency agreement and the agent must work within those perimeters.

The ethical significance of these limits to an insurance agent's authority is that an agent must serve the needs of the insurer, live up to the contract and operate within the scope of his or her authority. By entering into this contractual relationship with the insurer, the agent becomes a fiduciary of the insurer.

THE AGENT AS A FIDUCIARY

An individual whose position and responsibilities involve a high degree of trust and confidence is known as a fiduciary. An insurance producer has a fiduciary relationship with his or her insurer with regard to the following:

Loyalty to the insurer

A producer must at all times act in the insurer's best interest, not his or her interests of personal gain.

Skill and performance

An agent has the duty to carry out his or her actions with the care and skill because an agent represents the company to the public and must act in such a manner as not to create a tarnished image for the company.

Full disclosure

An agent is obligated to fully disclose all information he or she has that may affect the insurer and its ability to do business. Full disclosure is critical during the application and claims handling processes.

Follow up

An agent has the obligation to act promptly in all matters regarding the insurer's business, including the duties to forward completed applications as quickly as possible.

Handling of premiums

By law, payment to an agent is payment to the insurer. The agent has a fiduciary duty to turn over all funds given to him or her as specified in the agency agreement.

Avoiding conflicts of interest

An insurance agent cannot serve two principals at the same time. An agent has the ethical duty to make full disclosure to an insurer in regard to any other related service he or she provides and receives compensation.

Responsible solicitation

An agent has the duty to solicit only business that appears to be good and profitable to his employer.

Competitive integrity

An agent cannot misrepresent or in any way defame a competitive agent or insurer. An agent must compete only on the basis of products and services he or she can provide.

PRINCIPAL'S RESPONSIBILITIES

The principal is responsible for the acts of its agents and owes the agent three duties:

1. Payment of compensation in the form of commissions or fees

2. Employment in return for meeting production responsibilities.
3. Indemnification or reimbursement for damages or expenses incurred in defending claims for which the agent may be liable.

Legally, a *broker* acts as an agent and representative of the applicant. However, when an insurer gives a policy for delivery to an insured, the broker becomes the agent for the insurer. Should payment of a premium be involved, payment to the broker is considered payment to the insurer.

Although, the broker technically represents the client, the ethical and fiduciary standards that apply to an agent also apply to a broker.

Employing sound ethics principles permits producers to serve both the insurer and client may consider serving both the insurer and the client without creating a conflict of interest.

FOOD FOR THOUGHT

To better understand the issues discussed take a few minutes to think about or perhaps on a separate piece of paper outline your perceptions of the following thought provoking issues.

- Can an agent go beyond the authority of the written agency contract and under what circumstances?
- What are the ethical implications of agents who pursue power beyond their authority?
- What is meant by the word "fiduciary"?
- How does an agent become the fiduciary of the insurer?
- What are some of the agent's fiduciary responsibilities?

- Is working for both the principal and the insurer a breach of fiduciary?
Detail your answer.

CHAPTER III

RESPONSIBILITIES TO CONSUMERS & CLIENTS

Agents fulfill their ethical responsibilities to their insurers by providing the appropriate Products to meet their consumers needs, as well as, quality service. Making sure that the consumer understands both the products and underwriting process is a critical responsibility of the agent.

The insurance agent can serve the needs of the prospect by providing the prospect with the types of policies that best fit his or her needs, in the amounts he or she can afford. In order to accomplish these goals, the agent should:

1. Obtain the required knowledge and skills to accomplish the needed objectives.
2. Educate the prospect or policy owner about the products and plans being recommended by the agent.

Additionally, the agent should be committed to, not only selling the product, but to quality service both before, during and after the sale.

This means:

1. Educating the prospect about insurance products and the underwriting process;
2. Treating all information obtained with confidentiality;
3. Disclosing all necessary information so that an informed decision can be made by both the insurer and the prospect.
4. Keeping the prospect informed through out his application.
5. Showing loyalty to prospects, clients and insurer

SERVICE BEGINS WITH THE APPLICATION.

1. It is the agent's duty to see to it that the application is completed both accurately and completely.
2. To properly explain why required information is necessary.
3. How the information will be evaluated by the underwriter.
4. That accuracy and honesty are imperative in the application.
5. A prospect should be informed that failure to disclose information could result in denial of claims or policy cancellation.
6. It should be explained that a *binder* provides temporary protection while the policy is being underwritten and is not a guarantee that the policy will be issued

The agent or broker is responsible for service before and after the sale, which includes:

1. Maintaining accurate client records;
2. Maintaining complete and accurate records of all business transactions;
3. Knowledge of new coverage and products.
4. Availability and changes in products offered in the marketplace;
5. Assistance with claims processing;
6. Reviewing clients' existing policies;

7. Suggestions on updating coverage on existing policies;

Ethically an agent or broker must respect the confidential information provided by the client and must assist the client in the following areas:

1. Selecting the most appropriate policy;
2. Understanding the basic features of the policy; and
3. Evaluating the costs and features of similar plans.

Ethical standards must be used in evaluating risk management.

Risk management is the process of decision making that protects assets and income against accidental or unintended loss by identifying, measuring, controlling and treating the elements that contribute to the risk.

Two basic risk management rules are:

1. The size of the potential loss must be within the scope of the resources available to the insurer.
2. The possible benefit must exceed the costs of the potential loss.

The risk manager, agent or broker should:

1. Identify and measure the loss exposures and hazard.
2. Determine the amount of money available to pay for the potential loss; and
3. Identify various risk management techniques to deal with potential losses.

Risk management techniques include:

1. Avoidance-averting a loss by refusing to take part in something that could cause a loss.
2. Transfer- shifting risk to another entity through a contract or hold-harmless agreement;

3. Loss control-reducing the frequency or probability of loss through loss prevention or lowering the severity of loss through loss reduction.
4. Retention-holding part of the risk through deductibles or all of the risk through self-insurance.
5. Insurance-transferring risk to an insurance company.

FOOD FOR THOUGHT

To better understand the issues discussed take a few minutes to think about or perhaps on a separate piece of paper outline your perceptions of the following thought provoking issues.

- What should agents do to provide quality service to clients?
- What obligations does an agent have when preparing an application for insurance coverage?
- What obligations does an agent have to a client after the sale?
- How does an agent's ethical behavior effect the industry?

CHAPTER IV

RESPONSIBILITIES TO THE GENERAL PUBLIC

Because unethical behavior by agents and brokers can effect the whole industry, the integrity and professionalism of their conduct is of utmost concern to all.

The public's perception of the insurance industry is gagged by the behavior of both insurance agents and brokers and their commitment to professionalism is the key to the public's trust of the industry.

Insurance is something that is used by many, but yet, many are unaware of how insurance works and benefits them.

The ethical agent has a duty to provide the consumer with fair and honest information of the policies and services he or she has to offer.

The Insurance Industry is regulated by both the state and federal governments with the state departments of insurance issuing rules and regulations, licensing insurers, agents

and brokers, suggesting laws to legislators, examining insurers' financial operations, approving policy forms and overseeing marketing practices.

A code of ethics is employed by the industry to guide corporations, agents and brokers.

Insurance producers continuously face complex issues dealing with skill, competence, and levels of knowledge required of professionals.

Professional conduct often dictates that the client's need be put ahead of the agent's needs, be dedicated to the insurance industry and offer quality plans from quality insurance companies. The agent should develop high ethical standards, adhere to integrity and serve the interests of the client.

The public's perception of the activities of an individual agent or broker shapes the perception of the industry as a whole.

Skill, competence, professionalism and moral integrity shape public perceptions.

FOOD FOR THOUGHT

To better understand the issues discussed take a few minutes to think about or perhaps on a separate piece of paper outline your perceptions of the following thought provoking issues.

- If you observed an agent, violating ethic principals what would you do?
- What should you do?

CHAPTER V

THE ENFORCEMENT OF ETHICS

Each state regulates the ethical conduct of insurance producers by creating rules, regulations and legislation to protect the consumer.

States through an Insurance Commissioner or Director to oversee the marketing activities of agents regulates the Insurance industry.

The National Association of Insurance Commissioners (NAIC) proposes model legislation to:

encourage uniformity in state insurance laws and regulations; assist officials in administering laws and regulations, help protect the interest of policy owners; and preserve state regulation of insurance.

Most states have laws that protect consumers against unfair trade practices such as:

misrepresentation and/or false advertising, coercion, improper placement, or rebating.

States also prohibit unfair claims methods and practices, such as:

1. Misrepresenting policy provisions to claimants or insureds;
2. Failing to deliver a determination on a claim within a reasonable time;
3. Failing to settle claims promptly and fairly;
4. Attempting to settle a claim for less than could be reasonably expected;
5. Engaging in activities that result in a disproportionate number of complaints;
6. Failing to provide necessary claims forms; or
7. Unfair claims practices.

Insurers are prohibited from engaging in underwriting or rating that is based on race, religion, and national origin or redlined areas.

In most states the punishment for unethical practices ranges from fines to license suspension and revocation.

Once a license is revoked, normally a one-year waiting period is required for re-application. And in most states a bond will also be required.

People who set high personal and professional goals of honesty, integrity, loyalty, fairness and truthfulness will never have to deal with the penalties set by state governing bodies.

FOOD FOR THOUGHT

To better understand the issues discussed take a few minutes to think about or perhaps on a separate piece of paper outline your perceptions of the following thought provoking issues.

- Give three examples of unfair claims practices

- Give three examples of discrimination in underwriting practices:

- Give three examples of unfair trade practices:

MAKING DECISIONS ETHICALLY

When trying to make decisions ethically, ask yourself the following questions:

1. To whom do I have obligations?
2. Whose rights must I protect?
3. What rules apply to this situation and should be observed?
4. Would I be proud of my decision and advocate this action again?

Even the most ethical producers are often time confronted with unhappy clients who feel their claim was improperly handled. Producers can help to protect themselves by:

1. Maintaining high standards of personal ethics;
2. Having errors and omissions insurance;
3. Being diligent when recommending policies and placing business; and
4. Being committed to continuing education.

Competition and production quotas often encourage producers to look to an increased bottom line, regardless of what it takes.

An agent's moral values and standards should help to resolve this inner conflict and guide them to the right decision.

FOOD FOR THOUGHT

To better understand the issues discussed take a few minutes to think about or perhaps on a separate piece of paper outline your perceptions of the following thought provoking issues.

- Do minimum production quotes increase unethical behavior?
- What would you do to increase the professionalism in your industry?

CHAPTER VI

CODE OF ETHICS

Independent Insurance Agents of America

I believe in the insurance business and its future, and that the Independent Insurance

Agent is The instrument through which insurance reaches its maximum benefit to society and attains its most effective distribution.

I will do my part to uphold and build the Independent Agency System, which has developed insurance to its present fundamental place in the economic fabric of our nation. To my fellow members of the Independent Insurance Agents of America, I pledge myself always to support right principles and oppose bad practices in the business.

I believe that these three have their distinct rights in our business: first, the Public; second, the Insurance Companies, and third the Independent Insurance Agents, and that the rights of the Public are paramount.

To the public

I regard the insurance business as an honorable occupation and believe that it affords me a distinct opportunity to serve society.

I will strive to render the full measure of service that would be expected from an Independent Insurance Agent.

I will analyze the insurance needs of my clients, and to the best of my ability, recommend the coverage to suit those needs.

I will endeavor to provide the public with a better understanding of insurance.

I will work with the national, state, and local authorities to heighten safety and reduce loss in my community.

I will take an active part in the recognized civic, charitable, and philanthropic movements, which contribute, to the public good of my community.

To the companies

I will respect the authority vested in me to act on their behalf.

I will use care in the selection of risky, and do my utmost to merit the confidence of my companies by providing them with the fullest creditable information for effective underwriting, nor will withhold information that may be detrimental to my companies' sound risk taking.

I will expect my companies to give to me the same fair treatment that I give to them.

To fellow members

I pledge myself to maintain friendly relations with other agencies in my community. I will compete with them on an honorable and fair basis, make no false statements, or any misrepresentation or omission of facts.

I will adhere to a strict observance of all insurance laws relative to the conduct of my business.

I will work with my fellow Independent Insurance Agents for the betterment of the insurance business.

Realizing that only by unselfish service can the insurance industry have the public confidence it merits, I will at all times seek to elevate the standards of my occupation by governing all my business and community relations in accordance with the provisions of this Code and by inspiring others to do likewise.

*American Institute for Chartered Property and Casualty Underwriters
Code of Professional Ethics*

Canons and Rules

Canon 1

CPCUs Should Endeavor at All Times to Place the Public Interest Above Their Own.
Rules of Professional Conduct

- R1.1 A CPCU has a duty to understand and abide by all *Rules of conduct*, which are prescribed in the Code of Professional Ethics of the American Institute.
- R1.2 A CPCU shall not advocate, sanction, participate in, cause to be accomplished, otherwise carry out through another, or condone any act which the CPCU is prohibited from performing by the *Rules of this Code*.

Canon 2

CPCUs Should Seek Continually to Maintain and Improve Their Professional Knowledge, Skills, and Competence.

Rules of Professional Conduct

- R2.1 A CPCU shall keep informed on those technical matters that are essential to the maintenance of the CPCU's professional competence in insurance, risk management, or related fields.

Canon 3

CPCUs Should Obey All Laws and Regulations, and Should Avoid Any Conduct or Activity Which Would Cause Unjust Harm to Others.

Rules of Professional Conduct

- R3.1 In the conduct of business or professional activities, a CPCU shall not engage in any act or omission of a dishonest, deceitful, or fraudulent nature.
- R3.2 A CPCU shall not allow the pursuit of financial gain or other personal benefit to interfere with the exercise of sound professional judgment and skills.
- R3.3 A CPCU will be subject to disciplinary action for the violation of any law or regulation, to the extent that such violation suggests the likelihood of professional misconduct in the future.

Canon 4

CPCUs Should Be Diligent in the Performance of Their Occupational Duties and Should Continually Strive to Improve the Functioning of the Insurance Mechanism.

Rules of Professional Conduct

- R4.1 A CPCU shall competently and consistently discharge his or her occupational duties.
- R4.2 A CPCU shall support efforts to effect such improvements in claims settlement, contract design, investment, marketing, pricing, reinsurance, safety engineering, underwriting, and other insurance operations as will both inure to the benefit of the public and improve the overall efficiency with which the insurance mechanism functions.

Canon 5

CPCUs Should Assist in Maintaining and Raising Professional Standards in the Insurance Business.

Rules of Professional Conduct

- R5.1 A CPCU shall support personnel policies and practices which will attract qualified individuals to the insurance business, provide them with ample and equal

opportunities for advancement, and encourage them to aspire to the highest levels of professional competence and achievement.

- R5.2 A CPCU shall encourage and assist qualified individuals who wish to pursue CPCU or other studies, which will enhance their professional competence.
- R5.3 A CPCU shall support the development, improvement, and enforcement of such laws, regulations, and codes as will foster competence and ethical conduct on the part of all insurance practitioners and inure to the benefit of the public.
- R5.4 A CPCU shall not withhold information or assistance officially requested by appropriate regulatory authorities who are investigating or prosecuting any alleged violation of the laws or regulations governing the qualifications or conduct of insurance practitioners.

Canon 6

CPCUs Should Strive to Establish and Maintain Dignified and Honorable Relationships with Those Whom They Serve, with Fellow Insurance Practitioners, and with Members of Other Professions.

Rules of Professional Conduct

- R6.1 A CPCU shall keep informed on the legal limitations imposed upon the scope of his or her professional activities.
- R6.2 A CPCU shall not disclose to another persona any confidential information entrusted to, or obtained by, the CPCU in the course of the CPCU's business or professional activities, unless a disclosure of such information is required by law or is made to a person who necessarily must have the information in order to discharge legitimate occupational or professional duties.
- R6.3 In rendering or proposing to render professional services for others, a CPCU shall not knowingly misrepresent or conceal any limitations on the CPCU's ability to provide the quantity or quality of professional services required by the circumstances.

Canon 7

CPCUs Should Assist in Improving the Public Understanding of Insurance and Risk Management.

Rules of Professional Conduct

- R7.1 A CPCU shall support efforts to provide members of the public with objective information concerning their risk management and insurance needs, and the products, services, and techniques which are available to meet their needs.
- R7.2 A CPCU shall not misrepresent the benefits, costs, or limitations of any risk management technique or any product or service of an insurer.

Canon 8

CPCUs Should Honor the Integrity and Respect the Limitations Placed upon the Use of the CPCU Designation.

Rules of Professional Conduct

- R8.1 A CPCU shall use the CPCU designation and the CPCU key only in accordance with the relevant GUIDELINES promulgated by the American Institute.
- R8.2 A CPCU shall not attribute to the mere possession of the designation depth or scope of knowledge, skills, and professional capabilities greater than those demonstrated by successful completion of the CPCU program.
- R8.3 A CPCU shall not make unfair comparisons between a person who holds the CPCU designation and one who does not.
- R8.4 A CPCU shall not write, speak, or act in such a way as to lead another reasonably to believe the CPCU is officially representing the American Institute, unless the CPCU has been duly authorized to do so by the American Institute.

Canon 9

CPCUs Should Assist in Maintaining the Integrity of the *Code of Professional Ethics*.

Rules of Professional Conduct

- R9.1 A CPCU shall not initiate or support the CPCU candidacy of any individual known by the CPCU to engage in business practices which violate the ethical standards prescribed by this *Code*.
- R9.2 A CPCU possessing unprivileged information concerning an alleged violation of this *Code* shall, upon request, reveal such information to the tribunal or other

authority empowered by the American Institute to investigate or act upon the alleged violation.

- R9.3 A CPCU shall report promptly to the American Institute any information concerning the use of the CPCU designation by an unauthorized person.

PUBLISHER'S NOTE

IMPORTANT NOTICE

EVERY CARE HAS BEEN TAKEN TO ENSURE THAT THE INFORMATION IN THIS GUIDE IS AS ACCURATE AS POSSIBLE AT THE TIME OF PUBLICATION. PLEASE BE ADVISED THAT LAWS AND PROCEDURES ARE CONSTANTLY CHANGING AND ARE ALSO SUBJECT TO DIFFERING INTERPRETATIONS. HOWEVER, NEITHER THE AUTHORS NOR THE PUBLISHERS ACCEPT ANY RESPONSIBILITY FOR ANY LOSS, INJURY, OR INCONVENIENCE SUSTAINED BY ANYONE USING THIS GUIDE. THIS INFORMATION IS INTENDED TO PROVIDE GENERAL INFORMATION AND BACKGROUND AND IS DISTRIBUTED ON THE BASIS THAT THE AUTHORS ARE NOT ENGAGED IN RENDERING LEGAL, ACCOUNTING, OR ANY OTHER PROFESSIONAL SERVICE OR ADVICE. THIS GUIDE WAS DESIGNED TO GIVE YOU AN OVERVIEW OF THE INFORMATION PRESENTED AND IS NOT A SUBSTITUTE FOR PROFESSIONAL CONSULTATION.

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