Chapter 4 Ethics – Prohibited Activities

Protecting the Consumer
Ethics must be applied to the way in which an agent conducts his day-to-day business in the insurance industry and how he handles his insurance consumers. Agents should strive to maintain business practice standards that are far above the minimum requirements set out by their states. There are serious penalties for circumventing these requirements.

There are several specific areas where the insurance industry regulates the behavior of the individual agent as well as the insurer, in the form of prohibited activities. The following list is not all-inclusive, and agents must be certain to follow the spirit, as well as the letter, of the law. There are other areas where an agent may run afoul of common practices, and it is the responsibility of each agent to maintain high standards.

Prohibited Activities
Agents are required to follow the ethical standards established in their states, and must not engage in the following prohibited activities:

- Misrepresentation
- Altering applications
- Premium theft
- Unlicensed sales
- Forgery or "Windowing"
- Misleading sales techniques
- Illegal rebates
- Discrimination
- Untruthful Policy Replacement coverage
- Untruths in advertising

Misrepresentation
In the normal course of a discussion with a potential client, an insurance agent may say something inadvertently, or make an error in representation about the insurance product that he/she is presenting. Such omissions or errors are not committed intentionally, and the insurance agent does not intend to defraud the consumer. Without malicious intent, such misrepresentations are not fraudulent, although they are still subject to penalties.

It is the responsibility of the agent to make sure he/she is well-versed about the products he/she offers. If there is any uncertainty about provisions or features, it is incumbent upon the agent to research the issue before providing erroneous information to the client.

The following are a few examples of misrepresentation:

- Advising a client that an auto policy will cover liability when it is only for collision
- Telling a prospective client that dividends are guaranteed when they are not
- An agent telling prospects that he/she represents several companies when in fact he/she represents only one
- Talking about a term life insurance policy in such a way to lead the prospective customer to believe that it will have cash value accumulation

Altering Applications
Altering applications, for any purpose, is not permitted. It is illegal and insurance agents must not engage in altering applications. In the past, applications have been altered for a number of fraudulent reasons, including these:

-Changing underwriting information to get a more favorable premium rate
-Switching the type of coverage applied for
-Adding additional zeroes to the amount of coverage applied for

Premium Theft
Of all the prohibited activities, premium theft ranks among the worst offense an insurance agent can commit. In addition to the outright theft of the premium money, failure to turn over a premium on a policy prevents the policy from going into effect. The consumer believes he/she is insured, but in fact, his/her application was never submitted to the insurance company. These situations are quickly discovered if the prospective insured or the insurance company makes any inquiry. Every state insurance department rigorously punishes premium theft.

Unlicensed Sales
As mentioned previously, license regulations help protect the general public and allow the insurance department to maintain standards of uniformity. By licensing individual agents, the state can provide some level of assurance to the consumer that his/her needs will be met by an individual capable of offering guidance and competency. Each member of the insurance industry strives to maintain the standards established, for those who do not may tarnish the reputations of the other members of the industry.

Agents must be licensed properly to sell insurance in the jurisdictions where they do business. A resident license is required for selling within the state where the agent resides. Should an agent sell in another state, he must obtain a non-resident's license to do so. In many states, additional licenses may be required to sell variable products, such as variable annuities or variable life. The sale of products other than life insurance, such as property and casualty or investments, also requires a separate license.

It is the responsibility of every agent to comply fully with the state regulations regarding his/her licensing requirements for all activities in which he/she engages.

Forgery
Like theft of premium funds, forgery is an act that is not tolerated and which is punished severely by the insurance department. Tracing over an authentic signature on one form onto another form is known as 'windowing' and is illegal. Windowing has been used to obtain an illegal policy loan, or to obtain a change of dividend option. In addition to punishment by the insurance department, forgery is also subject to criminal penalties.

Misleading Sales Techniques
Misleading sales techniques violate the consumer's trust and harm the industry by offering a product that the agent does not actually intend to sell. Sometimes known as a 'bait and switch' tactic, a misleading sales tactic often involves offering one product that looks almost too good to be true, and then offering in its place a similar or substandard product. In most cases, the "too good to be true" product was never available in the first place.

An ethical insurance agent is always careful never to make a promise, or offer a product, which cannot be delivered.

Illegal Rebates
Rebating offers buyers of larger policies more leverage for financial incentives and harms buyers of smaller policies. The buyers of the smaller policies, in effect, end up paying more for their policies. In the two states that allow rebating, it is heavily regulated by their insurance departments.

Examples of rebating are these:

-Giving anything of value to the customer for buying insurance
-Giving back the premium, in whole or in part, to the customer
-Advising the customer of benefits or funds that will be received but which are not specified in the contract

Discrimination
It is against the law to discriminate against individuals in the same class regarding the availability, terms, benefits, premiums, rates, or dividends pertaining to any policy of life, health, or property-casualty insurance.

Untruthful Policy Replacements
Also known as twisting, this situation occurs when an agent advises a policyholder to let his current policy lapse, or to surrender it, so that a new policy can be purchased. Although this is not always a misleading situation, in some cases an unscrupulous agent may convince the policyholder to let a valid policy lapse just to purchase a new one on which the agent will reap commission.

For replacement of coverage to be legal, there must be proof that the policyholder will be better off with the new policy. To use the offer of a replacement policy just as a sales technique, however, is unethical.

There are specific procedures regarding when an agent can replace a life insurance policy. These procedures are regulated by most states. Among these procedures are the requirements that the policyholder must be provided a written explanation of exactly what the replacement means, as well as notification of the insurance company that the policy is to be replaced.

Determining the best interest of the policyholder always should be foremost in an agent's list of priorities. If a policy has been in effect for a long time, the policyholder may not be eligible for the same coverage and rate on a new policy. Policies that have been building cash value may be undermined by replacement with a new policy that will take many years to accumulate the same level of cash value.

Untruths in Advertising
An advertisement is generally defined as any printed or published material intended for the general public. Advertisements and sales materials used with the public have direct impact on an agent's sales and sales practices.

Advertising regulations differ from state to state, but the following list encompasses the rules most commonly applied by the states:

-Advertisements must be truthful, and must not have the "sin of omission," or failure to include information in an attempt to mislead the consumer.

-It must be clear that insurance is the subject of the ad.

-Ads that tout unusually high claims settlements are usually considered misleading unless the ad specifically states that the amount is unusual. Ads may not imply that claims settlements will be generous beyond the terms of the policy, or that a policy owner will receive special treatment that is not specified in the policy.

-Technical terms and illustration may not be used if their meaning is not clearly understandable to the individuals who might purchase the product. Required disclosures must be set out in plain language.

-If using statistics in an ad, they must be relevant and factual. The source of the statistics must be identified in the ad.

-Ads may not offer anything that is in violation of public policy or law.

-Ads may not offer anything of value that is outside the express terms of the policy advertised.

-It is not allowable to make unfair comparisons of policies or any of their terms.

-Testimonials from third parties must really reflect the true opinion of the third party and must relate to the exact policy that is being advertised.

-Premium amounts stated in an ad must be for the exact coverage described in the ad.

-Ads may not create the impression that the advertiser or a policy is being recommended or backed by any state or federal government agency. If an ad refers to policy approval by state authorities, it must also disclose that all legitimate insurance policies receive such approval.

Ethics are Number One Priority

The work of an insurance professional plays an important, though sometimes unrecognized, role. The insurance professional is part of the insurance industry's public relations team. The agent meets the public every day, and the way an agent conducts his business leaves a lasting impression relating to the insurance industry as a whole.

Cutting down the Competition

Insurance agents must maintain a level of professionalism in their attitudes toward their competitors. An agent must avoid criticizing other agents, as it harms the competitor, puts the critical agent in a bad light, and leaves a bad impression of the insurance industry in general with the prospective client. If unchecked, misleading or harmful criticism of another in the industry may lead to revocation of the license of the agent who is guilty.

Lofty Goals

A professional in the insurance industry must set lofty goals, and adhere to a set of high personal ethical standards, as well as comply with the minimum legal standards established by the state. These minimum legal standards create safeguards to protect the consumer, but professionalism requires more than just meeting these standards—it means exceeding these standards. An insurance professional achieves this goal by putting his clients' interests ahead of his/her own.

Trust is the Key to Success as an Agent

Maintaining high ethical standards is beneficial for the client and the agent. Put simply, people like to do business with people they trust. An agent who maintains high standards is going to have more success in business than the agent who does not maintain those same high standards. Genuine respect and concern for the client motivates the professional agent to act ethically. Agents who are tempted by an individual or find themselves in a situation in which they are pressured to act in an unethical matter must consider the long-term results of those actions, and the result it may have on the agent's career.

Some industry leaders advise that in perhaps no other industry is the element of trust as important as it is in the insurance business.

Making a Difference

-Just why that element of trust is crucial to an insurance agent's professional role is evidenced by the services an agent performs. Consider some of the following areas where an insurance agent serves the client:

-An insurance agent may provide the financial planning tools that enable a child to go to college by assisting his parents with trusts or life insurance.

-An agent may assist business partners in designing a buy-sell agreement or business continuance plan that will save the company in the event of a partner’s death, or casualty to the business.

-An agent may assist a couple plan their retirement years, and give them the tools to spend a worry-free retirement.

-An agent may provide a comfortable lifestyle for survivors of a policyholder, by providing a product to the policyholder that was designed to enable them to remain in their home, and continue their normal standard of living.

-Insurance agents clearly present an essential service in our society.