

# Common Law Ethics and Professional Practice

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## TIA

- only issue when
  - client answers no to all health questions
  - have no reason to disbelieve the client's answer
  - the first premium has been paid (by cheque or pre-authorized debit)
- the first payment has to be honoured for a TIA to be in force
  - the statement is included in the terms and conditions of a TIA

## Group insurance plan

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- the employer (the group itself) = plan sponsor, policyholder

## Life insurance

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- accelerated death benefits

- divorce = deemed the former spouse as pre-deceased
  - can claim for spousal support = "dependents relief legislation"
- would not entitle to any assets

- policyholder = policy owner = the insured
- life insured
- beneficiary
  - the designation can be with the insurer or through last will and testament
- for group policy
  - the company: plan sponsor, group insured, policyholder
  - the insurer
  - the employee: plan member, group life-insured
  - beneficiary

- declared dead
  - missing for more than 7 years
  - when some level of proof, can apply to courts sooner
  - establishing the timing of death is important
    - in order to substantiate that the policy was in force
  - not perform an illegal act; otherwise -> "criminal act" exclusion

- has valid claim on the insurance benefit
  - collateral assignment
    - group policy can't used as collateral for a loan
    - not a change in ownership, not taxable event
    - bank can't force the client to buy from its own creditor insurance
      - which is consider tied selling
  - under a court order; eg. overdue child or spousal support payments

## AD&D (accidental death and dismemberment)

- below are excluded
  - vehicle racing
  - illegal act
  - intentional action cause death

## 10 day free look period (right of rescission)

- apply to
  - life insurance
  - accident and sickness contracts
- not apply to
  - individual life insurance contract;
    - eg. segregated funds (2 days from issue)
      - contract rescission, commissions and fees are reversed
      - no redemption charge
      - but if market value drop, the investor bear the loss
  - individual variable insurance contracts

## Trafficking in insurance

- some jurisdictions prohibit outright
- even if not specifically prohibited in the jurisdiction, it is discouraged
- some insurer will even terminate the relationship with an agent participating in such transactions

## Agent

- should act in the clients' best interest
- mis-action
  - advise on specific stock needs securities license

## Underwriting

- agent should take notes if the answers of client not seemed to match the observation
- for doubt on non-smoke, the insurer can request a saliva test

## The purpose of CPP, OAS, and GIS

- a reliable base of income which additional retirement income should be built
- the amount not sufficient for retirement
- only a base, other income coming from RRSPs, pensions, or other savings

## MGA (managing general agent)

- independent agents place business with two or more insurers
- the application submit through a MGA to insurance company
- MGA already has arrangement with one or more insurers
- captive agents
  - place business with only one insurer
  - consider an employee of the insurer

## Assuris

- coverage of the cash value
  - 100% and upto \$60,000
  - 85% of the cash value
- the death benefit
- disability policy
  - for monthly income, greater of \$2,000 or 85% of promised benefit

## Law

- the Canadian Constitution
  - give both provincial and federal government the right to pass laws
  - precedence below
    - common law
    - the life insurance act
    - the uniform law conference
- referral existing clients to other companies, violate
  - PIPEDA (the personal information protection and electronic documents act)
    - establish rules on how businesss can collect and use personal info
    - only needed info is collected and disposed when no longer needed
  - FINTRAC
    - suspicious transactions should be reported to within 30 days
  - PCMLTFA?
  - The Privacy Act
    - legislates how the federa/government handle personal info
- send emails to past and current client about new business
  - CASL (canadian anti-spam legislation)
  - prohibits CEMS (commercial electronic msg)
  - CRTC?
- revoke a insurance license

- the provincial regulator
- FSCO (financial services commission of Ontario), if in Ontario
- CISRO?

## Property rights

- common law, no presumed division of assets
- has the right to seek spousal support

## Protected class beneficiaries

- the insurance proceeds do not form part of the deceased's estate

## POA

- POA (power of attorney) effect before become incapacitated
- enduring power of attorney, has all right
- PoAPC (power of attorney for personal care)

## Statutory definition of beneficiary

- beneficiary as a person other than the insured or his representative
- for determining whether creditor protection exists

## No fault insurance

- both insured file claims with own insurers