ONLINE ETHICS AT WORK 3-HOURS ETHICS

C.E. SOLUTIONS

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ETHICS AT WORK

- Review and study this course at your leisure.
- Once the course is completed, enter the exam through the ClassMarker link at the end of the exam.
  - You must receive a score of 70% or better to pass.
  - You may retake the test at no additional cost as needed.
- The Course Certificate will be emailed to you for your records and sent electronically to the insurance department upon completion of all your tests.
- You will still be responsible for renewing your license(s) with the Insurance Department.

OBJECTIVES

- Why ethics are so important in the insurance business.
- What ethical responsibilities an insurance professional has.
- Why the insurance industry is regulated and how it is regulated.
- How consumer protection and ethical issues relate to insurance regulation.
- What specific practices in sales, underwriting and claim handling are regulated.

ETHICS: YOUR TOP PRIORITY

Why are ethics important?

- Businesses become successful by providing value and taking care of their customers.

Why is trust more of a factor when buying an insurance policy than when buying a car?

- If the policy doesn't deliver on its promises, a claim could wipe out a person's finances.
- A tangible product like a car can be physically inspected, but with an intangible product like an insurance policy, a consumer is buying a promise to receive compensation for losses that may no occur for years in the future.
  - It takes a lot of trust to trade today's dollars for that kind of product.

ETHICS AFFECT THE INDUSTRY'S PUBLIC IMAGE…

Research indicates that most people trust their own insurance producer and their own insurance company, yet they view the insurance industry negatively. Why do you think that is?

- Ethical values tend to be expressed in absolute terms. To be considered truthful, a person must never lie. Even if a person lies only once, that lie casts tremendous doubt on the truth of that person's other statements.
- This holds true for groups of people. When the actions of a relatively few people who act unethically are publicized, the reputation of the entire industry is tarnished.

THE REWARDS FOR ETHICAL BEHAVIOR

- Who gets hurt when an agent acts unethically?
  - Consumers
  - Industry's image
  - Higher E&O premiums for other insurance professionals
- What can be the consequences when an unethical agent gets caught?
  - They may lose their job.
  - They will be personally disgraced.
  - They may have to pay fines or monetary damages.
  - They may even go to jail.

THE REWARDS FOR ETHICAL BEHAVIOR …

So, what are the benefits of ethical behavior?

- Ethical people tend to be more successful in their careers
- People like dealing with people they trust.

PRESSURES TO PERFORM

Producers, underwriters, claim reps, and other insurance professionals all have work objectives they are expected to meet. Sometimes, the pressures of these demands may tempt them to take an ethical short-cut. But the pressure to perform never justifies an unethical act.

PRESSURES TO PERFORM

A new agent might find their production objective is too challenging. While it's crucial to meet these objectives, the agent needs to realize that production objectives assume *that only ethical actions will be taken to reach them*!

Ethical behavior is *part* of the objective!

PRESSURES TO PERFORM

A cynic might argue that if the agent makes a sale by taking an unethical action and no one else finds out, it will look like he met his production goal. Why is this reasoning flawed?

- Unethical behavior is usually discovered, and its consequences are worse than those of not meeting a goal.
- The agent wouldn't have really met their objective, because ethical behavior is part of the objective.

PRESSURES TO PERFORM

Producers, underwriters, claim reps, and others all have work objectives they are expected to meet.

Is taking the ethical path always easy?

To whom do you have an ethical responsibility?

PRESSURES TO PERFORM

Is taking the ethical path always easy? What may be a consequence of choosing an ethical action?

- You may lose business to a competitor who isn't ethical.
- You may encounter a manager in your career whose ethical standards leave something to be desired.

ETHICAL RESPONSIBILITIES

To whom do you have an ethical responsibility?

- Insureds
- Third-party claimants (fulfill their needs and provide quality service)
- Your employer
- Your coworker
- The general public (to the public you represent both your insurance company and the insurance business as a whole)

CONFLICTS IN ETHICAL RESPONSIBILITIES…

Is it possible to serve the best interests of your company and an insured at the same time? Can you report another employee's unethical behavior to management when you are expected to be loyal to your coworkers?

- Your duty of loyalty to co-workers may encompass honesty and trustworthiness but does not extend to keeping quiet about their unethical behavior.

CONFLICTS IN ETHICAL RESPONSIBILITIES…

- Putting the customer first benefits everyone. Does that mean you should pay a claim that is not covered by the policy or provide coverage for highly questionable risk that doesn't fit your company's underwriting standards?
  - No – it means you provide coverage when it is reasonable to do so and give the customer what they are entitled to receive under the policy.
- What should you do if you need help resolving an ethical conflict?
  - Talk to a supervisor, or if applicable, employees in your office who handle ethical issues.

FIDUCIARY DUTY …

The unique characteristics of an insurance contract:

Contract of Adhesion

Contract of utmost good faith

Contract of indemnity

FIDUCIARY DUTY …

The unique characteristics of an insurance contract:

- **Contract of adhesion**: the terms of the contract are drawn up by one of the parties (the insurer). Because insureds have little or no input, courts will usually interpret any unclear wording in an insurance policy in their favor.
- **Contract of utmost good faith**: the insurance company relies on the truthfulness and integrity of the applicant when issuing a policy. In return, the insured relies on the insurance company's promise and ability to provide coverage and pay future claims.
- **Contract of indemnity**: An insurance policy is a contract of indemnity. The principle of indemnity states that when a loss occurs, an individual should be restored to the approximate financial condition they were in before the loss, no more and no less.

FIDUCIARY DUTY

What are some examples of an action that breaches an insurance professional's fiduciary duty?

- A producer accepts an insured's premium payment and pockets the money for their own use, instead of turning it over to the insurance company.
- A claim handler settles a claim for the less-than-the-full amount the insured is entitled to receive under the policy.

CONTINUING EDUCATION…

Because our business is constantly changing, it's critical that insurance professionals maintain lifelong educational programs to keep their professional knowledge and skills up-to-date. In Kansas and Missouri, agents have both an ethical and a legal duty to fully comply with these laws.

CONFIDENTIALITY

Insurance professionals have access to a great deal of personal and financial information about their customers, much of which may be of a highly sensitive nature. What are some examples?

- How much their home or personal possessions are worth.
- Medical histories.

CONFIDENTIALITY

Confidential information is necessary to obtain adequate insurance coverage or process a claim, and you earn your customers' trust by not misusing or disclosing unnecessarily confidential information. When may it be proper to disclose confidential information about a customer?

- When it is necessary in the course of business.

STANDARDS FOR ETHICAL BEHAVIOR

Obey the Letter and Spirit of Insurance Laws

At a minimum, you must abide by all laws that govern your activities as an insurance professional.

That means you must understand these laws thoroughly and follow them to the letter.

Is it possible for an action to be legal, but not ethical?

STANDARDS FOR ETHICAL BEHAVIOR

Let's say you have an independent producer who is trying to decide which personal auto policy to recommend to a client, Company A or Company B. Both are equal in terms of the coverage provided, but Company A's policy charges a slightly higher premium than Company B's and would bring the agent a higher commission.

- Would she break the law by recommending Company A to get a higher commission?
  - No
- Is it ethical?
  - No
  - It doesn't follow the spirit of the law by putting the client's needs first and selecting the policy with the lower premium.

Standards For Ethical Behavior

Honesty

Integrity

Responsibility

Caring

Courage

Excellence

HONESTY

Honesty is the cornerstone of ethical behavior.

That means not deceiving others, either by what you say, or what you *don't* say!

HONESTY

Suppose a producer tells a prospective client that a particular policy provides replacement cost coverage but doesn't make it clear that maintaining a certain amount of insurance is a condition of qualifying for such coverage.

- Is what they said true?
  - Yes … But the information withheld could result in a misunderstanding on the client's part.
- Honesty requires telling the *entire* truth.

HONESTY

In addition to always telling the entire truth, an honest person is fair. They will:

- Make sure others receive what they are entitled to, and
- Not accept things that they are not entitled to.

HONESTY

Which of the following are examples of honest insurance professionals?

- During a meeting with a potential homeowners insurance client, a producer discovers the client owns a boat that would not be fully covered under the policy. The producer explains this policy limitation to the client and suggests several alternatives for insuring the boat.
  - Yes, the producer is honest.

HONESTY

Which of the following are examples of honest insurance professionals?

- While processing an auto physical damage claim, the claims person discovers the figures on the repair estimate are smudged and difficult to read. He contacts the body shop to verify the figures so the insured can be paid the right amount.
  - Yes, the claims person is honest.

HONESTY

Which of the following are examples of honest insurance professionals?

- Due to a mix-up in the Accounting Department, Lea, an underwriter is given credit for underwriting several accounts that were handled by a recently-retired underwriter. Getting credit for the work makes Lea eligible for a quarterly bonus. She says nothing about the mistake and accepts her bonus check anyway.
  - Lea was not honest.

HONESTY

Which of the following are examples of honest insurance professionals?

- Marita is handling a $150,000 liability claim that was filed against the insured under his homeowners policy. She tells the claimant's attorney that the policy's limit for liability coverage is $100,000. Later she discovers she made a mistake; the limit is $200,000. Marita does not disclose the correct limits to the attorney.
  - Marita was not honest.

INTEGRITY

Integrity is like honesty, but integrity carries with it the connotation of being incorruptible no matter how great the temptation to be dishonest. A person who has integrity does the right thing regardless of the consequences.

INTEGRITY

- Is it o.k. to be honest only when it doesn't cost too much?
  - No.
- Some might be willing to risk losing a small sale, but not a large one, for the sake of being honest.
- Some might be willing to risk losing any size sale, but not their job.
- People with integrity are willing to take any risk for the sake of being honest, *regardless of the cost.*

RESPONSIBILITY

Why do consumers rely on an insurance professional's expertise?

- Insurance professionals have specialized knowledge that is not easily accessible or understandable to most people.

- They help determine what type of insurance they need (or don't need) to buy.
- They can obtain the right coverage at the best price; and …
- They can interpret policies to ensure that covered claims are paid.

CARING

- Insurance professionals care about others. Your work helps people protect themselves against financial disaster, either by helping them obtain the insurance they need or ensuring that covered claims are paid promptly.
- This is where the Golden Rule comes in … by caring, we treat people like we would want to be treated in the same situation!

COURAGE

It takes courage to be ethical. The right thing is always the best thing in the long term, but in the short term there may be a price to pay.

- You may have to stand up to a customer, an esteemed colleague, a superior, even your own family who doesn't want to risk the material loss that taking an ethical stance might bring.

COURAGE

Courage is a universally admired trait. By standing up for your principles, you win the respect of your peers, superiors, customers, and families.

EXCELLENCE

How can ethical behavior help you excel in the insurance business?

- By acting ethically, you will gain the respect and confidence of customers and colleagues.
- Those who are ethical are usually more successful in their careers than those who are not.

EXCELLENCE

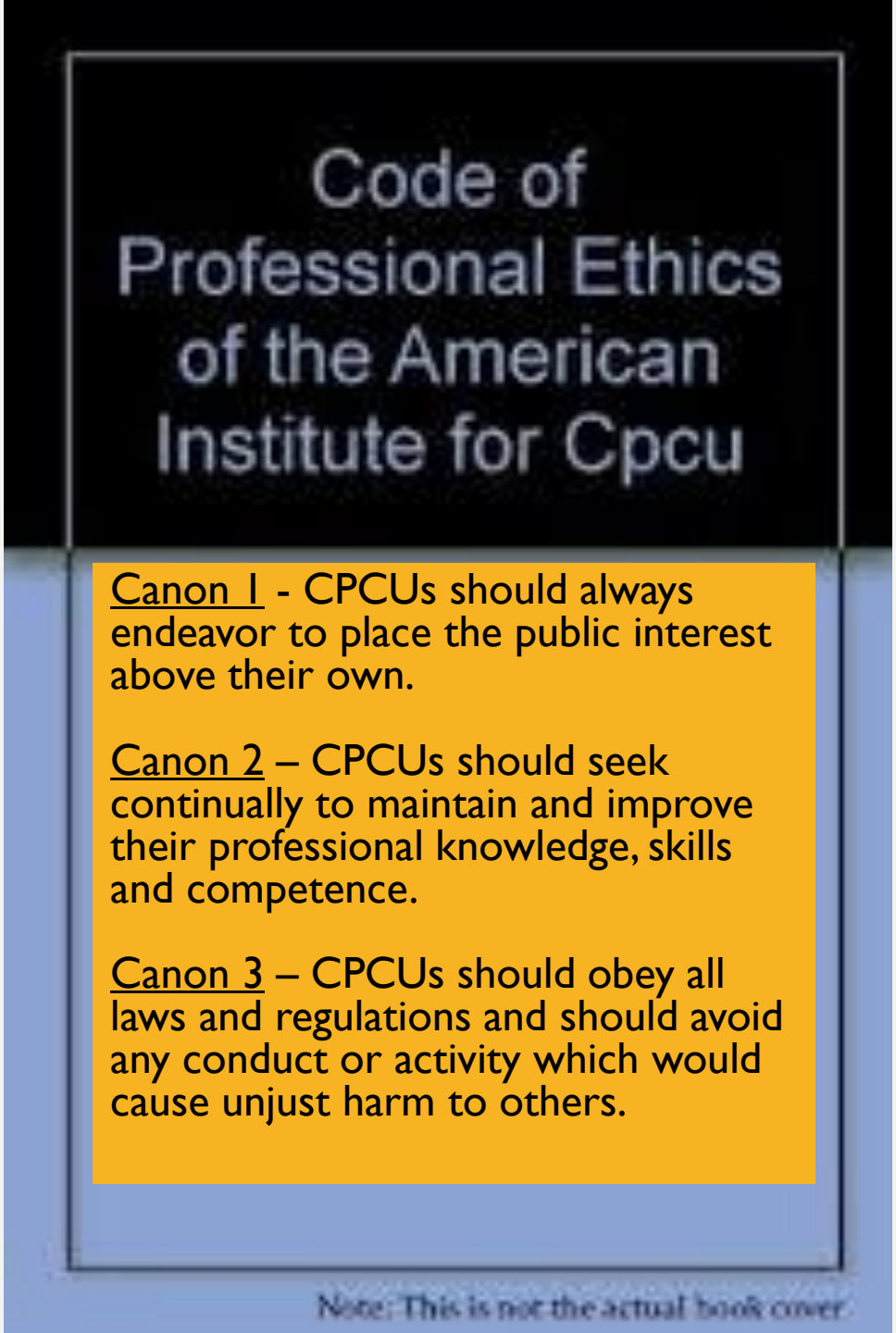
Excellence is the quality of being outstanding!

EXCELLENCE

- To excel in the insurance business, ethical behavior is a must.
- Ethics gives you solid ground to stand on.
- Gains obtained through unethical actions are usually lost – and when they are lost, so is the person's reputation and livelihood.

ETHICS CODES OF PROFESSIONAL INSURANCE ORGANIZATIONS

Professional insurance associations have developed ethics codes that provide guidelines for ethical behavior. Your employer may also have its own ethics code or mission statement.


Code of Professional Ethics of the American Institute for Cpcu
Canon 1 - CPCUs should always endeavor to place the public interest above their own.
Canon 2 – CPCUs should seek continually to maintain and improve their professional knowledge, skills and competence.
Canon 3 – CPCUs should obey all laws and regulations and should avoid any conduct or activity which would cause unjust harm to others.
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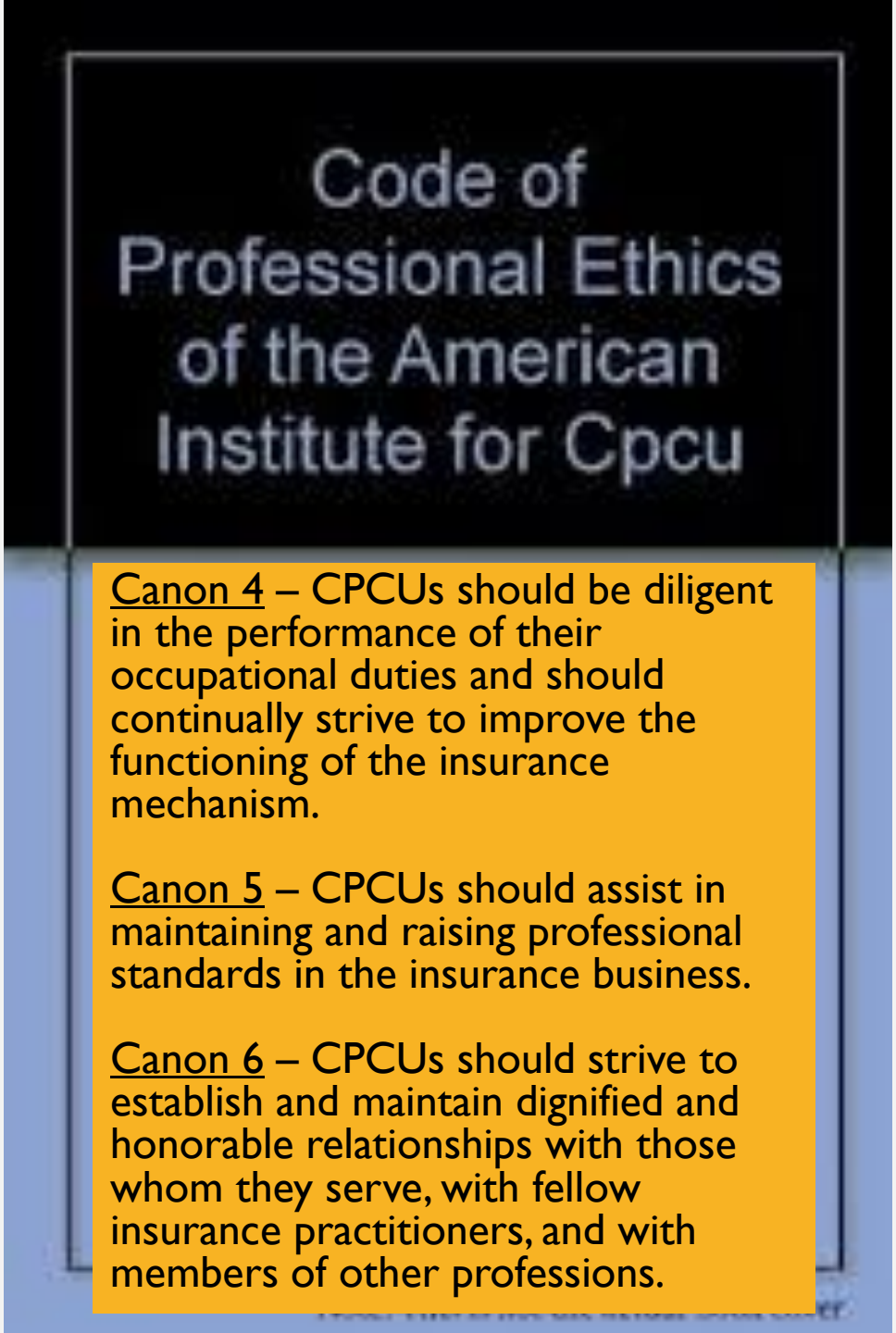
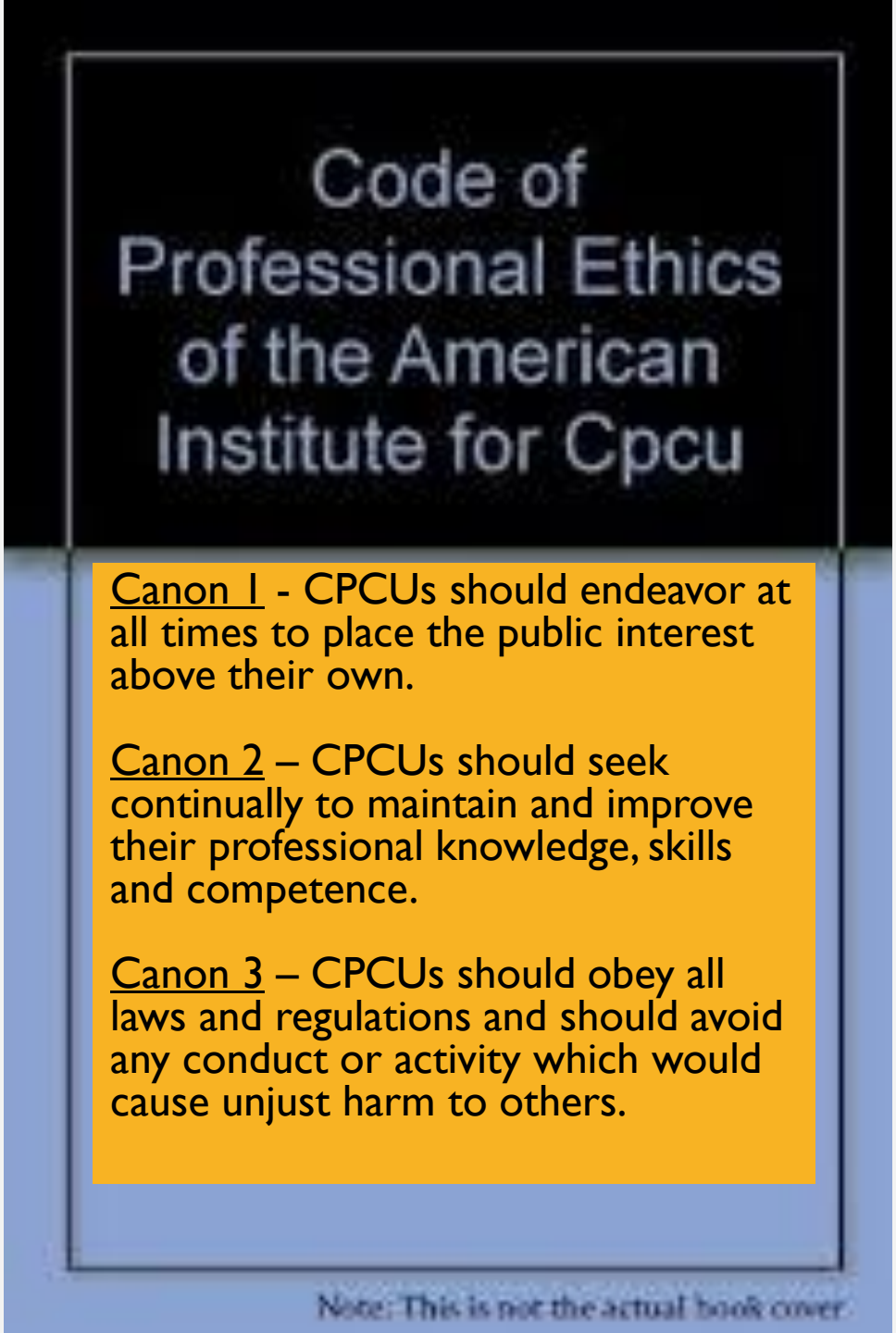

Code of Professional Ethics of the American Institute for Cpcu
Canon 4 – CPCUs should be diligent in the performance of their occupational duties and should continually strive to improve the functioning of the insurance mechanism.
Canon 5 – CPCUs should assist in maintaining and raising professional standards in the insurance business.
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.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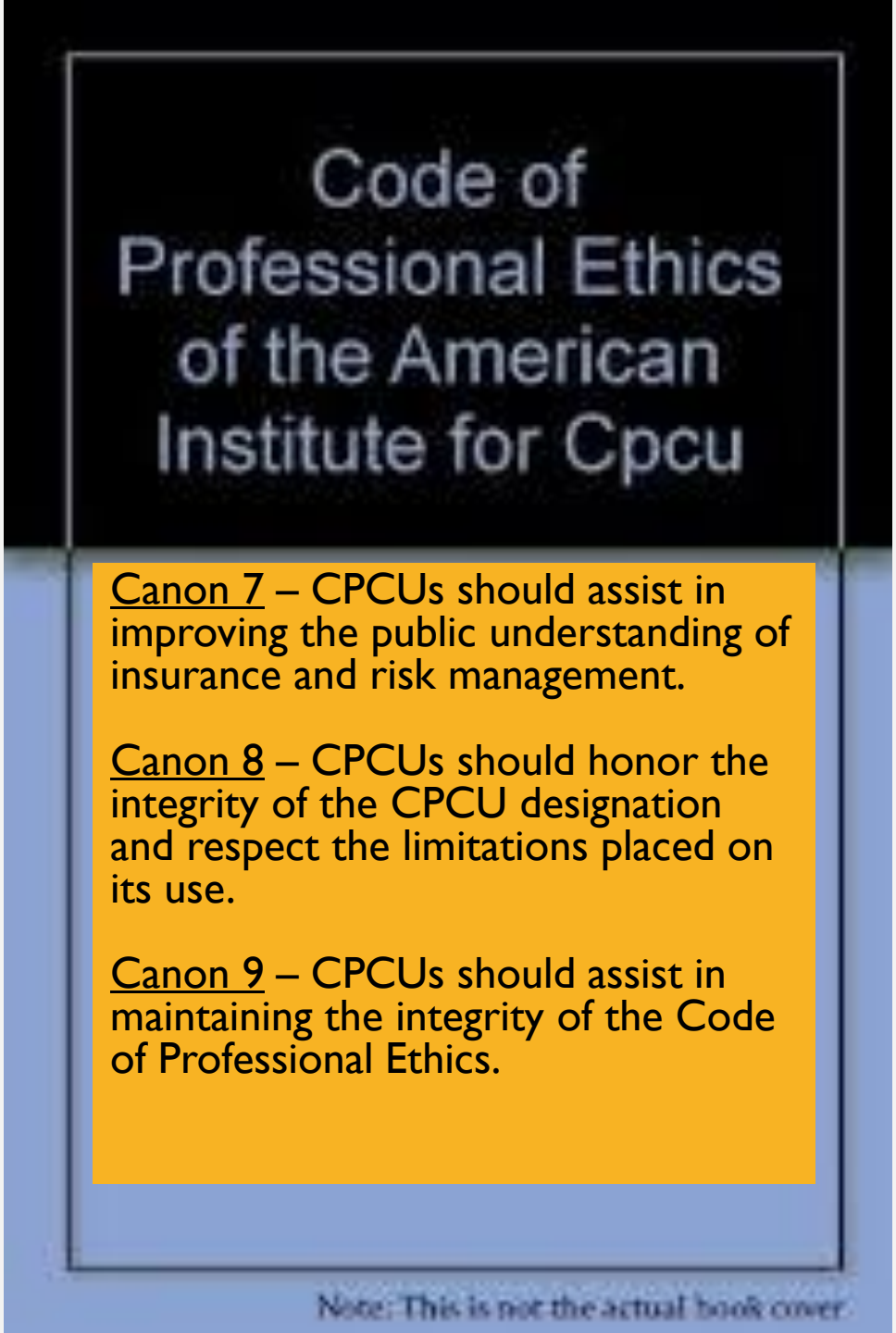


Canon 7 – CPCUs should assist in improving the public understanding of insurance and risk management.

Canon 8 – CPCUs should honor the integrity of the CPCU designation and respect the limitations placed on its use.

Canon 9 – CPCUs should assist in maintaining the integrity of the Code of Professional Ethics.

ETHICS AND CONSUMER PROTECTION REGULATION

Why is insurance is regulated?

- **It is a public interest industry.**

How does property-casualty insurance contribute to the social and economic well-being of our society?

- **It protects people's finances against potentially devastating effects of**
  - **House fire**
  - **Robbery**
  - **Auto accident**
  - **Lawsuit**

ETHICS AND CONSUMER PROTECTION REGULATION

How does property-casualty insurance contribute to the social and economic well-being of our society?

- It allows people to obtain credit to finance major purchases (houses & cars).
- Helps companies that have sustained losses reopen more quickly.
- Helps communities recover from the devastating effects of natural disasters …
  - Tornadoes
  - Hurricanes
  - Earthquakes

COMPETITION IS INSUFFICIENT

Why is competition alone, not enough to protect the public interest in the insurance industry?

- The nature of insurance is complex.
  - It's hard for many consumers to understand.
  - Even though the language has been simplified in recent years, the policies still contain a number of policy-specific definitions, exclusions, exceptions and conditions that many people find difficult to interpret.

COMPETITION IS INSUFFICIENT

Why is competition alone, not enough to protect the public interest in the insurance industry?

- The long-term nature of an insurance policy.
  - With other products, consumers generally can evaluate whether a product is worth the cost prior to purchasing it, or soon after.
  - The long-term nature of insurance makes it possible for abuses to go undetected for years (until a claim is made). So, the initial evaluation of the product an act of faith by the consumer: even if the policy's promises are clear, the consumer still must trust the company to keep those promises.

COMPETITION IS INSUFFICIENT

How can the complexity of an insurance policy provide opportunities for unscrupulous operators to take advantage of consumers?

- Coverage may be misrepresented.
- Coverage that an insured is entitled to may be denied.
- Policy language may be deliberately obscure, so consumers don't know what they're buying.
- Policies may be priced too high or too low.

COMPETITION IS INSUFFICIENT

Who is harmed when unethical people take advantage of the complex nature of insurance?

- Both the public and the insurance industry.

COMPETITION IS INSUFFICIENT

What are the effects of an insurance company underpricing products? Is it beneficial to the insured?

- It's worse than the effects of overpricing.
- The money an insurance company takes in allows it to meet its promises to pay covered claims.
  - It doesn't take in enough; it won't have the money to pay these claims.
  - Because claims may not be filed for several years, the company's poor financial condition may not be obvious for a long time.
    - When it does catch up with them, it may become insolvent – incapable of meeting its financial obligations.
    - This would cause financial distress for insureds and third-party claimants.

OBJECTIVES OF REGULATIONS

- Most insurance professionals treat their insureds and third-party claimants fairly.
- But, in the past, some companies and agents took advantage of consumers' lack of knowledge about insurance to increase sales or improve their claims experience.
- Confusing sales techniques had customers not understand what they were buying or how much they were paying.
- Fraudulent claim practices were used to stall and frustrate claimants so they would drop their claims or settle for less than they were entitled to.

OBJECTIVES OF REGULATIONS

What are the main two objectives of insurance regulation?

- Consumer protection!
- Fair competition among insurers.

HOW INSURANCE IS REGULATED

A Brief History of Insurance Regulation

The U.S. constitution gives Congress the power to regulate interstate commerce in 1869.

In 1944 and the case of U.S. vs. Southeastern Underwriters Association, the Supreme Court made an unexpected reversal – that insurance was commerce after all.

In 1945, the McCarran-Ferguson Act declared that the public would be best served if regulation of the insurance business was *continued by the states*.

When can the federal government step in?

HOW INSURANCE IS REGULATED

When can the federal government step in?

- When the state regulation showed itself to be ineffective.
- An example – the U.S. Supreme court has ruled that the FTC can regulate insurers' direct mail advertising in cases where state law does not address alleged misconduct.

STATUS OF INSURANCE REGULATION TODAY

State vs. Federal Regulation

- What are the reasons for State Regulation?
  - States can react quickly to local needs.
  - State regulation has some uniformity through the influence of state insurance departments on each other and the efforts of the NAIC.
  - The effect of switching to federal regulation is unknown; more harm than good might result.
  - Federal regulation would give more political power to the federal government and decrease states' rights.

STATUS OF INSURANCE REGULATION TODAY

What are the arguments for Federal Regulation?

- With only one set of laws to abide by instead of 51, insurers might have lower administrative expenses.
- Federal regulation would be more efficient, because insurers would only have to work with one federal agency instead of 51 state insurance departments.
- The federal government could probably offer higher wages, which would attract more qualified employees.

STATUS OF INSURANCE REGULATION TODAY

Who enacts a state's insurance laws?

Who enforces a state's insurance laws?

Enacts: State Legislature

Enforces: The Insurance Commissioner of the State Insurance Department they have the authority to write regulations, which define the specific practices that must be carried out to meet the law's intent.

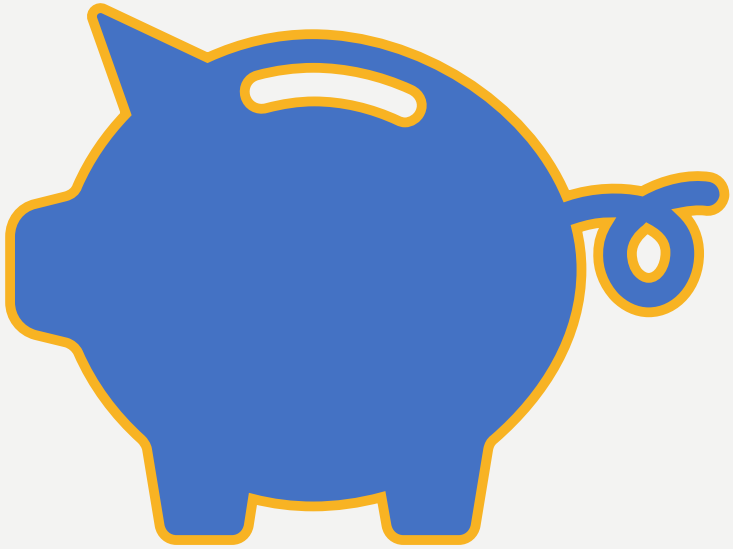
AN OVERVIEW OF INSURANCE REGULATION

All states regulate what five areas of insurance?

- **Financial Condition**
- **Trade practices**
- **Licensing**
- **Rates**
- **Policy provisions**

INSURERS' FINANCIAL CONDITION

States regulate insurers' financial conditions to ensure they remain solvent – that is, able to meet their contractual and financial obligations to insureds and third-party claimants. How do they regulate this?

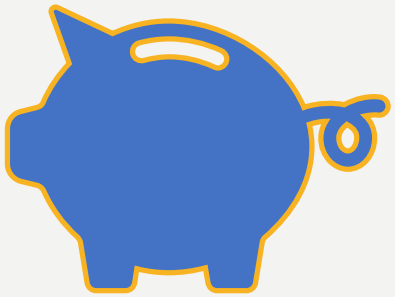


Capital = total value of insurance company's stock

Surplus = Assets minus liabilities

INSURERS' FINANCIAL CONDITION

- Companies must have specified minimum amounts of capital and/or surplus to begin and continue operations in a state.
- Companies must submit annual reports on their financial condition to the insurance commissioners of the states in which they do business.
- Every 3-5 years, insurance departments conduct regular on-site field examinations of companies. They can also order special investigations of insurers, as necessary.
- All companies must use the same set of standard accounting procedures.
- Companies must establish a liability account, called loss reserves, that is sufficient to pay their claim obligations.
- The law generally limits the types of investments that insurers may make with their funds to those that are relatively conservative, such as bonds and mortgages.



TRADE PRACTICES

- Trade Practices establishes minimum standards of fair dealing with the public.
- While all insurance regulation is concerned with consumer protection, the regulation of trade practices is the area where this objective is most obvious.

LICENSING

- What are the requirements for a person to hold the position of licensed insurance professional?
  - Must be at least 18 years old.
  - Have no history of criminal wrongdoing.
  - Pass a qualifying exam.
  - Most states require continuing education to keep the license in force.

INSURANCE RATES

- Why are insurance rates regulated?
  - Make sure they are high enough to cover an insurer's expected losses and expenses;
  - But not too high compared to the value that consumers receive; and,
  - Not unfairly discriminatory against certain people or groups.

- No matter how the rates are set, an insurance department may ask insurers to justify the rates they are using and may disapprove any rates that are inadequate.

INSURANCE RATES

Regulation methods vary from state to state and by line of insurance, but include…

- Open competition: Competition among insurers establishes the level of rates.
- Mandatory rating bureau membership: All insurers must join a particular rating bureau and use that bureau's rates.
- State-made rates: The state determines what rates companies must use.
- Prior approval: Companies must file their rates and have them approved by the insurance department before they are used.
- File and use: Companies file rates with the insurance department but may use them without waiting for the department's approval.
- Use and file: Similar to file and use; insurers must file rates within a certain period after they are first used.

INSURANCE RATES

No matter how the rates are set, an insurance department may ask insurers to justify the rates they are using and may disapprove any rates that are inadequate (too low), excessive (too high) or discriminate unfairly because they are based on something other than risk-related characteristics.

INSURANCE POLICIES

- Regulators require insurers to take certain steps to make sure policies and endorsements are easy for consumers to understand.
- What are the requirements?
  - Standard Policies: For certain types of coverage, the law may prescribe the wording of the entire policy.
  - Mandatory provisions: In some cases, the law may prescribe only the wording of certain provisions that must be included in certain types of policies.
  - Policy filing: The law may require insurers to file policies with the insurance department and receive its approval before using them.
  - Easy-to-read policies: Regulators may require that insurers write their policies using simplified wording, list certain provisions separately from other copy of use a certain size or style of typeface.

REGULATION OF SALES, UNDERWRITING AND CLAIM PRACTICES

LAWS ESTABLISH MINIMUM STANDARDS OF CONDUCT FOR DEALING WITH PUBLIC THAT APPLY TO WHAT THREE MAJOR INSURANCE FUNCTIONS?

SALES

UNDERWRITING

CLAIM HANDLING

REGULATION OF SALES

- Unlicensed Selling
- Surplus Lines
- Rebating
- Misrepresentation
- Premium Conversion
- Commingling Premiums in a Personal Account
- Defamation
- Windowing
- Altering Applications
- Unauthorized Practice of Law

REGULATION OF SALES

- Some laws are addressed in the state's Unfair Trade Practices Act or otherwise apply specifically to insurance transactions.
  - Others are general consumer protection laws that apply to all types of businesses, including insurance.
- *You must familiarize yourself with all laws that govern your professional activities and abide by them.*
- Under our legal system, "*ignorance of the law is no excuse*".
  - You can't defend yourself against charges of illegal activity by claiming that you didn't know you were breaking the law.

UNLICENSED SELLING

Why are we required to have and maintain a license to sell insurance?

- It helps protect the public by assuring that those who practice a given profession meet minimum standards of competence and are trustworthy.
- It protects members of the profession as well, since it does a professional's reputation harm by association if others who practice that profession are seen to be incompetent or of questionable intent.
- Selling without a required license is against the law even if no harm to a consumer is done or intended.

UNLICENSED SELLING

- If you sell across state lines, you need to have the nonresident licenses for those states as well as your resident license.

- Example: An agent has a resident property license in Wisconsin and a nonresident property-casualty license in Minnesota. She sells a Commercial Property policy and a Commercial General Liability policy to a client in Minnesota. Has she violated any licensing laws?
  - No, because her license in Minnesota authorizes her to sell both property and casualty insurance.

SURPLUS LINES

What is Surplus lines insurance?

- It is highly specialized insurance coverages, such as auto racing liability and tuition refund insurance - that are often not available from any company admitted to do business in a state.
- Producers who wish to sell surplus or excess lines insurance must be properly licensed by the state to do so.
- A surplus or excess lines producer handles the placement of such coverages with non-admitted companies.

REBATING

What are some examples of rebating?

- Any gift designed to induce an insurance purchase, especially when the value of the gift is significant in relation to what the prospect will pay in premiums.
- Any return of agent commissions to the buyer.
- Any offer of free insurance that is contingent on buying insurance.
- Any agent or agency premium payment on behalf of a prospect.
- A refund of premiums resulting from favorable policy persistency.

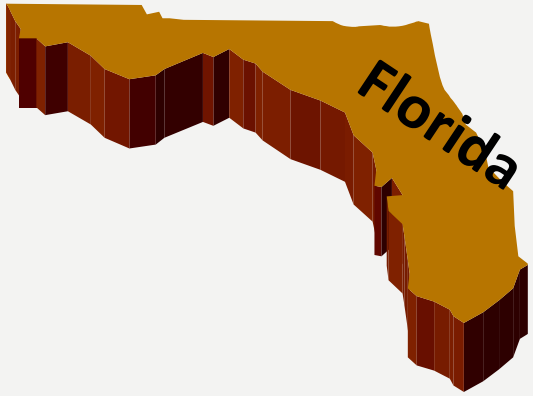
Rebating is against the law in all but two states (CA & FL) because unregulated rebating can be detrimental to consumers. What makes it unfair to consumers?

REBATING

- Rebating is against the law in all but two states because unregulated rebating can be detrimental to consumers. What makes it unfair to consumers?
  - Larger policies provide greater opportunities to rebate than smaller policies because the commission is larger, and the client has more negotiating leverage.
  - Buyers of smaller policies would then pay more for insurance in an environment of unregulated rebating.
  - This is contrary to the principle of nondiscrimination in the sale of insurance.

REBATING

What states allow legalized rebating?



- In these states, producers who offer rebates must comply with strict anti-discrimination laws.
- The regulations that producers must follow when offering rebates are strict.
- Even where it is permitted by law, some companies have a policy against rebating.

FLORIDA'S REBATING REGULATIONS…

- **No producer may rebate any part of his or her commission except as follows:**
  - The rebate must be available to all insureds in the same actuarial class.
  - The rebate must be in accordance with a rebating schedule filed by the producer with the insurer issuing the policy to which the rebate applies.
  - The rebating schedule must be uniformly applied in that all insureds who purchase the same policy through the producer for the same amount of insurance receive the same percentage rebate.
  - Rebates may not be given to an insured with respect to a policy purchased from an insurer that prohibits it producers from rebating commissions.
  - The rebate schedule must be prominently displayed in public view in the producer's place of business and a copy must be made available to insureds on request at no charge.
  - The age, sex, place of residence, race, nationality, ethnic origin, marital status, or occupation of the insurance or location of the risk may not be used to determine the percentage of the rebate or whether a rebate is available.

FLORIDA'S REBATING REGULATIONS…

- The producer must maintain a copy of all rebate schedules for the most recent five years and their effective dates.
- No rebate may be withheld or limited based on factors that are unfairly discriminatory.
- No rebate may be given that is not reflected in the rebate schedule.
- No rebate may be contingent on the applicant's purchasing or failing to purchase collateral business.

MISREPRESENTATION

- A misrepresentation is an untrue statement of fact that induces a party to enter a contract. Furthermore, to pursue a claim against the person who made the misrepresentation, the claimant must show that he or she relied on the untrue statement of fact when deciding to enter the contract and that the misrepresentation led to damages to the claimant. An opinion, it is important to keep in mind, even if considered false, is not the same as a fact and generally does not figure in cases surrounding misrepresentation.
  - How might an agent get in trouble for "misrepresentation"?
  - What if you say something about a product to a consumer that isn't true, not out of intent to mislead, but simply out of ignorance?
  - How can an applicant or insured be accused of "misrepresentation"?
- "Material Fact" = (Applicant) a fact that would cause an insurer to decline a risk, charge a different premium or change the provisions of the policy that was issued.

MISREPRESENTATION

What if you say something about a product to a consumer that isn't true, not out of intent to mislead, but simply out of ignorance?

- Unintentional misrepresentation is still illegal and subject to severe penalties.
- Producers must make sure they are well informed about the products they offer.
- If you are not sure about something, you should not provide information about it to consumers until you have checked with someone.

MISREPRESENTATION

What if an agent honestly didn't know that flood was excluded and told a prospect for homeowners insurance that flood is a covered peril under the policy. Would this be a misrepresentation?

- Yes, it would.

PREMIUM CONVERSION

What is premium conversion?

- When a producer makes a sale and collects the premium but fails to turn the application and premium into the company.
  - Some agents have made copies of authentic policies and inserted their victims' names as the insured to make it appear that a policy was issued.

PREMIUM CONVERSION

How does the agent get caught?

The victim has contact with someone from the company other than the producer.

They have a claim that is large enough the agent is unable to pay it …

COMMINGLING PREMIUMS IN A PERSONAL ACCOUNT

Why do states prohibit producers from depositing premiums into an account that also contains personal funds?

- So, the producer cannot earn interest on the premium money.
- So, it does not get "confused" with their own money.

COMMINGLING PREMIUMS IN A PERSONAL ACCOUNT

- Usually, the producer turns collected premiums over to the companies directly.
- In cases where producers are authorized to deposit premium money in an account before remitting it to the company, state laws generally require that a special business account be maintained with adequate records documenting the source of all deposits and the disposition of all disbursements.

DEFAMATION, WINDOWING & ALTERING APPLICATIONS

- How do you describe "Defamation"?
  - Making false, maliciously critical or derogatory statements about an insurer's financial condition or the way in which another insurance professional conducts his or her business.
  - It is against the law.
- What is "Windowing"?
  - It is forging someone else's signature. The term is derived from the practice of holding an authentic signature up to a window and tracing over it on another form.
- Altering an insurance application for any reason is illegal.

WINDOWING

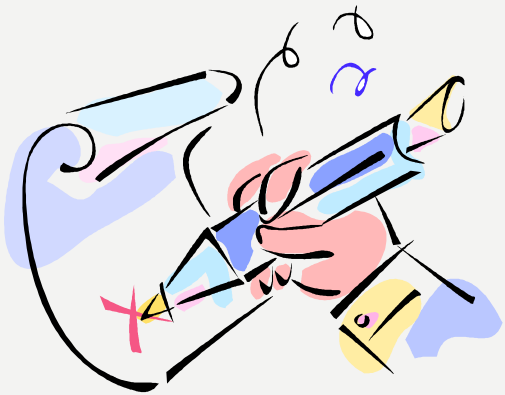
What about the producer who has good intentions when they engage in windowing?

- A producer gets a call from an insured, whose home was damaged in a windstorm.
- The insured is not able to stop by the office for several days to sign the proof of loss form, so the agent signs it for them and sends it into the home office so the claim can be processed as quickly as possible.
- If they are only doing it to help the insured, is this still considered illegal?
  - Yes – there are no exceptions for good intentions!

ALTERING APPLICATIONS

Altering an insurance application for any reason is illegal. Why would an application be altered?

- Changing underwriting information to obtain a more favorable rate or qualify for coverage.
- Switching the type of coverage being applied for to earn a larger commission on the sale.
- Adding zeroes to the amount of coverage applied for.



UNAUTHORIZED PRACTICE OF LAW

A PRODUCER IS OFTEN CONFRONTED WITH LEGAL ISSUES IN THE SALE AND SERVICING OF INSURANCE.

HOWEVER, YOU CANNOT PRACTICE LAW WITHOUT THE PROPER CREDENTIALS AND SHOULD AVOID CONDUCTING YOURSELF IN ANY WAY THAT MIGHT SUGGEST THAT YOU ARE!

UNAUTHORIZED PRACTICE OF LAW

A producer is often confronted with legal issues in the sale and servicing of insurance. However, you cannot practice law without the proper credentials and should avoid conducting yourself in any way that might suggest that you are! What are some guidelines as to what constitutes the practice of law?

- Producers may gather information about a client and discuss general principles of law, but they should never try to apply general legal principles to a client's specific situation.
- Producers should never attempt to draft legal documents (such as leases), make notations on these documents or make specific suggestions to clients regarding them.
- Any questions about how a general legal concept would affect the client's specific situation must be referred to the client's attorney.

REGULATION OF UNDERWRITING PRACTICES

Unfair Discrimination

Underwriters are supposed to make distinctions among applicants and group them into categories according to their risk of loss.

So "discriminating" among applicants is the primary purpose of underwriting!

And it's legal as long as the factors used to determine risk of loss are actuarially sound and can be backed up by statistical evidence.

REGULATION OF UNDERWRITING PRACTICES

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REGULATION OF UNDERWRITING PRACTICES

When does it become "unfair" discrimination – and illegal?

- When different standards are applied to insureds that have the same risks of loss.
- When there is a refuse to issue, limit, cancel or non-renew coverage solely based on:
  - A risk's geographic location (redlining – to imply drawing red lines around prohibited areas on a map).
  - An individual's sex, marital status, race, national origin, ethnic status, or religion.
  - For property-casualty insurance, an individual's mental or physical impairment.

REDLINING AND CREDIT REPORTS

- What is "red-lining"? Does it still occur?
- What do you think about using Credit Histories in rating and underwriting policies?
- Disparate Impact = Something that, on its face, does not appear to be discriminatory, but nevertheless has an adverse effect on minorities.

POSSIBLE CHANGES IN UNFAIR DISCRIMINATION LAWS

- Do insurers still engage in redlining and other types of unfair discrimination? Some consumers think so.
- But it is hard for a consumer to understand the difference between legal discrimination and unfair discrimination.
- Public perception – even if it is incorrect – often influences lawmakers to impose tougher regulatory standards.

CREDIT HISTORIES – FAIR CREDIT REPORTING ACT

- Federal law that allows consumers who are denied insurance because of information contained in a credit report to be notified and allowed to obtain the information used in the report from the reporting agency.
- Some insurance companies consider an applicant's credit history in making underwriting decisions for personal lines insurance.
  - This is legal in most states as long as the insurer complies with the requirements of the federal Fair Credit Reporting Act and other applicable laws.

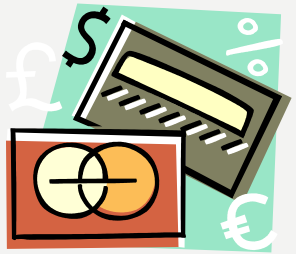
CREDIT HISTORIES – FAIR CREDIT REPORTING ACT

- Consumers and some regulators have raised questions as to whether it is unfairly discriminatory.
- Insurers say statistical evidence shows that applicants who have poor credit histories present a greater risk of loss.
- Opponents question whether this correlation really exists or whether it is simply a reflection of other underwriting factors.
  - If it is, the same risk characteristic would be considered twice in the underwriting process, which would not be fair to the applicant …

CREDIT HISTORIES – FAIR CREDIT REPORTING ACT

… How can this occur?

- Insurance companies can charge higher auto insurance rates for men who are 25 and under because statistics show they have more accidents than other drivers.
- And, because of their age, this group may not have established good credit histories because they are just entering the work force.
- So, if a company uses credit histories in underwriting, age may be considered twice when underwriting young male drivers.



CREDIT HISTORIES – FAIR CREDIT REPORTING ACT

From the opponents' side, what are some other potential problems with using credit reports in underwriting? (although there is no solid proof that they exist on an industry-wide basis)

- Applicants may be denied insurance because of erroneous information in their reports.
- Credit reports may only be ordered on a case-by-case basis at the underwriter's discretion instead of for all applicants, which may be unfairly discriminatory.
- Insurers may use credit histories as their only source in making underwriting decisions, rather than considering them in conjunction with other risk factors.
- Underwriting guidelines may not clearly define what is considered acceptable or unacceptable in a credit report.
- Honest people who have suffered financial difficulty may be unfairly denied insurance.
- People who have not established credit histories may not be able to obtain insurance.

CREDIT HISTORIES – FAIR CREDIT REPORTING ACT

- This underwriting practice is currently being reviewed by the NAIC, several state insurance departments and several consumer groups.
- In the future, it may be subject to stricter regulation.

UNDERWRITING GUIDELINES FOR HOMEOWNERS INSURANCE

What is an example of an underwriting factor that may have a disparate impact?

- Requiring that a home have a minimum value to qualify for insurance.
- Minorities in urban areas tend to live in older homes in the inner city that may not meet this requirement.

UNDERWRITING GUIDELINES FOR HOMEOWNERS INSURANCE

What are some modifications insurers have made to reduce "disparate impact"?

- Eliminating minimum age and value requirements for homes.
- Not using the condition of properties next to the applicant's home as underwriting criteria.
- Telling applicants who are rejected for homeowners insurance what types of home repairs could make them eligible for coverage.
- Offering full replacement cost coverage to all applicants whose homes are in good condition.
- Eliminating subjective underwriting requirements, such as "pride of ownership".

- In the future, we may see laws that require insurers to make these modifications…

AUTO INSURANCE RATING

Insurers consider several factors when determining the rates to be charged for personal auto insurance. What are they?

- Territory of garage: Cars that are garaged in large cities have a greater exposure to loss, and therefore cost more to insure, than cars garaged in the country or in small towns.
- Age, sex and marital status of driver: statistics show that male drivers under age 25 are involved in more frequent and severe losses than any other group. Statistics also show that married people are lower risks because they drive fewer miles than their single counterparts.

CANCELLATION AND NONRENEWAL

- Most states have laws that limit the right of insurers to cancel or non-renew insurance policies.
- The purpose of these laws is to make certain types of insurance more readily available – especially those that are considered necessities, like personal auto and homeowners insurance.

CANCELLATION AND NONRENEWAL

What are some reasons a policy may be cancelled or nonrenewed?

- Nonpayment of premium.
- Policy was obtained through material misrepresentation.
- Insured has submitted a fraudulent claim.
- Insured has violated any of the terms or conditions of the policy.
- Risk originally insured has substantially increased.
- Determination by the Insurance Commissioner that continuation of the policy could place the insurer in violation of state law.

CANCELLATION AND NONRENEWAL

Other state restrictions…

- Notice must be given at least 30 days to cancellation or non-renewal if policy has been in force at least 60 days.
- States may restrict the number of policies that an insurer may cancel or non-renew for a particular line of insurance. (Common in states that are prone to natural disasters).

THE NAIC MODEL UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

Knowingly misrepresenting …

Failing to acknowledge …

Failing to adopt reasonable standards …

Promptly, fairly and equitably settle …

Compelling insureds to sue …

Refusing to pay a claim …

REGULATION OF CLAIM HANDLING PRACTICES

Unfair Claims Settlement Practices Laws

- Most state laws are based on the NAIC Model Unfair Claims Settlement Practices Act.
- The NAIC is an organization made up of individual state insurance commissioners whose purpose is to promote uniformity in regulation by drafting model laws and regulations.
- The NAIC's recommendations are nonbinding on individual states, although most states use them as the basis for drafting their insurance laws and modify them as appropriate for that particular state.
- Consequently, the requirements of the laws vary somewhat by state.

THE NAIC MODEL UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

The following acts are considered unfair claim settlement practices:

- **Knowingly misrepresenting …** to claimants and insureds relevant facts or policy provisions relating to coverage issues.
- **Failing to acknowledge…** with reasonable promptness pertinent communications with respect to claims under the company's policies.
- **Failing to adopt and implement reasonable standards…** for promptly investigating and settling claims under the company's policies.
- Not attempting in good faith to **promptly, fairly and equitably settle…** claims in which liability is reasonably clear.
- **Compelling insureds or claimants to sue…** to recover amounts due under the company's policies by offering substantially less than the amounts ultimately recovered in suits brought by them.

THE NAIC MODEL UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

- Failing to affirm or deny coverage …
- Attempting to settle for less …
- Not indicating the coverage …
- Unreasonably delay …
- Failing to provide a reasonable explanation …
- Failing to provide forms necessary …
- Failing to provide reasonable standards …

THE NAIC MODEL UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

Continued … unfair claim settlement practices:

- **Refusing to pay a claim …** without conducting a reasonable investigation.
- **Failing to affirm or deny coverage …**of a claim within a reasonable time after the claim has been investigated.
- **Attempting to settle …**or settling a claim for less than the amount a reasonable person would believe the insured or claimant was entitled to by referring to written or printed advertising material accompanying or made part of an application.
- Paying a claim to an insured or claimant **without indicating the coverage…** under which payment is being made.

THE NAIC MODEL UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

Continued … unfair claim settlement practices:

- **Unreasonably delaying …**the investigation or payment of a claim by requiring both a formal proof of loss form and subsequent verification that would result in duplicate information and verification appearing on the formal proof of loss form.
- When denying a claim or offering a compromise settlement, **failing to promptly provide a reasonable and accurate explanation…** of the basis for such action.
- **Failing to provide forms necessary …**to file claims and a reasonable explanation of how they are used within 15 calendar days of a request for such forms.
- Failing to adopt and implement **reasonable standards …**to assure that the repairs of a repairer owned by or required to be used by the insurance company are performed in a workmanlike manner.

THE NAIC MODEL UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

Which of the following would probably violate the NAIC Unfair Claims Settlement Practices Model Act?

The ABC Insurance Company has no standards for investigating and settling claims.

- Yes, it violates the act.

- Rolanda receives a claim for fire damage to an insured's home. She completes her investigation of the claim in two weeks and mails a check to the insured for the full amount of the loss covered by the policy.
  - No violation.
- Rebecca decides she is too busy to respond to phone calls and letters from claimants and insureds.
  - Yes, it violates the act.

THE NAIC MODEL UNFAIR CLAIMS SETTLEMENT PRACTICES ACT

Which of the following would probably violate the NAIC Unfair Claims Settlement Practices Model Act?

- After a reasonable investigation, the XYZ Insurance Company denies a claim for a loss that is excluded by the policy.
  - No violation.
- Anya tells an insured that his homeowners policy does not provide medical payments coverage, even though it clearly does.
  - Yes, this violates the act.
- The MNO Insurance Company never notifies its insureds when their claims are denied.
  - Yes, this violates the act.

DEFINITIONS

- **Breach of Contract** – a contract is a legal agreement between two competent parties promising a certain performance in exchange for something of value. An insurance policy is a contract. When one of the parties does not comply with the terms of the contract, the contract is breached.

- **Tort** – a civil wrong, *not created by a breach of contract*, that arises from a violation of a legal or natural right and for which a monetary remedy is provided.

BAD FAITH …

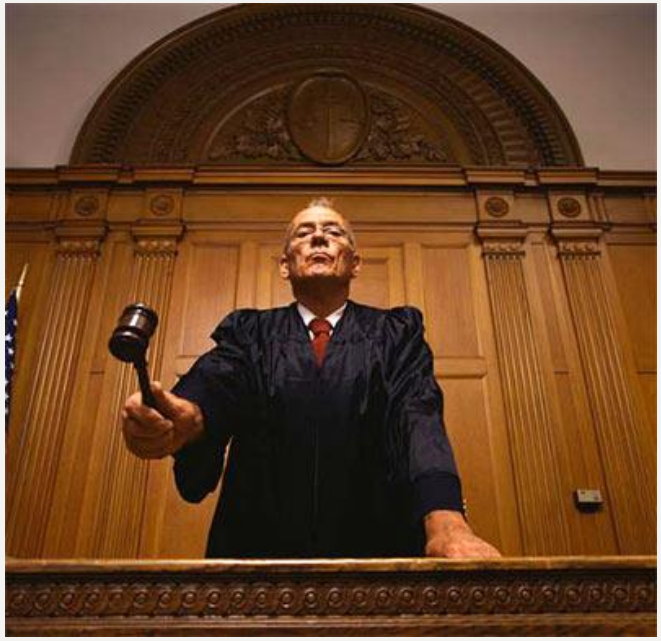
Courts have determined that insurance policies imply an obligation of good faith and fair dealing between the insured and the insurance company, and that a breach of this obligation is bad faith.

What are some examples of practices that the courts have determined to be bad faith?

Valued Policy Laws – stipulate that if insured property is totally destroyed by a peril covered by the statute, the insured must be paid the face amount of the policy, regardless of the property's value at the time of the loss.

BAD FAITH

- Many courts consider bad faith to be a tort instead of a breach of contract.
  - This means the insurance company may be held liable for more than it was originally obligated to pay under the policy! (this is sometimes called *extra contractual liability)*.
  - In some states, the courts have assessed multi-million dollar judgments against insurers in bad faith lawsuits.



BAD FAITH

- Claim handlers must adhere to their state's unfair claims settlement practices law and perform their other job-related duties ethically and fairly to avoid breaching the insurance company's obligations of *"good faith and fair dealing"*.
- If they fail to do so, the company, and maybe the claim handler could be exposed to a *bad faith lawsuit*.

BAD FAITH

What are some examples of practices that the courts have determined to be bad faith?

- Trying to "bluff" an insured out of a claim settlement even though the company knew the insured was entitled to it.
- Inducing the insured to contribute funds to a settlement when the settlement amount was within the policy limits.
- Failing to disclose policy limits when the limits were inadequate to cover the claimant's loss and liability was reasonably clear.

BAD FAITH

- In some states, bad faith lawsuits may be filed directly against claim handlers.
- They can be held personally liable under several theories of liability, including intentional infliction of emotional distress, fraud and invasion of privacy.

UNAUTHORIZED PRACTICE OF LAW

- Claim handlers should avoid conducting themselves in any way that might suggest they have proper credentials to practice law.

THE STATEMENT OF PRINCIPLES ADOPTED BY THE NATIONAL CONFERENCE OF LAWYERS, INSURANCE COMPANIES AND ADJUSTERS IS SUMMARIZED:

- Do not give legal advice to claimants.
- Do not advise claimants against seeking legal advice.
- If a claimant is represented by an attorney, you must deal directly with that attorney and not deal with the claimant without the attorney's permission.
- Acknowledge any conflicts of interest (a situation in which one's self-interest competes with the obligation one has assumed to act in the best interest of others).
- Upon request and at no charge, provide any person from whom a claim statement was taken with a copy of that statement or transcript.

THE STATEMENT OF PRINCIPLES

Which of the following violates the Statement of Principles?

- Ellen refuses David's request for a transcript of his claim statement.
  - Yes, this is a violation.
- Chang knows that Nevin is represented by an attorney, so he deals only with his attorney.
  - No violation.
- Greg advises a claimant against hiring an attorney.
  - Yes, this is a violation.
- Belinda is asked to handle a claim filed by her father-in-law's business. She brings this matter to her supervisor's attention and asks that the claim be handled by someone else.
  - No violation.

VALUED POLICY LAWS

What are valued policy laws?

- Laws that stipulate that if insured property is destroyed by a peril covered by the statute, the insured must be paid the face amount of the policy, regardless of the property's value at the time of the loss.
- Most of these laws date back to the nineteenth century and were passed to prevent insurers from over-insuring property at a higher premium, then questioning its value after a loss occurred.
- It may not really be necessary with inflation today; an insured is more likely to have too little insurance.

CONSEQUENCES OF ILLEGAL ACTIVITY

What penalties might there be for an individual who violates the law?

What can happen to a company?

Both Individuals and Companies can be subject to civil lawsuits brought by injured consumers.

CONSEQUENCES OF ILLEGAL ACTIVITY

What penalties might there be for an individual who violates the law?

- Censure
- Cease & desist orders
- Fines
- License suspension/revocation
- Criminal prosecution or prison term (depending on the nature of the violation and the state)

CONSEQUENCES OF ILLEGAL ACTIVITY

- What can happen to a company?
- They may be ordered to refund premiums
- They may be fined sums amounting to millions of dollars.

CONSEQUENCES OF ILLEGAL ACTIVITY

- Both Individuals and Companies can be subject to civil lawsuits brought by injured consumers.
  - In these cases, the consumer may be awarded "punitive" or "exemplary damages" in addition to the actual damages. What are punitive damages?
- They go beyond making the injured party financially "whole" again.
- It punishes the violator …
- It sets an example for other who might be tempted to engage in similar activity.
- Some states have no limit on the number of punitive damages that can be awarded!

OTHER CONSEQUENCES

What if you are not doing anything wrong, but you work closely with someone and either knew or should have known that they were doing something wrong?

- If you know that illegal activities are taking place, or if you are in a position of responsibility and should be aware of illegal activities going on …you may be considered just as guilty under the law as the persons who committed the illegal acts!
- Overlooking other people's illegal activity is unethical, since it doesn't serve the best interests of the public.

OTHER CONSEQUENCES

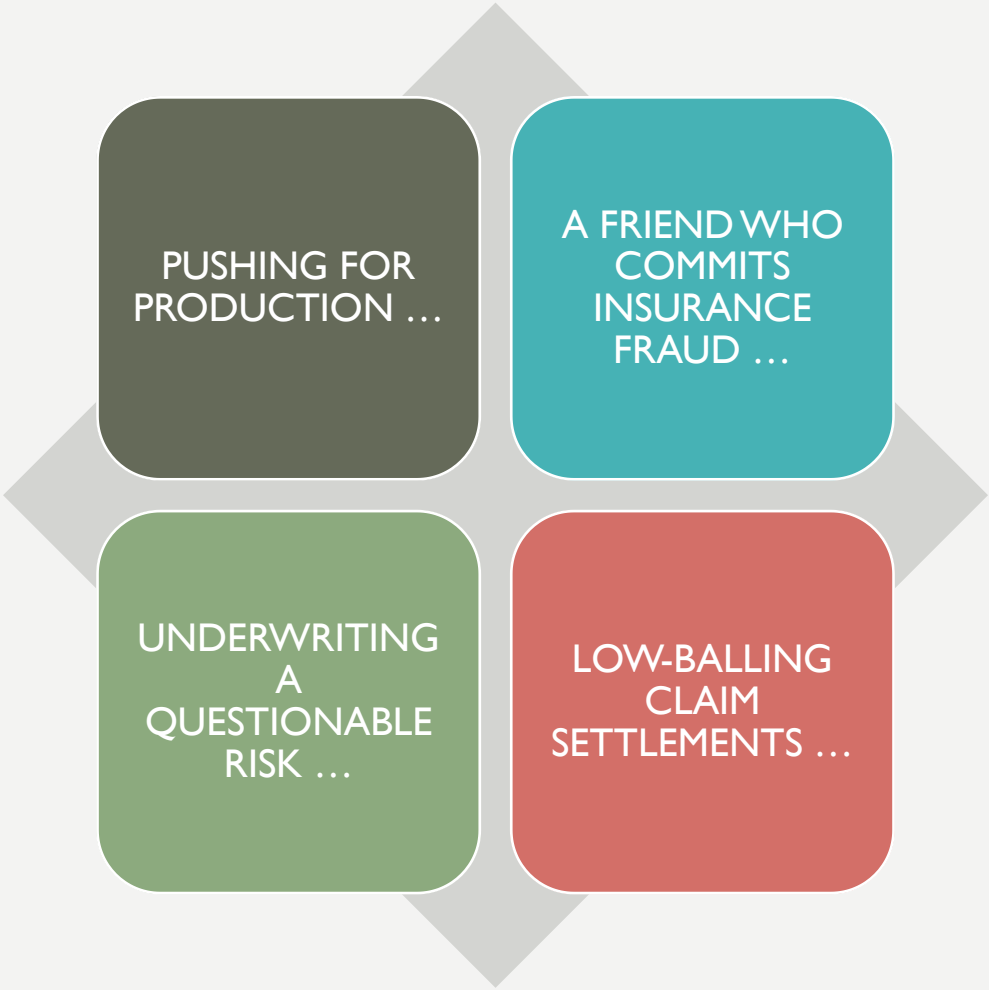
What are some other consequences to illegal activity?

- The insurer who is represented is harmed …
- The insurance business is affected.
  - If people don't trust a particular company or the industry in general, they tend not to trust anyone associated with that company or the industry.
- The marketplace can also assess a penalty.
  - If illegal activity becomes widespread and is finally exposed, sales may drop for any company involved and even for the industry.
- It becomes more difficult to recruit qualified individuals into the industry.
- States may step up their regulatory activity and create more stringent laws that apply to everybody.

ETHICS AT WORK …

Laws are only *minimally acceptable* standards of conduct, so it's possible for an action to be legal, but not ethical! An ethical insurance professional abides by both the letter and *the spirit* of these laws.

CASE STUDIES…



CASE STUDY – *PUSHING FOR PRODUCTION*

- Jack is a manager of a small agency. He is pushing his producers hard for production to boost his income and make his mark with the company. He has set production objectives for his producers in excess of those the company itself requires. His strategy seems to be getting good results, because they have responded by selling more insurance than they ever have before.
- Jack has recruited a new producer, Cara, who has gotten off to a fast start in her career. Jack is training Cara by having her make joint calls with him and other producers in the agency. After making a call with Cara, Jack discovers that Cara is quoting prospects lower premiums than they will have to pay. At first, Jack thinks Cara is simply not using the rate book properly and attempts to correct her misunderstanding.

CASE STUDY – *PUSHING FOR PRODUCTION*

- However, Cara tells Jack that low-balling premiums is part of her sales technique. After she gets the application and the first premium, she goes back to the clients and says the company raised the rates while she was on vacation and she wasn't aware of it because she hadn't caught up on her backlog of mail, yet. The additional premium is relatively small amount compared to the check the clients have already written, and so far, almost everyone has paid the additional premium rather than ask for a refund.

CASE STUDY – *PUSHING FOR PRODUCTION*

- Jack tells Cara in no uncertain terms that the sales technique she has just described is unethical and she must stop using it immediately. Cara explains that she learned the technique from Herb, a more experienced producer in the agency, and that Herb told her that Jack just wants production and doesn't care how the producers get it. Cara also tells Jack that Herb told her about a couple of other sales techniques that seemed even more misleading than low-balling premiums, and that she suspects Herb and some of the other producers of being engaged in those activities.

CASE STUDY – *PUSHING FOR PRODUCTION*

- Jack is dismayed by what he has learned. He has just moved into a new house and purchased an expensive car. In addition, his daughter is enrolled in an exclusive school where she has made friends and become involved in extracurricular activities. His entire lifestyle and that of his family may have to change if his agency doesn't maintain its current levels of production. Yet he has reason to believe that those levels are being obtained through illegal activity.
- What should Jack do?

CASE STUDY – *PUSHING FOR PRODUCTION*

Analysis – Jack might be tempted just to look the other way. He's not engaging in illegal activities himself. He could hope it would never be discovered, or if it did, he might be able to claim that he didn't know nor had no proof that it was going on, and thereby try to escape responsibility for the activities.

- Such a course of action, however, is not ethically justifiable. Furthermore, by allowing illegal activities by his subordinates to continue, Jack might be found to be just as much at fault as his producers. Eventually, the activities would probably come to light anyway, and the end result could be a scandal that could cost Jack his job. If he were found legally liable for the illegal activities of his producers, Jack would stand to lose much more than financially than he would by dealing with the situation properly now.

CASE STUDY – *PUSHING FOR PRODUCTION*

- Jack needs to investigate the extent of illegal activities among his producers and stop it immediately. If he discovers instances of fraud, offers of restitution to clients and termination of the offending producer would be in order. Jack should notify the individual he reports to at the home office and determine how best to proceed.

CASE STUDY – *PUSHING FOR PRODUCTION*

- Jack should also evaluate the extent to which his hard-driving management style contributed to the environment that spawned illegal activities. While we all have work objectives to meet, the ethical behavior is part of those objectives, setting unrealistic goals sometimes implies that compliance with ethical or legal standards is a secondary priority. Jack needs to determine whether his production goals are realistically achievable, and if so, he needs to demonstrate that fact to his producers. He also needs to make sure his producers get the training and the resources they need to meet those goals through ethical and legal means.

CASE STUDY – *A FRIEND WHO COMMITS INSURANCE FRAUD*

- Sonya, a producer for KLM Insurance Company, is having dinner with her best friend Ginger. They're celebrating the fact that Ginger just got a new job after being out of work for six months.
- Over coffee, Ginger makes a startling confession. "Last month, a couple of neighborhood kids accidentally hit a baseball through my living room window. Well, that gave me an idea. I was so far behind in my bills that I was seriously considering filing for bankruptcy. But after those kids broke the window, I figured I could get the money I needed by hiding my computer, television and VCR in the basement and filing a theft claim under my Homeowners policy. My insurance company cut me a check for $2,000, no questions asked."

CASE STUDY – *A FRIEND WHO COMMITS INSURANCE FRAUD*

- "I wouldn't ordinarily do a thing like that, but I really needed the money. Besides, I've never had a claim before, and it's time I got back some of the money I've paid my insurance company all these years. What's $2,000 to a wealthy insurance company, anyway?"
- Sonya is stunned by the revelation. She always thought Ginger was an honest person, and she realizes she must have been desperate to take advantage of such an opportunity. She also knows Ginger's home is not insured by her employer, KLM Insurance.
- How would you advise Sonya to handle this situation?

CASE STUDY – *A FRIEND WHO COMMITS INSURANCE FRAUD*

Analysis – No one wants to get a friend in trouble with the law. Sonya might be tempted to overlook Ginger's actions, particularly since the claim was not filed with her company.

- However, insurance fraud is a serious problem that costs the industry billions of dollars each year – and part of this cost is passed on to innocent consumers in the form of higher premiums. Even though the fraudulent claim was not paid by KLM, Sonya still has an ethical duty to both the industry and the general public to report this incident to the proper authorities. Depending on the laws of her state, she may also have a legal duty to do so. Some states and insurance companies have anonymous hot-lines to make it easier for consumers to report cases of insurance fraud.

CASE STUDY – *A FRIEND WHO COMMITS INSURANCE FRAUD*

- Sonya should also use this opportunity to educate Ginger about how insurance works:
- Insurance gives her something for her premium dollars, even if she never files a claim – the security of knowing that she'll be protected from financial disaster if a covered loss occurs.
- Insurance fraud results in higher premiums for everyone.

CASE STUDY – *UNDERWRITING A QUESTIONABLE RISK*

- Winston, an underwriter for OPQ Insurance, is reviewing a Commercial General Liability application for R.J.'s Used Auto Sales. On paper, the company meets OPQ's underwriting guidelines.
- However, it just so happens that R.J.'s is in Winston's hometown. He knows that over the years, the company has been accused of – but never actually been found guilty of – engaging in several illegal business practices, including rolling back odometers, false advertising, and price gouging. In Winston's opinion, these allegations strongly suggest a moral hazard*. On the other hand, he wonders if it's fair to refuse coverage because of unproven allegations.

CASE STUDY – *UNDERWRITING A QUESTIONABLE RISK*

- Moral Hazard – Type of hazard created by an individual who would be willing to create a loss situation on purpose just to collect from the insurance company.

  - What do you think Winston should do?

CASE STUDY – *UNDERWRITING A QUESTIONABLE RISK*

Analysis – an insurance professional has an ethical duty to fulfill customers' needs, so perhaps Winston should give R.J. the benefit of the doubt and approve the application. After all, another underwriter would have accepted the risk since all available information shows it meets underwriting guidelines.

- On the other hand, Winston knows something about this company that another underwriter wouldn't. And he also has an ethical obligation to his employer to select risks that are acceptable to the company – and statistics show that risks that present a moral hazard have a much greater chance of loss.
- Since the allegations against R.J. are unproven, Winston should investigate them further before he makes his decision, possibly by interviewing R.J.'s business associates or former employees. He should also ask his supervisor for guidance about how to handle this situation.

CASE STUDY – *LOW-BALLING CLAIM SETTLEMENTS*

- Donald, a claim handler for NOP Insurance, has determined that a fair settlement range for an insured's bodily injury claim is $10,000-$15,000. When he takes the file to his supervisor Valerie for her approval, she agrees with Donald's assessment, but tells him to offer $8,000 instead. "We've paid a lot of large claims lately, and we need to improve the company's loss ratio. The insured will probably accept $8,000 right away because she really needs the money. Don't offer more than that unless she threatens us with an attorney."
- Donald isn't comfortable with Valerie's advice, but he just got promoted to a position as Senior Claims Examiner, and he doesn't want to jeopardize his job by reporting Valerie to management.
- How should he handle this situation?

CASE STUDY – *LOW-BALLING CLAIM SETTLEMENTS*

- *Analysis* – Valerie's plan is both unethical and illegal. Insurance professionals do have an ethical duty to their employers to do their jobs to the best of their ability, which impacts the company's bottom line. However, no insurer wants to make money by cheating their customers out of money they're entitled to. (Note that making an initial settlement offer from the low end of a settlement range is not unethical, if these figures are reasonable and fair).

CASE STUDY – *LOW-BALLING CLAIM SETTLEMENTS*

- Donald could simply refuse to go along with Valerie's plan. She might back down if he did, but there's a good possibility she'll continue to pressure her employees to low-ball claim settlements. He could also follow her instructions and, if he gets caught (which will probably happen); try to excuse his actions by claiming he was only following his superior's orders. However, these courses of action are unethical because they do not ultimately serve the best interests of customers.
- Donald should not follow Valerie's instructions and bring the matter to management's attention at once. It takes courage to stand up to a superior in a matter like this, but courage is also a universally admired trait. Donald will be held in greater esteem because he stood up for principle. And Donald may be able to report the problem anonymously or without specifically naming names.

CASE STUDY - KICKBACKS ON CLAIM PAYMENTS

- Priscilla, a claim handler for CDE Insurance, has determined that a property damage claim filed by Big Industries should be settled for $5,000. When she contacts the company's president with her offer, he makes a counteroffer: if she cuts him a check for $8,000, he'll kickback $2,000 of the claim payment to her.
- Priscilla is speechless. No one's ever tried to bribe her before. What should she do?

CASE STUDY - KICKBACKS ON CLAIM PAYMENTS

- *Analysis* – While most insureds and third-party claimants are honest, attempts to bribe claim handlers into making higher settlements are not unheard of.
- Putting the interests of insureds first doesn't mean paying them more than they're entitled to on a claim. Priscilla should politely decline Big Industries' bribe and continue trying to settle the claim for what it is worth.

CASE STUDY - KICKBACKS ON CLAIM PAYMENTS

- She should also document the conversation for the claim file and bring the matter to the attention of her supervisor, the Underwriting department, and if applicable, the company's fraud investigation department and the producer who handles Big Industries' account. This situation strongly suggests both fraud and a moral hazard, and CDE may want to reconsider whether they want to continue doing business with this insured.

ETHICS AT WORK REVIEW

1. Because ethical values are usually expressed in absolute terms, a person may be considered dishonest if he or she lies _____.

a) Only once
b) Two or three times
c) Quite often
d) Habitually

A is the correct answer

ETHICS AT WORK REVIEW

2. Isolated instances of unethical conduct by industry personnel have _____ on the entire industry.

a) A positive impact
b) No impact at all
c) A negative impact
d) Good and bad impact

C is the correct answer

ETHICS AT WORK REVIEW

3. Which of the following are possible consequences of unethical or illegal actions

a) Job loss
b) Personal disgrace
c) Fines
d) Imprisonment
e) All of the above

E is the correct answer

ETHICS AT WORK REVIEW

4. With insurance, the consumer is buying a promise to receive compensation for losses that may not occur for years. This means...

a) An insurance company has ample time to collect enough money to pay claims.

b) The trust factor does not apply to insurance.

c) The consumer will not suffer financially if the company can't pay the claim.

d) The trust factor is especially significant when it comes to buying insurance

D is the correct answer

ETHICS AT WORK REVIEW

5. As an insurance professional, your highest priority is to ...

a) Make money to support your family.

b) Help your company meet its business goals.

c) Defend the reputations of your peers.

d) Act in the best interests of customers.

D is the correct answer

ETHICS AT WORK REVIEW

6. Because of the special relationship of trust that is inherent in the insurance business, insurance professionals and companies have a/an _____ duty to the public.

a) Public interest
b) Fiduciary
c) Regulatory
d) Indemnity

B is the correct answer

ETHICS AT WORK REVIEW

7. According to a recent study, ethical people tend to be more successful than unethical people. How can this finding be explained?

a) People like to do business with people they trust.

b) Some people know how to cheat without getting caught..

c) The study was based on flawed data.

d) Unethical people hide their ill-gotten gains, and therefore only appear to be less successful than ethical people.

A is the correct answer

ETHICS AT WORK REVIEW

8. The class listed a number of parties to whom you have an ethical responsibility. Whose interests are you serving when you perform your job to the best of your abilities, fulfill the customer's needs and deliver quality service?

a) The insurance company's but not the customers.

b) The customer’s, but not the insurance companies.

c) Both the customer’s and the insurance companies.

d) Your co-workers’.

C is the correct answer

ETHICS AT WORK REVIEW

9. How do isolated reports of unethical conduct by insurance professionals affect the industry as a whole?

a) The entire industry's reputation is enhanced.

b) They have no impact whatsoever.

c) The people involved are personally disgraced, but the industry overall is not affected.

d) The entire industry's reputation is tarnished.

D is the correct answer

ETHICS AT WORK REVIEW

10. When is it acceptable for an insurance professional to act unethically?

a) To meet a work objective.

b) When you're competing against people who are unethical.

c) When there's a good chance your actions will never be discovered.

d) Never.

D is the correct answer

ETHICS AT WORK REVIEW

11. The quality of being incorruptible no matter what the temptation to be dishonest is called…

a) Caring
b) Integrity
c) Single-mindedness
d) Straightforwardness

B is the correct answer

ETHICS AT WORK REVIEW

12. Select the correct statement regarding the relationship between insurance laws and ethics.

a) Insurance laws usually set only minimum standards of conduct, so it's possible for an action to be legal, but not ethical.

b) If an action is legal, it is also ethical.

c) Insurance laws set ethical standards for insurance companies, but not insurance professionals.

d) There is no relationship between insurance laws and ethics.

A is the correct answer

ETHICS AT WORK REVIEW

13. Which one of the following is an example of an activity that is legal, but not ethical?

A. To get a bigger commission, Agent Opal convinces a client to purchase more insurance than he really needs.
B. Underwriter Nathan automatically rejects all applicants who are not married, despite the fact that there is no evidence they present a greater risk of loss.
C. Claim handler Elisa receives a claim form that was not signed by the insured. To save time, she signs the insured's name for him.
D. Agent Vance, who has a nonresident property license in Pennsylvania, sells an auto policy to a Pennsylvania customer.

A is the correct answer

ETHICS AT WORK REVIEW

14. The insurance business is regulated to...

A. ensure no consumer buys insurance until he or she can demonstrate minimum knowledge about the product.
B. eliminate competition among producers.
C. discourage competition among insurers.
D. protect consumers and promote fair competition among insurers.

D is the correct answer

ETHICS AT WORK REVIEW

15. Because property-casualty insurance contributes to the social and economic well-being of our society, it is considered to be a/an ...

A. Fiduciary business.

B. Public interest industry.

C. Extracontractual industry.

D. Anti-competitive business.

B is the correct answer

ETHICS AT WORK REVIEW

16. Who is responsible for enforcing a state's insurance laws?

A. State legislature

B. NAIC

C. Federal government

D. State insurance Department

D is the correct answer

ETHICS AT WORK REVIEW

17. States regulate insurance rates to ensure that they are ...

A. low enough to be affordable for all consumers.
B. the same for all lines of insurance.
C. not unfairly discriminatory.
D. different for all lines of insurance.

C is the correct answer

ETHICS AT WORK REVIEW

18. Because of the long-term nature of the insurance product,

A. market forces alone assure that the insurance business is run in the best interests of the public.
B. companies generally have to deliver on the promises they've made in a relatively short period of time.
C. government regulation is not needed to protect consumers' interests.
D. abuses may not be caught as quickly as with other types of products.

D is the correct answer

ETHICS AT WORK REVIEW

19. The McCarran-Ferguson Act ...

A. declared that insurance is a public interest industry.
B. marked the end of state regulation of insurance.
C. was declared unconstitutional in the case of U.S. vs. Southeastern Underwriters.
D. made insurance subject to state regulation except in cases where it is found to be ineffective.

D is the correct answer

ETHICS AT WORK REVIEW

20. In underwriting, unfair discrimination means ...

A. grouping applicants into categories according to their risk of loss.
B. using actuarially sound data to determine underwriting criteria.
C. applying different standards to insureds that have the same risk of loss.
D. making any sort of distinction among applicants.

C is the correct answer

ETHICS AT WORK REVIEW

21. What is redlining?

A. Using a credit history as an underwriting tool.
B. Giving or offering some benefit other than those specified in the policy, such as cash, gifts or securities, to induce a customer to buy insurance.
C. Making false or misleading statements about an insurance policy.
D. Refusing to issue, limiting, cancelling, or nonrenewing coverage solely on the basis of a risk's geographic location.

D is the correct answer

ETHICS AT WORK REVIEW

22. An insurance professional who is caught violating a law pertaining to his or her professional activities may be subject to all of the following penalties EXCEPT ...

A. being required under a court order to relocate to another state.
B. license suspension or revocation.
C. Fines.
D. being subject to a cease-and-desist order.

A is the correct answer

ETHICS AT WORK REVIEW

23. In most states, rebating is .

A. Illegal.
B. Legal.
C. A professional courtesy extended only to special customers.
D. Considered an acceptable business practice.

A is the correct answer

ETHICS AT WORK REVIEW

24. Producers who are not licensed attorneys are engaging in the unauthorized practice of law if they ...

A. discuss general principles of law with a client.

B. draft legal documents.

C. refer specific legal questions to a client's attorney.

D. Gather information about a client.

B is the correct answer

ETHICS AT WORK REVIEW

25. Which one of the following is NOT against the law?

A. Making derogatory statements about another insurance professional.
B. Altering an insurance application.
C. Refusing to sell a type of policy that you are not properly licensed to sell.
D. In states where rebating is legal, discriminating against certain consumers in the offering of rebates.

C is the correct answer

THANK YOU!

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- Provide the details requested on the following page.
- Click on "Start Test".
- There is no time limit, however if you leave the test for some time, it may require you to begin again.
- It will show you (and I as the provider) your test results.
- Upon completion of all your tests, I will electronically file the results with the Insurance Department and send you a certificate for your records.
  - You will still be responsible for renewing your license(s) with the Insurance Department.