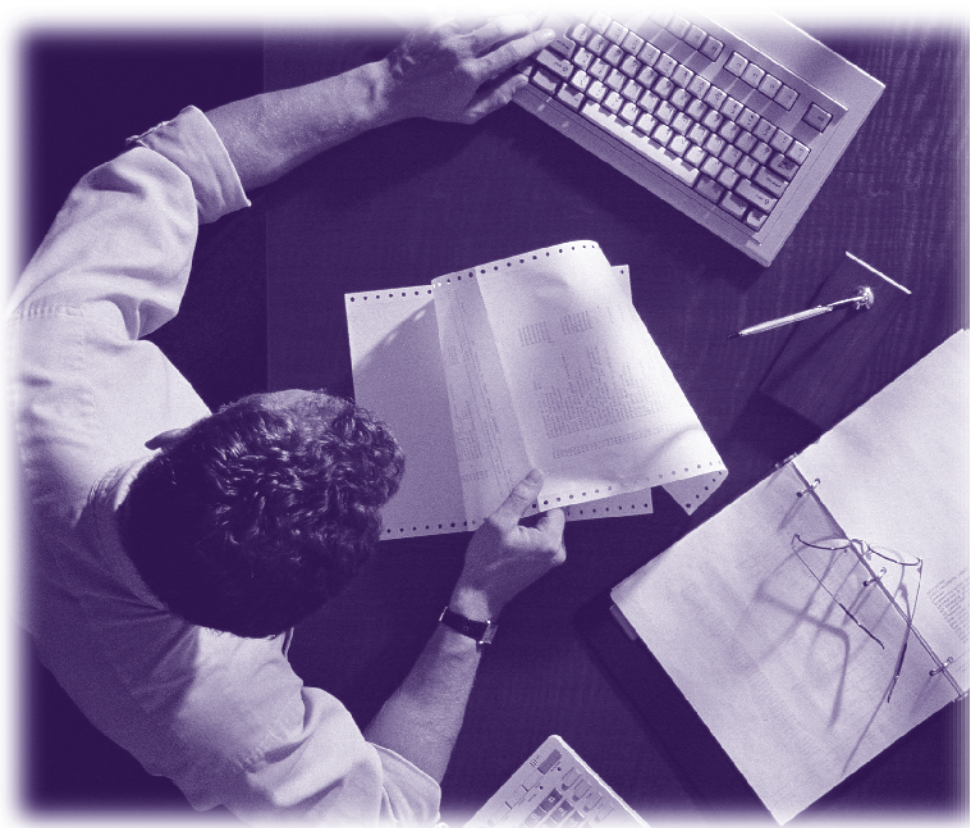




THE PRODUCER'S GUIDE TO MARKET CONDUCT



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CONTENTS

	PAGE
Introduction: It's a Service, Sales, Service Career	7
I. The First Prerequisite: Ethics	10
Principles of Ethical Market Conduct.	11
Live by a Code of Ethics.	12
The MDRT Code of Ethics	13
The NAHU Code of Ethics	14
Create Your Own Code	16
High Ethics Is Not Enough	17
Some Actions That Show or Promote High Ethics	18
II. The Second Prerequisite: Professional Competency. . .	20
Meet Licensing Requirements	21
Proper Knowledge Produces Accurate Recommendations	22
Admit What You Don't Know	23
Keep Abreast of Changes	23
Use Industry Resources	25
Be Prepared for a Market Conduct Exam	27
III. The Third Prerequisite: The Proper Approach	28
Properly Identify Yourself.	28
Be Someone People Can Trust.	30
Use Truthful Advertising	30
Advertising Is More Than You Think	31

	PAGE
Advertising and the Internet	32
Avoid Defamation of the Competition.	33
Make Communication Clear and Complete	33
Avoid Misrepresentation	34
Words You Can't Use	35
Words to Use Carefully.	37
Don't Assume	38
Avoid Jargon	38
Provide a Consumer's Guide	39
Emphasize Protection.	39
Don't Overplay to Emotions	40
Document Your Actions.	41
IV. The Fourth Prerequisite: A Proper Sale.	42
Sell to the Prospect's Need	42
Suitability.	43
Explain Contract Costs.	43
Keep Strict Confidentiality.	44
Educate People	45
Full Disclosure Is the Law	45
Explain Sales Illustrations	47
Why Field Underwriting Is Critical.	48
Replacement	49
What If Your Client Said to You	51
Rebating.	52
Stay Within Your Expertise	52
Let Prospects Decide.	53

	PAGE
V. The Fifth Prerequisite: Excellent Service	54
Maintain Good Client Files	54
Audit Your Client Files	55
Provide a Policy Summary	55
Deliver Policies in Person	56
Discuss the “Free-Look” Period	56
Send Delivery Letters	57
Use Current Testimonials	57
Conduct Annual Reviews	57
Keep a Compliance File	58
Handle Complaints Quickly and Fairly	58
Help Clients File Claims	60
Provide Added Value	60
Fulfill Day-to-Day Service Needs	61
Reacting to the Questionable Practices of Others	62
Include the Home Office	62
Sage Advice	63
VI. Ethical Market Conduct in the Employee Benefit Marketplace	65
Ethics	66
Professional Competency	67
Proper Approach	69
Proper Sale	70
Excellent Service	72
Epilogue	72
Sources	73

NOTE

The content of this booklet is often generic and broad. Issues and procedures may vary in your jurisdiction or with the companies you represent. To make sure you are in compliance for your specific jurisdictions and to be certain you follow your carriers' procedures, check with the home offices of each insurer you represent.

Although life insurance and annuities are mentioned most often, you will also find references to health, disability, and long-term care products in this text. The subject matter of this text, ethics and market conduct, is a way of life no matter what financial or insurance product you sell.

INTRODUCTION: It's a Service, Sales, Service Career ...

“Always sell what you would be proud to service 10 years from now. This rule was passed on to me in my first week in the business and I have never forgotten it.”

— George B. Sigurdson, CLU

“Only when you know, understand, and appreciate the problem of the customer will you develop the answer to their needs. Remember the basics of selling: find out what your customers want and give it to them

— Murray Raphel, retailer,
Mind Your Own Business!

What's at the bottom of the market conduct and compliance emphasis today? Stripped to its core, the concern centers on establishing trust, serving client needs, making suitable recommendations, and building long-term client relationships. Where there is trust, needs-based selling, and long-standing relationships, there are rarely any market conduct or compliance issues. In other words, selling is greatly enhanced by high ethics, market conduct, and compliance.

Whether you sell life or health insurance, annuities, long-term care, disability products, dental plans, or other products, this book will help you learn and understand the essentials of ethics, market conduct, and compliance from a sales perspective.

Experienced agents, brokers, and industry experts agree that a key to any producer's long-term success is building a client base. Top producers serve their clients so well that new business is drawn to them — repeat business flows, referrals come naturally, and the agent's positive reputation spreads.

How do top producers build a client base? The most successful health, life, and annuity producers base their business not on products but on people. It's a people business. Product experts do not make the best salespeople – people experts do.

LIMRA research shows that the average insured purchases insurance seven times during his or her lifetime. That means the opportunity for repeat sales is high. Top producers know this. They know the value of serving people well by solving real needs, providing suitable solutions, and building relationships. They know the importance of ethics and market conduct in leading to sales.

The same is true in the small business market. Business relationships built by putting the client's needs first can lead to the sale of additional products and renewals. In many cases, the client values the services of a trustworthy advisor more than slight cost advantages offered by unknown agents or brokers.

Your career is thought of as a sales profession, but is it really? Certainly selling is what you do. But the way you sell best is to serve people first. The way to hold on to and build business is by serving people after the sale. The sale is only the middle portion of a three-step process. The first and last steps in long-term success are service.

You begin with the service of identifying the prospect's needs. Uncovering real needs leads to sales that fill those needs. Research shows that above-average producers spend more time uncovering needs than do below-average producers. It can therefore be surmised that the reason successful producers make more sales is because they fill real needs; prospects are more likely to purchase a product when a clear need has been identified.

After the sale, continued service (such as annual reviews) helps build a long-term relationship. Without service after the sale, the likelihood of any contract you sell staying in force drops dramatically.

When you do proper fact-finding and fill real needs, you essentially “inoculate” clients to the competition. Your clients become more resistant to sales approaches from other agents and brokers. Business sold that is not in the client’s best interest is vulnerable to replacement by another producer who truly has the client’s needs in mind.

In other words, serving peoples’ best interests leads to repeat business, encourages referrals, provides a stream of renewal income, and builds your reputation. It also helps you avoid market conduct and compliance regulation problems.

Through fulfilling real protection and financial needs and displaying high ethics, thousands of producers make millions of clients much better off each year. As the late Grant Taggart, a former Million Dollar Round Table (MDRT) and National Association of Insurance and Financial Advisors (NAIFA) president, once put it, “When people die they leave behind an estate, but when I die I will leave behind hundreds of estates.” (*LAN*, July 1997, p.14)

I. THE FIRST PREREQUISITE: Ethics

“The price of greatness is responsibility.”

– Winston Churchill

Research by the Indiana University Graduate School of Business and the General Agents and Managers Association (GAMA) Foundation reveals that successful field officers think the most important traits in new recruits are ethics and honesty. Yet, according to an American Council of Life Insurance (ACLI) survey, the number of people who believe financial services companies possess high ethical standards has declined from 50 percent to 24 percent over the past 28 years.

You are the sales representative for the insurer. Your high ethics are the key to establishing trust and building long-term relationships with clients. In your position, you are called upon to ask prospects and clients some very personal and confidential financial questions. People will only answer those questions completely and honestly if they believe you are forthright, ethical, and well intentioned.

Life insurance legend Lester Rosen once told of the answer another MDRT producer gave when asked, “How do you reach a prospect?” Rosen says the response was, “You don’t reach him with an artful presentation. You don’t reach him with a complicated illustration. You don’t reach him with a tax gimmick. You don’t reach him with a clever argument. You reach him through compassion, the ability to feel with and for someone, the ability to make his problems your own, to respond to them in the same intense personal way that you respond to your own problems, to subordinate your interests to his needs.”

Principles of Ethical Market Conduct

The insurance industry has developed an organization to promote ethical conduct in the individual sale of insurance and annuities. This organization, the Insurance Marketplace Standards Association (IMSA), was sponsored by the ACLI. In order to belong to IMSA, a company must subscribe to IMSA's six Principles of Ethical Market Conduct and have in place a compliance program that will achieve them. The six principles are

1. To conduct business according to high standards of honesty and fairness and to render that service to its customers which, in the same circumstances, it would apply to or demand for itself.
2. To provide competent and customer-focused sales and service.
3. To engage in active and fair competition.
4. To provide advertising and sales materials that are clear as to purpose and honest and fair as to content.
5. To provide for fair and expeditious handling of customer complaints and disputes.
6. To maintain a system of supervision and review that is reasonably designed to achieve compliance with these Principles of Ethical Market Conduct.

Although much of IMSA's process involves the home office, it is equally applicable to the field. It's vital to realize that practicing high ethics and good market conduct is the job of everyone throughout the industry.

Live by a Code of Ethics

One good way to establish, maintain, or enhance your ethical standards is to review and live by a code of ethics. Practicing high ethics is the job of everyone in our industry – from the home office to field management to independent representatives. The industry has many codes of ethics – the Professional Pledge and Canons of The American College, the Society of Financial Service Professionals Code of Ethics, the IAFP Code of Professional Ethics, the NAHU Code of Ethics, and others. Be aware of the ethical codes of the organizations you are a part of and abide by them. As an example, we've reproduced the MDRT Code of Ethics. Read each of its seven points separately. Stop and think about that point for a few minutes. Then, answer the three questions that appear below each point.

REMEMBER

IMSA's First Principle of Ethical Market Conduct:

To conduct business according to high standards of honesty and fairness and to render that service to its customers which, in the same circumstances, it would apply to or demand for itself.

The MDRT Code of Ethics

Members of the Million Dollar Round Table should ever be mindful that complete compliance with and observance of the Code of Ethics of the Million Dollar Round Table shall serve to promote the highest quality standards of membership. These standards will be beneficial to the public and the life insurance industry and its related financial products. Therefore, members and provisional applicants shall:

- 1.** Always place the best interests of their clients above their own direct or indirect interests.
- 2.** Maintain the highest standards of professional competence and give the best possible advice to clients by seeking to maintain and improve professional knowledge, skills and competence.
- 3.** Hold in the strictest confidence, and consider as privileged, all business and personal information pertaining to their clients' affairs.
- 4.** Make full and adequate disclosures of all facts necessary to enable their clients to make informed decisions.
- 5.** Maintain personal conduct which will reflect favorably on the life insurance industry and the Million Dollar Round Table.
- 6.** Determine that any replacement of a life insurance or financial product must be beneficial for the client.
- 7.** Abide by and conform to all provisions of the laws and regulations in the jurisdictions in which they do business.

The NAHU Code of Ethics

1. To hold the selling, service and administration of health insurance and related products and services as a professional and public trust and do all in my power to maintain its prestige.
2. To keep paramount the needs of those whom I serve.
3. To respect my clients' trust in me, and to never do anything which would betray their trust or confidence.
4. To give all service possible when service is needed.
5. To present policies factually and accurately, providing all information necessary for the issuance of sound insurance coverage to the public I serve.
6. To use no advertising which I know may be false or misleading.
7. To consider the sale, service and administration of health insurance and related products and services as a career, to know and abide by the laws of any jurisdiction Federal and State in which I practice, and seek constantly to increase my knowledge and improve my ability to meet the needs of my clients.
8. To be fair and just to my competitors, and to engage in no practices which may reflect unfavorably on myself or my industry.
9. To treat prospects, clients and companies fairly by submitting applications which reveal all available information pertinent to underwriting a policy.
10. To extend honest and professional conduct to my clients, associates, fellow agents and brokers, and the company or companies whose products I represent.

Take a minute to review one of these codes (or the code of some other organization you belong to). For each point in the code, ask yourself the following questions:

Am I upholding this practice? ☐ Yes ☐ No

What specific actions can I cite to prove I am upholding this practice?

a) _____

b) _____

c) _____

What additional steps or actions can I take to become even stronger in this area?

a) _____

b) _____

c) _____

The Unfailing Boomerang

“Every time you do something less than honest you’re throwing the boomerang. How far it will travel no one knows. How great or small a circle it will traverse only time will tell. But it will eventually, it must finally, it will inevitably come around behind you and deliver a blow to you.”

– Earl Nightingale

Create Your Own Code

More important than the MDRT Code of Ethics or, for that matter, any other organization's code is the code that you actually use and live by every day. It's too easy to say we agree to an ethical code, then forget it or never refer to it again. That's why we recommend you create your own code. Reread the two sample codes and the IMSA Principles of Ethical Market Conduct. Remember, you may be asked to adhere to the IMSA principles, because many companies have adopted them. Use the sample codes and IMSA's principles to think about and record your own code. Ask yourself questions like:

- ◆ How can I change this wording to better reflect my style and beliefs?
- ◆ Do I want to combine some IMSA principles into my code?
- ◆ Do I want to review other codes and resources that will help me build my own code of ethics?

If you write your own code, you are more likely to remember and use it. You will be more committed to it. And, it can encompass any special situations you may deal with. Using all your resources, record your own code of ethics here, or commit fully to the NAHU or MDRT Code of Ethics and the IMSA principles by signing on the next page. Keep your code of ethics near at hand, in a place where you will see it often.

A survey of more than 1,400 MDRT members found that the greatest asset to overcoming ethical lapses lies within the individual. Personal values and the insight gained from families and friends rank highest in terms of solutions for ethical issues. Share your code of ethics with family and friends. Ask for their input. Sharing it will further commit you to upholding it.

If you feel you can't improve upon or personalize the NAHU or MDRT code or IMSA principles, you may prefer to adopt them as your own by reading, signing, and dating the statement on the next page.

I, _____, have read and understand the NAHU or MDRT Code of Ethics and the IMSA Principles of Ethical Market Conduct. They fully and adequately cover my needs within my practice and I commit to always following, upholding, supporting and promoting these rules of professional ethical behavior.

Signed _____ On _____

View high ethics as a way of life. Interweave a high standard of ethics into everything you do. Your interests are irrevocably intertwined with the interests of your clients and the company or companies you represent. The three are mutually dependent.

High Ethics Is Not Enough

For years agents and brokers have relied on their basic training, experience, and personal ethics to guide them in serving their clients well. Today that's not enough. Public demand, marketplace complexities, and a firm regulatory environment require strict adherence to market conduct and compliance regulations. You can be highly ethical and still unknowingly break a compliance regulation.

You must combine high ethics with diligent compliance. Just as ethics alone is not enough, neither is compliance alone enough. Compliance regulations present a bare minimum. Something might be legal but not necessarily ethical. Compliance is the footing of good sales and service – high ethics is the flourish.

Learn all you can about compliance. Read home office publications on compliance. Subscribe to journals that keep abreast of market conduct issues. Take advantage of industry seminars and workshops on ethics, service, compliance, and related topics. The more you know, the better position you'll be in to make compliance work for you. Continually audit your own market conduct to identify any compliance risks and eliminate them. Make compliance a competitive advantage by serving prospects and clients in a highly ethical fashion with full compliance.

Some Actions That Show or Promote High Ethics

I DO THIS NOW		I COMMIT TO DOING MORE
☐	Continuing to learn more about my job	☐
☐	Going the extra mile for clients	☐
☐	Developing good character traits, integrity, sincerity, reliability, perseverance	☐
☐	Placing my clients' interests first	☐
☐	Reading all I can about current compliance regulations	☐
☐	Keeping promises	☐
☐	Earning professional designations	☐
☐	Building long-term client relationships	☐
☐	Providing service before and after the sale	☐
☐	Contributing to my community	☐

After completing this exercise, think of specific ways you can commit to taking action in those areas that you're not already doing. Jot down your ideas, attach a deadline, and in a few weeks check back here to make certain you uphold these commitments to your own satisfaction.

II. THE SECOND PREREQUISITE: Professional Competency

“The best measure of an educated person is no longer a college degree, but whether a person knows how to learn and continues to learn throughout his or her lifetime.”

— *Recruiting for Tomorrow*, LIMRA International

“We are what we repeatedly do. Excellence, then, is not an act, but a habit.”

— Aristotle

A second prerequisite to good market conduct is being competent. Being competent means having the skills, knowledge, commitment, and attitude to do a professional job as an insurance sales representative.

Competency also means recognizing that you are responsible for your own professionalism. You must take responsibility for your licensing, training, and education. Companies provide many training programs, but they can't always know exactly what you need to do to keep your career on track. What licensing requirements do you need to meet? What courses can best advance your career? What skills and knowledge will most benefit you at this stage in your career? You need to know and comply with all regulatory requirements, but that's the bare minimum. Successful agents go far beyond the bare minimum.

Sidney A. Friedman, a high-producing broker in Philadelphia, said he bought, listened to, and used every sales, marketing, and motivational tape he discovers. He continued to learn, he said, because learning is the only way to not hit a plateau. Keep studying and you'll always be reaching new heights. (*LAN*, May 1997, p. 100)

Competency also means having up-to-date information on all applicable insurance regulations. It means reading all communiqués from the companies you represent so you stay in touch with product, marketing, and regulatory changes.

Competency means getting involved in regular learning and growth opportunities. The value of training to your career can't be overemphasized. It's like Ralph Waldo Emerson once said, "What lies behind you and what lies in front of you pales in comparison to what lies inside you." Training helps put more greatness inside you.

Meet Licensing Requirements

Obviously, you must meet all licensing requirements before you become active in any jurisdiction. Obtain and maintain the required license or certification for the lines of insurance and financial products you sell. Do so in all of the states or provinces in which you do business. Make sure you hold the proper appointments, and meet all other legal requirements such as nonresident licensing, countersignature, bonding, and placing surplus lines business, as required by law. Information on licensing requirements is readily available from carriers and insurance departments in the states where you do business. Failure to hold proper licenses is a serious violation and, surprisingly, is among the most common agent offenses.

That Was Then

“The conduct of the life insurance industry with regard to its sales and marketing practices has been inexcusable.”

– Salvatore R. Curiale,
Superintendent of Insurance,
State of New York
March 1995

Will This Be the Future?

“By far the best example we have today of great public service, outstanding marketing practices, and high competency is in the insurance industry.”

– Leading Consumer Advocate,
Sometime in the Near Future

Proper Knowledge Produces Accurate Recommendations

You owe your prospects and clients (and the companies you represent) accurate recommendations, but accurate recommendations can only occur when you have the right knowledge base. It is essential that you be able to recognize your clients’ protection and estate-planning needs and be able to design solutions to meet these needs. In the case of a young family that is dependent upon one breadwinner, a combination of term life and disability income insurance may be preferable to just permanent life insurance.

Designing effective solutions requires knowledge of tax law and procedures. For example, the choice of beneficiary has important tax implications. Unless proper procedures are completed in making a 1035 exchange, an unnecessary taxable event could result. In any case, do not hesitate to contact the carrier whenever you are uncertain about the implications of an action you take.

Admit What You Don't Know

Competency does not mean knowing everything. The competent agent readily admits when he or she does not know something. *Not* admitting what you don't know can lead to suspicion about what you *do* know. Guessing can lead to real compliance problems – lack of knowledge is no excuse, even if your intent is ethical. And don't try to solve a difficult problem alone if you think there's a chance someone else could save you time or help you find a better answer. Don't overlook the insurance carrier's advanced sales department when you need help with a complicated or difficult case.

Keep Abreast of Changes

Keep abreast of changes in the field. Changes in products, changes in market practices, and changes in compliance regulations seem to happen overnight. It is essential to stay informed of continuing education requirements in the states where you do business and, more importantly, stay up to date in complying with them.

Here's a **checklist** of some areas that you need to have skills and knowledge in so you can serve your clients with a high level of competency. Go through the list and note any areas you need to further develop. Everyone can find areas on this list where they can improve themselves. Rank these areas:

- 1** = I need to know more as quickly as possible.
- 2** = I need to know more, but other areas are more important right now.
- 3** = I'm confident my current skills and knowledge in this area are adequate for now, but I will reevaluate in six months.

- _____ Conveying high ethics and proper market conduct
- _____ Using a structured, fact-finding process
- _____ Staying updated on all applicable industry regulations
- _____ Identifying and documenting real financial or protection problems to solve
- _____ Knowing the products I sell
- _____ Knowing all relevant policies and procedures for the companies I represent
- _____ Properly delivering the policy or contract
- _____ Adhering to advertising compliance regulations
- _____ Strengthening my beliefs about the career
- _____ Establishing trust
- _____ Knowing how to ask questions and draw people out
- _____ Actively involving prospects in interviews
- _____ Building up myself, my products, and my company with prospects
- _____ Giving prospects ownership of the buying decision
- _____ Creating and following a career plan
- _____ Building and increasing a client base
- _____ Managing my business professionally
- _____ Planning and following through on service
- _____ Knowing the markets I serve

Use Industry Resources

Avail yourself of the many resources within and without the industry – industry seminars, training sessions, study courses, producer study groups. There is a lot of help out there, and smart producers take advantage of it.

For 25 years, John Utz averaged an application every working day. He qualified for the MDRT 42 consecutive years. He credits much of his success to his involvement with the Life Underwriters Association and MDRT. “I’ve had an awful lot of help. I think it’s important to realize that even though we accomplish a great deal on our own, we all do far, far better if we accept help.”

Use and add to the following list of industry associations to stay aware of training and education opportunities these organizations provide.

ORGANIZATION	TELEPHONE
The American College	(610) 526-1000
General Agents and Managers Association (GAMA)	(800) 345-2687
LIMRA	(860) 688-3358
LOMA	(770) 951-1770
Million Dollar Round Table (MDRT)	(847) 692-6378
National Association of Health Underwriters (NAHU)	(703) 276-0220
National Association of Insurance and Financial Advisors (NAIFA)	(703) 770-8100
Financial Industry Regulatory Authority (FINRA)	(301) 590-6500
Society of Financial Service Professionals	(610) 526-2500

As a professional insurance agent, you should be as well versed in your field as doctors and lawyers are in their fields. Try setting apart at least a half hour every day for reading and studying. Use this time to learn more about the products you sell, the people you serve, and the industry you represent. A mere 30 minutes a day adds up fast – after two years you will have accumulated more than 250 hours of self-study time. This is the way to build expertise and to become a sought-after resource by other agents and by potential insureds.

A few years ago, the MDRT provided the following broad guidelines for producers:

- ◆ Spend 50 percent of your time in the sales process
- ◆ Spend 22 percent of your time in client preparation
- ◆ Limit office duties to 13 percent of your time
- ◆ **Use 9 percent of your time for education** (43 minutes out of an eight-hour day)
- ◆ Allow 6 percent for follow-up

Be Prepared for a Market Conduct Exam

State insurance department investigators sometimes examine the business practices and operations of an insurer via a market conduct examination. In one recent year, more than 1,400 market conduct exams were conducted. These exams tend to concentrate on an insurer's general business practices as opposed to random violations or isolated incidents of misconduct. The practices of the company and its sales representatives are both included, so professional competency requires that you be prepared for such an exam.

The different types of exams conducted include

- Comprehensive – reviews all operations

- Targeted – examines one area or a few areas

- Re-exam – checks for compliance with findings from a previous exam

- Multistate – allows several states to participate

- Desk – occurs off company premises

- Specialized – may include reviews of specialty insurers or regulated entities

A number of states have recently begun conducting focused marketing and sales solicitation reviews of specific agents and agencies. This may take place in either the agency or agent's home office. The main thing for you to know is that such an exam may require your input. Would your client files and other information be readily available, complete, and clear so that you could show a state regulator that you are a professional practicing good market conduct?

III. THE THIRD PREREQUISITE: The Proper Approach

“Truly great producers will sacrifice their own needs to save a client, knowing that, with patience, the tide will turn back in their favor. This is hard to explain to an inexperienced producer, but putting the client’s needs ahead of your own always works out for the best.”

— James M. Holmwood

Properly Identify Yourself

Imagine that you are on the phone making your initial contact with a new prospect:

“Hello, Mr. Brown? I’m Jerry Blake. How are you this morning? (pause) Good. Mr. Brown, I received your name from a mutual friend, Ann Quinn, who thought you might be interested in the services I provide. You see, Mr. Brown . . . ”

Is this a proper ethical approach? No, not yet. You have not yet identified yourself. Misleading, improper, or incomplete identification of who you are and who you work for is a form of false advertising. You are obligated with any prospect to clearly explain up front who you are, what you do, and who you represent.

Many people hear a title like “financial consultant” and think the person calling himself or herself by that title holds a credential. That’s not always so. Be sure to identify yourself with a title that clearly and accurately describes who you are. That might be “broker,” “sales representative,” or some other title. Check with the company or companies you represent to be certain. Avoid misleading or vague titles like “consultant,” “financial counselor,” or “retirement specialist.”

Here's a better, more complete way for you to approach Mr. Brown, the prospect we mentioned at the beginning of this chapter:

“Hello, Mr. Brown? I’m Jerry Blake. How are you this morning? (pause) Good. Mr. Brown, I received your name from a mutual friend, Ann Quinn, who thought you might be interested in the services I provide. You see, Mr. Brown, I’m a sales representative with the XYZ Insurance Company. Did Ann mention my name to you? (pause) She did. Good. Then you probably know Ann has done business through my company. My job, Mr. Brown, is to review people’s insurance and annuity holdings and their financial situation to see if they have important, unmet needs that I might be able to help them fill. If you think you might benefit from the services I provide, I’d like to meet with you this week for 20 minutes to discuss the details. Would that be okay?”

This approach makes the purpose of the call and the suggested meeting clear. It gets your relationship with the prospect off to an open, honest, and trust-building start. Prospects who know what you do and agree to an interview are now predisposed to at least discussing their existing financial situation with you.

Assuming you have the proper credentials to call yourself a “financial planner” (such as a CFP designation), the following introduction may be appropriate.

“Hello, Mr. Brown? I’m Jerry Blake. How are you this morning? (pause) Good. My job, Mr. Brown, is to review people’s financial situation, including insurance and other assets, and see if they have important, unmet needs that I might be able to help them fill. I begin by doing a financial needs analysis at no charge. If you think you might benefit from such a needs analysis, I’d like to meet with you this week for 20 minutes to discuss the details. Would that be okay?”

The key is to present yourself and your credentials honestly and openly. Above all, never suggest or imply that you have credentials that you do not. Make sure you know your state's requirements concerning titles and credentials.

Be Someone People Can Trust

Today, people are bombarded with promotional materials. Everyone's selling something. Trying to present yourself as something other than what you are will immediately raise suspicions about your integrity. People will be highly skeptical of everything else you say or do, no matter how true or right it may be. In fact, if someone believes you lack integrity, all your other positive characteristics – ranging from friendliness and intelligence to product knowledge and competence – become meaningless.

People want to deal with agents and brokers they can trust. By exhibiting high ethical standards, you build that trust and you build strong relationships. You make your job of identifying needs and selling products that fill those needs easier. The old saw is true: People don't care how much you know until they know how much you care (about them).

Use Truthful Advertising

Insurance agents provide advice and counsel on some of the most complicated purchases people make in their lifetimes. In recent years, the number and complexities of life insurance, annuities, and other financial products have grown exponentially. Studies show that four out of five people in the United States feel their insurance policies are too difficult to understand.

To deal with this reality, always use clear and truthful advertising and sales materials. Check with the appropriate home offices before you advertise. Gain the prior approval of the home offices of any companies whose names or materials you use.

Advertising Is More Than You Think

In the past, some agents have misunderstood how broad the definition of advertising is. The National Association of Insurance Commissioners (NAIC) defines advertising as:

Material designed to create public interest in life insurance or annuities or in an insurer or in an insurance producer, or to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy.

This may sound like “legalese,” but it shows that the variety and type of communication with your clients and prospects that do NOT qualify as advertising are quite limited. Some examples of the forms that advertising can take are

Billboards	Prospecting letters
Correspondence	Radio or TV ads
Direct mail	Reprinted news articles
Email	Sales brochures
Illustrations	Seminar scripts or materials
Newsletters	Telephone solicitations
Newspaper ads	Training materials
Prepared sales talks	Web sites

Even reprinted newspaper or magazine articles are considered to be advertising, so company rules on using such material must be followed. (In addition, be aware of copyright rules in reprinting published materials.) If you use any of these advertising methods (and virtually 100 percent of agents do), then you must be aware of and follow any and all advertising regulations from the companies you represent and from the industry regulatory agencies.

Advertisements sometimes overpromise. For example, some companies and agents have placed ads that say, “Here is all you do to apply,” when actually the policy is subject to underwriting approval. If you suggest that applying is simple, you must explain that applications are subject to acceptance.

REMEMBER

IMSA's Fourth Principle of Ethical Market Conduct:

To provide advertising and sales materials that are clear as to purpose and honest and fair as to content.

Advertising and the Internet

The Internet is still a relatively new advertising medium. How it's used by insurers and sales representatives and how it will be regulated are still evolving. But, since the Internet is another advertising medium, it seems safe to say that what applies for advertising elsewhere will also apply to the Internet.

One major difference with using the Internet is that it crosses all jurisdictional boundaries. Any communicating you do via the Internet is available to anyone anywhere in the world with access to your site. Since your communication may appear in any number of jurisdictions, it is important that you identify the particular states in which you are licensed. If a product is mentioned in your Internet communication, you should state that the product may not be available in all states.

Most communications require home office approval, but some may not. *Always check with your carriers for their requirements on approval of advertising materials.*

Avoid Defamation of the Competition

When producers talk negatively about any aspect of the industry, people often walk away with a negative opinion of the whole industry. In other words, defamation of a competitor, or “company bashing,” often sounds like “industry bashing” to prospects.

Defamation of a competitor is poor ethics and is sometimes illegal. However, factually accurate, complete, and balanced statements are not “disparaging.” As a broker, you have an obligation to act as an advisor within your areas of expertise.

REMEMBER

IMSA’s Third Principle of Ethical Market Conduct:
To engage in active and fair competition.

Make Communication Clear and Complete

You avoid market conduct and compliance problems when you communicate clearly. Sales are much more likely to occur and stay on the books when your interactions with prospects and clients are clear, complete, and balanced in providing the benefits, costs, limitations, and contract terms of the products you present or recommend.

Always make sure people understand you and are not misled. In part, that means talking on their level and asking them frequently if what’s being said is clear to them. One technique many agents use is to ask prospects to repeat major points in their own words. As your prospects talk, you can make sure the message you’ve tried to deliver has been received.

Here's an example of a statement about a life insurance policy that is not clear and is misleading. Read it and see if you can determine why it is improper:

“This is a retirement plan that will help assure that you maintain your lifestyle after you retire.”

The statement above is misleading because the producer calls a life insurance policy a “retirement plan.” You must use terms correctly. Never call a life insurance policy “a retirement plan,” “a savings plan,” or any other misleading term. Always call a policy a policy. Failing to describe an insurance product as insurance is prohibited by state consumer protection laws. Calling premiums “deposits” is also unacceptable, as is referring to insurance as a “tax shelter.”

Avoid Misrepresentation

At the heart of what we've been discussing is avoiding misrepresentation. Misrepresentation is defined as

- ◆ Making an untrue statement of a material fact
- ◆ Failing to provide a material fact necessary to keep other statements from being misleading
- ◆ Stating facts in ways that mislead the listener

Most agents are not guilty of intentional misrepresentation. However, unintentional misrepresentation sometimes happens because an agent is not knowledgeable enough about the details of the products or services he or she offers and simply makes a mistake. A large product portfolio and the complexity of certain products can lead to making untrue statements. For example, the withdrawal schedules on different annuities can cause confusion that can lead you to make an untrue statement. To avoid misrepresentation, educate yourself about the products you sell and rely on company-provided reference materials.

If you present features and benefits that are contingent without describing the contingencies or requirements, you are misrepresenting them. Calling something “tax free” is a misrepresentation if there are conditions that must be met to avoid taxation.

Misrepresentation also occurs when you fail to make disclosures required by law or regulation. For example, if the states where you conduct business have a “free-look” provision and you fail to disclose it at the appropriate time in the interview, you are guilty of misrepresentation.

Sometimes it isn’t what you say but the way you say it that leads to misrepresentation. If the way you explain product features and benefits leads the client to reach a false conclusion, you have misled the client. The use of words or terms that are unsubstantiated or that can mislead because of their generally accepted meaning is another way you can be guilty of misrepresentation. Calling something “new,” “unique,” or “best” requires substantiation and explanation.

Words You Can’t Use

Insurance industry compliance consultant Dennis M. Groner cautions that some words should not be used to describe certain product features and benefits. These words are likely to mislead the consumer and their use can lead to claims of misrepresentation.

You cannot say . . .

Account when referring to a policy

Contribution(s) as a description of premium

Deposits when referring to premiums

Earnings to refer to life insurance cash values or dividends

Emergency account to refer to cash values

Guaranteed cost when referring to premiums

Guaranteed income or savings when referring to cash values or dividends

Investment(s) to refer to premiums or when referring to additions to policy subaccounts

Limited when referring to the number or period of time premiums must be paid

Liquid to refer to funds for which withdrawal charges may apply

Liquidity account to refer to cash values

Mutual fund accounts when referring to a registered product's separate or subaccount(s)

Passbook savings to refer to cash values

Payments to refer to premiums

Plan or program when referring to a life insurance policy or annuity contract

Profits(s) or profit sharing when referring to increases in cash values or subaccount values

Savings account to refer to cash values or premiums

Savings or savings plan to refer to cash value

Vanishing premiums when referring to payment plans that are projected to end within a certain number of years

It's hard to know exactly what words you use during a sales presentation, so you may want to role-play with another producer who will listen closely to what you say. He or she may be able to point out where you are using the above words inappropriately.

Words to Use Carefully

Groner also recommends using the words and phrases below carefully. They tend to be exaggerations or inaccurate. Use them only when you can demonstrate their accuracy and truth. If you use any of these words in print, you may need to reference them with a footnote that substantiates their accuracy.

All	Highest	Only
At no extra cost	Largest	Safest
Best	Limited	Special
Completely	Lowest	Superior
Comprehensive	Maximum	Unique
Expert	Minimum	Unlimited
Free	Most	Unparalleled
Full	New	Utmost in safety
Guaranteed	No	

When considering the accuracy of your statements, pay attention to the context, your audience, and the overall clarity of your communication. The potential complexity of the use of a word or term is one reason why you should always use sales materials approved and updated by the company you represent.

If you have concerns about the use of a word, such as the ones on this list, it may be best to add a qualifying phrase: “one of the largest,” “one of the most respected.” Qualifiers make your statements more accurate and realistic. Words such as “improved” and “enhanced” may be more accurate than words such as “new” or “unique.”

Don't Assume

One of the greatest inhibitors to effective communication is assuming. Anytime you catch yourself thinking that clients probably know something, let that be a red flag. Stop and make sure the clients know what you assume they know. A way to avoid this is to use a checklist to help you conduct an organized interview. Include on your checklist all the important facts that must be disclosed.

Avoid Jargon

Even simple words and terms can confuse. The 500 most commonly used words in the English language have about 14,000 different meanings. Use common words, but use common sense and make your meaning clear. Lincoln's Gettysburg Address contained only 262 words, and 202 of them were one syllable. Repetition can help. Often good agents will rephrase several times the key ideas they want prospects and clients to grasp.

The terms you use will vary depending on the sophistication of your client and any of the client's other advisors who may be present (attorney, business comptroller, CPA, etc.).

Speak at a level that's comfortable to everyone in the room.

Good communication also means avoiding industry jargon. You know what "HMO" stands for, but the term should be explained to the public. "Waiver of premium," "coinsurance," "settlement options," "cash values" – there are hundreds of terms that brokers and agents use every day that may need clarification when used with prospects and clients.

Provide a Consumer's Guide

In most jurisdictions you must provide a life insurance buyer's guide (usually at the completion of a sale), and some agents also provide a different type of consumer's guide toward the beginning of the sales process. Both are good practices.

A Consumer's Guide to Life Insurance, developed by the American Council of Life Insurance, explains how life insurance works, discusses types of policies, has a work sheet on estimating how much life insurance is enough, and contains a glossary of common terms. Similar guides are available on health insurance, annuities, disability income, and other types of products you may sell. Investment products require a prospectus. Make certain that you know whether each state where you do business requires a specific buyer's guide and when it must be delivered to the client.

Such guides are one of the effective ways to educate your prospects about the types of products you represent and the services you provide. Providing this information helps speed the sales process. The information can answer prospects' own questions beforehand so that they are more prepared when you sit down with them later.

Emphasize Protection

Any life insurance literature you use with prospects and clients should emphasize the protection offered. The savings element of a policy might be important to a prospect, but it is *essential* that the protection element be discussed. A lot of communication problems can be avoided simply by using up-to-date and company-approved materials that help explain the protection element.

Don't Overplay to Emotions

See if the error in this statement (from an agent to a prospect) is clear to you:

“This policy will save your family from the devastating fate they will face if you die prematurely.”

This statement could reasonably be interpreted as a scare tactic. Such tactics are inappropriate, even unethical. Don't be melodramatic, stretch the truth, or appeal to someone's fears of the future. Provide answers to both the rational and emotional needs of the prospect, but do so in a reasonable way.

What do you think of this producer's statement to a prospect?

“The 20-year cash value on this life insurance policy (based on current assumptions) proves you'll have the money to fund your daughter's college education.”

This statement uses the word “proves” incorrectly. A 20-year cash value based on current assumptions doesn't prove anything. It is a projection, not proof.

If what you say to prospects and clients can be reasonably misconstrued, it may be unacceptable. For example, let's say you sold lightbulbs just by telling your prospects, “You should buy our new lightbulbs because they cost just a penny per minute.” People may be misled into thinking the cost is less than it is because a penny is not much money. Plus, you would also have to explain how long the lightbulbs last. In this case the sales representative gave incomplete and misleading information. Put yourself in the shoes of your prospects. If it is reasonably possible that what you plan to say might confuse or mislead people, don't do it.

In essence, communicating with the public simply involves being truthful, complete, and straightforward. Give the facts. Tell the whole story. Be as direct and clear as you can be.

Document Your Actions

Documentation is essential in all professions. How would you view an accountant or attorney who did not keep detailed records of dealings with his or her clients? It is just as important for you to keep detailed documentation of your recommendations, actions taken for clients, and any disclosures you provide them.

You may not consider documentation of your activities to be a strength of yours; nevertheless, it is essential. From the time you first make contact with a prospect you should keep a file on your activities and your communications with that person. Be sure to know and follow the document retention policies of the jurisdictions you serve and the companies you represent. Some states require that certain records be kept by the producer or agency. Failure to maintain proper records can result in violations and disciplinary actions. This is anything but a secondary obligation. To best serve people, you need accurate and complete records of what you learn about them and how you serve them. We will discuss this topic in greater detail when we discuss the fifth prerequisite of market conduct: excellent service.

Keep copies of sales illustrations, needs analyses, and correspondence. Don't forget to document phone conversations. Some producers keep a phone log in each client's folder. Others simply take notes inside the file folder. Document:

- ◆ Decisions reached
- ◆ Any cautions you gave the client
- ◆ Anytime the client acted against your advice
- ◆ Any needs identified that the client chose not to address

IV. THE FOURTH PREREQUISITE: A Proper Sale

“To me, a good life insurance agent who’s going to sell me a policy is going to consider what I need, what I’m after, and then show me maybe two or three possibilities and explain them clearly and fully and not push any particular kind of policy just because it’s better for the agent or better for the company, but something that’s going to be better for me. To me, this is the best service that an agent could provide.”

– A life insurance customer

Sell to the Prospect’s Need

Perhaps the first and foremost commandment of market conduct and compliance is to sell to the prospect’s need. If no need exists, then do not sell. And where there is a need, always consider the question, “Is this the best product for this client?”

Needs selling requires the use of a fact-finding process or tool. The companies you represent and other industry resources provide many good tools that do the job. Ask your carriers about their recommended needs analysis tools.

Once you’ve identified the needs, you still must respect the prospect’s financial situation and comfort level. Just because the need is for \$250,000 of disability income insurance doesn’t mean you sell \$250,000 of disability income insurance. You must consider the prospect’s available funds. You must also consider the prospect’s comfort level. If a prospect is uncomfortable with your recommendation, don’t proceed. Find the source of the discomfort. Your recommendation may be correct, but not well understood by the prospect.

If you're certain your proposal is properly understood, and the prospect still feels uncomfortable about proceeding, give the prospect time to think about your recommendation or offer another recommendation.

Suitability

Selling to needs closely relates to suitability. A suitable sale is one that meets the needs of the customer and that also fits with his or her general situation. In other words, a suitable sale is one that is appropriate for the customer in light of his or her total financial situation – one that balances adequate coverage with affordability. Replacements must also meet the standard of being suitable to the client's needs.

For example, while variable products are appealing to many clients, they may be inappropriate for someone who does not have an adequate level of fairly liquid investments. The decision concerning whether a particular sale is suitable or not is based on the client's entire financial and personal situation and his or her financial goals. A comprehensive needs analysis goes a long way toward providing the information needed to make a suitable recommendation. FINRA rules also impose a suitability requirement.

Explain Contract Costs

Whenever we consider making a purchase, we want to know all the costs involved. Premiums, penalties, loan interest rates, surrender charges, and other factors that affect cost must be explained. Many policies are flexible, allowing changes in premium, a face amount, or riders. Explain how future policy changes can affect policy costs.

Don't shy away from discussion of policy or contract costs. Research shows that when prospects' questions about costs are fully answered, they are more likely to buy than when such questions are brushed aside.

Review what is guaranteed and what is not. Explain premium payments, nonforfeiture options, surrender charges, and how long premiums are paid.

If the client intends to use contract values to pay future premiums, explain that the cash values available to pay premiums are not guaranteed. Even though a client begins paying premiums by using existing contract values, factors could change that could cause that client to have to resume making premium payments at some point in the future.

When selling universal life, make sure planned premiums are sufficient to carry the policy to maturity. If not, explain (and document) that increased premiums will be required later.

Generally it is illegal for producers to charge fees in addition to the policy premium or annuity consideration unless additional services are truly performed and the fees and services have been disclosed to the client in advance.

Keep Strict Confidentiality

To take an insurance application or process a claim requires gathering personal, financial, and medical information about the applicant or claimant. This is personal information that people do not readily or easily share. All professions respect the confidentiality of client information. Confidential information should not be discussed with or revealed to anyone (not even the client's other professional advisors) without the client's permission or due process of law. Also, do not leave client files open and unattended.

Educate People

Did you know that only about 1 in 3 prospects feels competent making decisions about the purchase of insurance? Most prospects have trouble understanding the terminology associated with insurance and other financial products, selecting companies, and determining which product or amount of coverage to buy. They look to you, the sales representative, not to make those decisions for them, but to guide them through the process so they can make informed decisions based on their own best interests.

Part of your obligation to clients is to accurately and completely disclose all information that prospective purchasers and policyowners should have in order to make a decision that will be in their best interest. People want to be educated. No one wants to buy a product they don't understand.

According to LIMRA, when sales representatives are perceived as being very helpful, 7 in 10 prospects buy. When prospects feel the sales representative is not helpful, only about 3 in 10 buy. People want to make informed choices. When you educate prospects about insurance – and that involves discussing several types of contracts – they are more likely to buy than when you discuss only one type.

Full Disclosure Is the Law

Full disclosure helps ensure that your prospects' best interests are served. The more complete your explanation of the products you sell and how they work, the greater your clients' ability to make an informed decision. By explaining both the pros and the cons of your product, you build your own credibility as an objective source of information and advice.

Remember, it's just as wrong to omit giving essential information – such as failing to correct a mistaken impression that is known to exist – as it is to give inaccurate or misleading information.

Many producers use a series of questions toward the end of the sales interview to make sure they've answered all of their prospects' questions and done a complete job.

- ◆ What haven't I made clear?
- ◆ Have I given you all the information you need to make a decision?
- ◆ Does this plan make sense?
- ◆ Is there something else I can tell you or do for you to assure you that I think this is the right solution for you?
- ◆ If I were you, I would not buy anything until I felt I had all the facts presented in an understandable and objective way – how have I done?

Prospects and clients must be told what the product you're recommending will and will not do for them. During your presentation make sure you explain contract limitations as well as benefits. Do not use words like "only," "just," or "minimum" to minimize the effect of any limitations. This may hide the full effect of the limitation or even make a limitation sound like a benefit. Whether in advertising or in person, you cannot do this. Use the proper company and NAIC forms, and deliver a buyer's guide with each policy or contract. (The ACLI's *Insurance Buyer's Guide* is used frequently, but make sure you know what is required by states where you do business.)

If you're working with seniors, know and follow the special requirements for sales to that market. For example, the NAIC model disclosure law specifies that the over-age-60 senior must be given a free look of 30 days, not the more common 10 days. If your state has adopted the model law, you may also be required to provide a special buyer's guide designed for seniors. A number of states have adopted other unique requirements for selling in the senior market. Your carriers can help you determine the requirements in the states where you do business.

Explain Sales Illustrations

Companies support the effort by the NAIC and others to make sales illustrations fair and understandable. They have put much thought and effort into developing their sales illustration systems. To avoid potential legal and compliance problems, be sure you only show company-approved sales illustrations to your prospects and clients. If you're a nonexclusive producer, be sure all of your company-provided software is the most recent version.

Become familiar with the sales illustration regulation as adopted in the states or jurisdictions in which you conduct business. Each state might have its own, slightly different requirements.

When you present a sales illustration, clearly explain to the prospect what each section and column means. Always tell your prospects and clients that portions of sales illustrations are projections, not guarantees, of how a contract will perform. You cannot overemphasize to them that illustrations contain projections based on *current* interest rates, *current* mortality charges, and other expenses. These conditions are not contractual obligations, therefore they are not guaranteed.

Avoid using sales illustrations for cost comparisons. Because of the wide variety of nonguaranteed elements and variations among policy features, illustrations do not provide a valid “apples-to-apples” cost comparison. Illustrations can be used to show how contract features match up with customer needs.

Be sure to have the client sign any sales illustrations you present. The client keeps one copy and you send another along to the carrier with the application. When you don't use a sales illustration, have the client sign the appropriate certificate stating so.

Why Field Underwriting Is Critical

Your clients may be reluctant to share some of the information required on an insurance application. People may not always understand why you need to know so much. You need to educate clients in this area. Explain the importance of complete and accurate information. Keep in mind your obligation of full disclosure, not only to the client but also to the company underwriting the policy.

Once underwritten, an application becomes part of the insurance contract. It is critical that *all* questions be answered completely and honestly by the insured in the presence of the producer. Every application you submit must be complete, accurate, and not misleading. Submitting complete applications will help your cases proceed smoothly through the underwriting process and get issued as quickly as possible.

CASE STUDY

Jerry Michaels, the proposed insured, had been treated for a heart ailment, but Karen Foster, the producer, did not note that fact on Jerry's \$300,000 insurance application. After the company issued the contract, Jerry died from heart-related causes. What's the likely outcome?

The most likely outcome is that Jerry's beneficiaries will never receive the contract's benefits. They not only lost Jerry, but the \$300,000 he tried to provide for them. The application was incomplete and inaccurate because an important aspect of Jerry's medical history was not covered.

Replacement

Brokers and agents often face replacement decisions. Replace a life, health, disability income, or annuity contract only when you know all the facts and have disclosed sufficient information to the client to allow him or her to determine whether the replacement is suitable.

Some producers think of replacement as simply replacing one contract with a new one. It's more complicated than that. Under the NAIC Model Replacement laws in effect in many states, replacement of a life insurance contract means any

1. Rescinded, lapsed, forfeited, surrendered, or otherwise terminated contracts.
2. Changes to paid-up insurance, which continue as extended term insurance or are otherwise reduced in value by the use of nonforfeiture benefits or other policy values, or placed under automatic premium loan.
3. Amendments to reduce the benefits or term for which coverage would otherwise remain in force or for which benefits would be paid.
4. Reissuance with any reduction in cash value.
5. Pledging as collateral or subjecting to borrowing, whether in a single loan or under a schedule of borrowing, over a period of time for amounts in the aggregate exceeding 25 percent of the loan value set forth in the policy.

In some states, the law may be even more restrictive. It is critical that you know the law in your state. You can find out your state's replacement regulations from your carriers or from the state insurance department.

For example, taking a policy loan of 5 percent of the loan value in the first year, and 11 percent in each of the next two years would exceed 25 percent and therefore qualify as a replacement.

"Twisting," "churning," and "piggybacking" are some of the terms often used to describe various types of inappropriate replacements. Twisting, churning, and piggybacking are all improper and most often illegal. They do not help clients, and they will not advance your career.

If you have a case where replacement seems to be called for, make sure you present a fair comparison between policies. Your comparison should include the contract benefits, the premiums, and the values. Explain the pros and cons to making the replacement. Inform your client of the new suicide and contestability periods and any surrender charges that will be part of the change. Finally, you and your clients must sign the replacement notices required by the state where you are soliciting the business and the company(ies) you are representing for that sale. If there are no state required forms, document your analysis and have clients sign the form acknowledging that they understand their decision to replace the contract.

1035 exchanges can meet the definition of replacement. If so, make sure you use the appropriate replacement forms and procedures. Failure to follow proper procedures when making 1035 exchanges can create an unnecessary tax liability for your client.

When evaluating whether or not a replacement is justified, be thorough in assessing the pros and cons. It is just as important to make certain that a replacement is suitable for the client as it is for any other sale. If a replacement benefits the client on both a long-term and short-term basis, and has no adverse effects, the replacement is probably justified. If there are adverse effects (reduced guaranteed values, higher loan rates, or new suicide and contestability clauses), it may not be justified.

Sometimes replacements may create taxable events – especially if there are substantial policy loans. Potential tax implications of a replacement should always be a factor in deciding whether or not to replace a policy.

To guide you in determining when replacement is appropriate, you may want to review The American College's Replacement Questionnaire.

What If Your Client Said to You . . .

“I have this old whole life policy from XYZ Life. I paid premiums for about 12 years, but none in the last two since we moved here. Is this policy any good? What should I do with it?”

After Reviewing the Policy, a Good Response Might Be

“(Client’s name), now that I’ve carefully examined your existing policy, I can tell you it’s a good one. XYZ is a fine company with a good financial track record. Because you paid premiums all those years, and because this policy builds cash values, you accumulated a significant guaranteed amount of cash within the policy. Even though you stopped paying premiums on the policy, the cash value you built up in the policy over the 12 years you did pay premiums has still been providing you with a death benefit. Does that make sense?” (Get client’s agreement, answer any questions, then continue.)

“Because the cost of any life insurance is partially based on age, you may never again be able to purchase this much life insurance at this cost. I recommend you bring your XYZ policy up to date. I can show you how to do that. You will have to pay the premiums that you have not paid during the last two years. If you can’t afford to pay all of that amount now, you can take a loan on your policy for that purpose. If you take a loan you should establish a schedule of loan and interest repayment. Do you have any questions at this point?” (Answer any questions and clear up any confusion before continuing.)

“Since your life insurance needs, which we’ve established through the fact-finding process we went through, are greater than the coverage under your XYZ policy, you may want to also consider applying for another policy from my company to make up the difference.

“Now, I know I’ve given you a lot of information. It’s an awful lot to digest. What questions do you have about what I just said?” (Answer all questions, make sure the client understands what you’ve proposed, and consider asking the client to repeat your main idea in his or her own words.)

Rebating

Rebating is offering any type of inducement (other than what is contained in the contract itself) in exchange for the purchase of the contract. Most often, rebating occurs in the form of giving the client a portion of your commission or an expensive gift. It is illegal in all but two states (California and Florida) and most companies forbid their sales representatives to rebate even in jurisdictions where it is legal.

It is acceptable to provide gifts of nominal value (pens, calendars, coffee mugs, etc.) to prospects when those gifts are given regardless of whether you secure a sales interview. If you provide a nominal gift, you must provide it to everyone you approach.

Stay Within Your Expertise

What would you do if a prospect asked you for advice in an area where you have no apparent expertise, such as a legal matter? You must politely refuse to answer such questions no matter how innocent they may sound. Providing answers may be considered giving legal advice. Unless you are an attorney, you are not sanctioned to give legal advice.

When answering questions within your area of expertise, be absolutely certain of the accuracy of your responses. If you are not completely sure of an answer, offer to look it up and get back to them.

The same is true with mutual funds or other securities. You may not discuss them unless you hold proper FINRA licenses. (In most states, you must hold both a Series 63 and either a Series 6 or Series 7 license. Your carriers or your broker-dealer can provide you with your states' requirements.) The best response in these situations is honesty. Explain that you are not licensed to discuss that area, but you know someone who is and you will have them contact your prospect at a convenient time. Remember to follow up and do what you've promised to do.

If possible, work as a member of a professional team with a variety of disciplines, such as a lawyer, accountant, and one or more insurance professionals.

Let Prospects Decide

Your job is to do a thorough needs analysis and present more than one option that will fit their need, comfort level, and wallet. Let prospects reach their own conclusions as to which option is best for them. You make recommendations based on your professional expertise, but make it clear that the final decision in regard to product choice is theirs.

V. THE FIFTH PREREQUISITE: Excellent Service

“Service is important. It doesn’t matter what you do, service is important.”

— A consumer, participating in
a LIMRA focus group

Good service precedes and follows every sale. Before people will buy, you will have to show them you can serve their needs. After they buy, they will only stay with you if you continue to serve them. Throughout the sales process, you must build a good relationship and establish trust. You must put your prospects’ and clients’ needs first to avoid market conduct and compliance concerns and to have the opportunity to gain a lifetime client. One company claims to have embraced this concept since the late 1920s and phrases it, “Service first, service last, service always.”

A survey of successful salespeople in five different industries found that those who used a “get the business now” approach did indeed meet or slightly exceed their sales goals. However, the survey also found that those salespeople who used a “serve the client’s best interest” approach significantly surpassed their sales goals.

Maintain Good Client Files

Toward the beginning of this text, we mentioned the importance of having accurate and complete documentation on your prospects and clients. A major and essential aspect of documentation is keeping good client files. Good client files will allow you to properly assess the need for insurance, and it should substantiate the reason for the sale. Some state market conduct exams require client files from producers. Client files also will help assure that you remember to do appropriate follow-up, including a needs analysis. And, they may even lead you to second, third, and fourth sales opportunities.

Check with the insurers you represent so you know what their documentation requirements are. In general, most insurers want you to include in your client files effective case notes that list the date and time of contacts with prospective policyholders and concise summaries of all interactions. Good client files contain a copy of your discovery agreement letter that says, in effect, “We met, we talked about things, here are the needs I uncovered, and here’s when we will meet again to discuss some solutions.”

Document all recommendations – a short memo is fine. Also, keep on file all ledger illustrations you use, a log of all phone calls, and a policy or contract delivery letter. In case of disputes about the thoroughness or appropriateness of client recommendations, your best ally may be your client file.

Keep a log of phone conversations listing the date and time of call, reason for call, and follow-up actions. Note unsuccessful calls to policyowners so you can verify your attempts to provide service.

Audit Your Client Files

Whether you use a manual or computerized file management system, conduct a periodic audit. Check a sampling of files for completeness. Are important pieces missing? Are the files current? Is the information accurate? If not, take action to solve the problem.

Provide a Policy Summary

Before you accept the initial premium on a life sale, give the new policyowner a policy summary and review it with the client. This is a written statement describing the key elements of a life insurance policy. It includes the policy’s generic name, the annual premium, the loan interest rate, the death benefit amount, and other information. The policy summary also contains a statement that any dividends (if applicable) are not guaranteed. The purpose of the policy summary is to prevent

any confusion about what is or is not being bought. It is an excellent idea to review the policy summary with the client upon policy delivery. This gives the client an opportunity to ask any final questions. It also helps you detect and correct any misunderstandings your customer may have.

Deliver Policies in Person

It's usually best to deliver policies and contracts in person. The time that elapses between the application and the delivery can be long enough to cause the new insured to forget the reasons for the purchase and what it entails. If the contract is issued differently from what was applied for (perhaps it was a rated policy), explain why the contract changed and any impact the changes have on the original purpose for buying. Review all the reasons for buying the contract, carefully explaining how the contract meets a real need. Promptly inform the carrier of any contract that is not taken.

Discuss the “Free-Look” Period

Most states require a free-look period (often 10 days). During this period, contract holders may change their minds and return the policy for a full refund – no questions asked. The free-look period is designed to protect consumers from high-pressure sales tactics. The free-look period begins when you deliver the contract, so be sure to deliver it promptly. If the customer decides to return the policy, handle it promptly. Don't refer to the free-look period as a “money-back guarantee” because they are not the same things. The free-look period is one more reason to keep good records.

Send Delivery Letters

The delivery letter is another chance to cement the sale after you've delivered the contract in person. Send a delivery letter about a week after you present the new contract to your client. Keep a copy in the client's file. This letter reinforces the reason for purchasing, and states the type of plan and the amount of any coverage. It will reinforce many of the things you said during the delivery interview. It will match some of the information contained in the policy summary, but it will include additional facts such as the needs that led to the purchase.

Use Current Testimonials

In the early parts of the sales process, some agents use testimonials. Testimonials can describe to prospects the good service you have provided others. If you use testimonials or endorsements, make certain they are genuine and accurate. If they mention a contract, that contract should be the same as or similar to one you are proposing to your prospect. Testimonials and endorsements must represent the author's current opinion and refer to a practice or benefit you still provide. Always obtain permission to quote clients before using them as a reference or testimonial source.

Conduct Annual Reviews

If you are to build long-term client relationships and continue to serve the needs of clients, annual reviews are vital. Annual reviews give you the opportunity to remind clients of the coverage they have and why they have it. If the client's needs have changed, the annual review allows you to discover this fact and make appropriate recommendations. Most people view annual reviews as a sign of professionalism and a sign that you care.

Before setting up an annual review, you should review the client file and your record of any telephone calls. This will ensure that you are aware of any concerns, changes, or potential needs.

Keep a Compliance File

Regulations and company requirements change frequently. And, it's difficult to remember all the relevant compliance issues when you're in the midst of serving a client. For these reasons, and others, it is wise to maintain your own file of compliance information. Brokers and sales representatives who do this have at their fingertips and in one place all the information they need to continually practice good market conduct and adhere to all compliance regulations.

Handle Complaints Quickly and Fairly

Complaints come in many forms. They can be oral or written. They may arrive as a question, a concern, a lack of understanding, or a genuine grievance. They may come directly to you or to the insurer. Complaints may be filed by an attorney on behalf of a client. In any event, the first thing to do when you receive a complaint is to listen carefully and take notes. Sometimes what appears to be a "complaint" may really be a question, a concern, or a lack of understanding. Or the complaint may be a genuine grievance.

Deal with all complaints in a fair, timely, professional, and thorough manner. Take them seriously and investigate them thoroughly before making any decision or taking action.

Always include the insurer's home office up front in the process. Most jurisdictions have prescribed requirements that insurers must comply with. And most companies today have units dedicated to handling complaints. These specialty units are readily available to give you guidance and direction in any complaint situation.

In addition, companies are now required to track complaints and group them into categories so that they may be analyzed and then used to help the company improve operations. Your help is essential in this process.

Some companies prefer to handle certain complaints from the home office, so if you're a broker or have several contracts, make sure you know and follow the appropriate procedure for that particular company.

Treat every concern or complaint as you would want your own treated. Every complaint deserves and should get a prompt response.

REMEMBER

IMSA's Fifth Principle of Ethical Market Conduct:

To provide for fair and expeditious handling of customer complaints and disputes.

Keep complete records of all conversations and correspondence related to the complaint. Make sure your administrative staff is properly trained to handle questions or concerns. After the home office (or you, under the home office's direction) resolve the client's problem, follow up in a few weeks to determine if the client is still satisfied with the resolution.

Inform the home office immediately if a complaint comes from a state Department of Insurance or other governmental body. Responses from producers represent the insurer, so any response from you must be approved by the home office.

Live Up to the Five R's of Service:

1. **Reachable** – Do prospects and clients know how to reach you easily and quickly?
2. **Responsive** – Do you promptly answer all client requests?
3. **Reliable** – Do you always do what you tell clients you will do?
4. **Readable** – Are communications from you easy to understand?
5. **Reasonable** – Do you listen and respond logically and appropriately?

Help Clients File Claims

Often it's the agent who first hears about a claim. The client or beneficiary wants to know whether and how a claim will be paid. Typically, the home office makes these types of decisions. But, the claim process can be more efficient and expeditious when you provide guidance to the policyholder or beneficiary throughout the claim process. Helping clients file claims makes for more satisfied clients. Also, your clients are less apt to file complaints when they feel their claims are being handled fairly, promptly, and properly.

Provide Added Value

If you are to build a client base, you must provide added value. Some agents do this by sending clients a company-approved newsletter or other source that keeps them updated on financial and insurance information. Other agents set up meetings whenever they have a new product or service they think might be of value to a particular client. If you sell registered products, contact clients when significant changes occur in the economy, such as a major drop in the stock market.

One common example of providing added value might be the case of a client of yours who goes through a divorce in which all the proceeds go to the ex-wife, not the children or the new wife. Such a situation can lead to lawsuits and heartache. As the broker or agent, you should review and advise clients facing such situations. To serve clients' needs, you must stay informed about changes in their circumstances. Staying informed enables you to provide different coverage when needed, change beneficiaries, expand coverage for a new financial exposure, and cover other emerging needs.

Fulfill Day-to-Day Service Needs

Good service also means being readily available to meet your client's day-to-day service needs. A client might need a change of beneficiary designation, bank draft change, contract amendment, endorsement, or other service. It's best if you or your staff coordinate these changes so that you stay involved with your clients. Then they will think of you when their next need arises. Be available and quick to respond.

Jean-Paul Chauvin, CLU, a long-standing MDRT member, says that routine service, like a change of address, can be an ideal occasion. "Your quick response underlines your interest in your clients and proves that you are there when they need help. When they believe that you have their interest at heart, they will come around and make it worth your while. Give and you shall receive – it's magic!"

REMEMBER

IMSA's Second Principle of Ethical Market Conduct:

To provide competent and customer-focused sales and service.

Reacting to the Questionable Practices of Others

What if you know of or witness questionable ethical or market conduct practices by someone else? First, know that aiding misconduct is as serious as the misconduct itself.

Second, realize that supervisors, managers, even home office executives are responsible for the conduct of the company's producers. Misconduct by one individual never reflects poorly on just one person – it radiates outward in every direction to those around that person.

Third, understand that it doesn't matter who in this industry commits misconduct – it ultimately reflects poorly on the industry as a whole. Your ethical responsibility is to do everything within your power to stop any questionable practices regardless of who is committing them.

If a company you represent has been the target of negative media attention, ask the company for information to use to explain the situation to your clients and put the company's problems into perspective. Negative publicity about a company, field office, or agent should not be allowed to command attention without a defense. Even if the message is that there is a problem but it's being taken care of, it's better if that message comes from you than from the media.

Include the Home Office

You're not alone. You have many resources available to you to make sure you maintain high ethics, provide good service, and follow compliance regulations. Among your most valuable resources are the home offices of the companies you represent. Home office advanced sales departments, compliance departments, marketing departments, and others can make your life easier. Become acquainted with what each home office can offer you. Know and follow the guidelines and procedures that they may require.

REMEMBER

IMSA's Sixth Principle of Ethical Market Conduct:

To maintain a system of supervision and review that is reasonably designed to achieve compliance with these Principles of Ethical Market Conduct.

Sage Advice

“As a recent college graduate in 1966, I started my first (and still only) job as an agent for a large multiple-line insurance company. . . . Anxious and inexperienced, I was lucky to share the office with a mentor – my father. He shared with me his simple professional approach to selling life insurance with four tenets:

1. When the agent helps people solve their problems, he or she never will have to worry about commissions.
2. The agent should present well-thought-out and concerned solutions.
3. The agent should not sell cash values because the client might not live long enough to use them.
4. The agent should sell life insurance because people die.”

– John Bowers Jr., CLU, LUTCF
in *Life Insurance Selling* (July 1997)

These were wise words in 1966 and are even more useful now when the agent has so much more to consider in selling life insurance.

“One Reason I Make These Calls”

Millard Grauer’s many accomplishments as an agent include winning the industry’s highest honor, the John Newton Russell Award. He believes one of the most important things in building a professional career is keeping track of your promises and delivering on them. He knows how to keep in touch. If you’re a client he might have four cards on you: one because he wants to call you about your birthday, one because he wants to do something with you socially, another because he has business insurance with you, and one because of your personal insurance. He even has a set of cards to remind him to call older people who are lonely. He tells a true story about a good friend whose husband died of cancer in his early 50s. “I called her once a month. After a couple of years, she said, ‘You know, Mel, you and one other person are the only two people who’ve kept in touch with me.’ That’s one reason I make these calls.”

– In *Life Association News* (December 1996)

VI. ETHICAL MARKET CONDUCT IN THE EMPLOYEE BENEFIT MARKETPLACE

Successful producers know that the foundation for a long-term career is a solid client base. The employee benefit or group market offers just such a base for growth and client building. Repeat business and an ever-growing list of prospects can be the reward. As in your individual practice, your ethical standards, market conduct, and compliance awareness are critical.

Whatever type of group benefit you sell, the key to success is built upon serving all of your customers with the knowledge that your reputation is your stock-in-trade. In marketing employee benefits, there are two fundamental differences from the individual product arena. First, you serve a variety of customers. In addition to the employer, the employees and their dependents who participate in the program are also your customers. They expect truth and clarity in all of their dealings with you.

The second difference is that often you may modify or amend the standard benefits package. Employers periodically review their benefits packages for cost-effectiveness, completeness of benefits, and fit with their benefits philosophy. Your customers look to you to advise them on these issues and to ensure that they understand any changes and how the changes will affect them. Knowledge of your state's regulations and the risk practices of the group carriers you represent is vital.

The employee benefits marketplace is a highly regulated one that is currently undergoing great change. Merger and acquisition activity is high, and a number of carriers are withdrawing from various markets. This places even greater responsibility on you to keep abreast with changing players and market regulations.

Ethics

Meeting high ethical and compliance standards in the employee benefit market has to be routine for the agent or broker who operates in this market. This is critical because in most cases you deal with competitive replacements of existing benefit programs. The demand for benefits through the workplace has never been greater. Employers want to attract and retain good employees. At the same time, employees want broad benefits with flexible funding methods to meet diverse family needs.

Who is your customer? You have at least three key clients – each of whom has different (and often conflicting) needs.

First, your primary customer is the employer, the policyholder. Typical employer concerns include minimizing or controlling costs, flexibility, broadening choices available, and improving benefits for employees. The program you design must meet these needs without creating confusion or administration problems.

Second, the needs of the employees and their dependents must be taken into consideration. This is especially true where a new program will replace an existing one. How does the new program compare with the old one? The scope of employee coverage has expanded dramatically in the workplace in recent years. In the middle-income and low-income segments, these benefits may represent a significant portion of employees' total risk protection program. This is especially true in the case of medical coverage and asset accumulation plans.

Finally, you are also a representative for the insurer. The key to establishing a long-term relationship with the insurer is to comply with its requirements for full disclosure of pertinent information regarding the prospective employer. This will enable the insurer to make a fair and accurate evaluation of the risk. This information should be fully shared with all the carriers with whom you will deal on the particular case in question.

In the process of collecting this information, you must also establish trust with the employer. Any financial or personal data on employees must be kept confidential. In a sense, you have separate and distinct responsibilities to the insurer, the employer, and the employees and their dependents.

Many states have enacted statutes that protect employees through Discontinuance and Replacement Laws. Knowledge of both the laws and the conditions that they represent is critical. Employers often revisit their benefit programs for cost-effectiveness, completeness of benefits, and the program's fit with their benefits philosophy. This results in a reasonably high rate of replacements and amendments. You have both an ethical and legal responsibility to disclose certain information to the insurer. Whenever there is a change in or loss of benefits, you must ensure that both the employer and employees fully understand the changes. This allows the employer to be confident in the decision to purchase a new benefit or modify existing ones.

As suggested above, the group arena, if effectively marketed, can be an ongoing source of new prospects. They come not only from referrals from employers but also from your ability to reach employees on a favorable basis. Therefore, your conduct and concern for each of the customers you serve will be the yardstick by which you are judged.

Professional Competency

Competency is the second prerequisite for good market conduct and an important key to success in the employee benefit arena. Your reputation is earned by meeting the needs of all parties to the sale. This generates solid referrals from employers and confidence among the employees who view you as a trusted advisor. Your ability to meet the needs of all your constituencies comes from solid competence in the areas of product, company practices, and applicable insurance regulations.

Product knowledge is particularly important – especially in the recommendation to replace existing coverage. It is essential that your comparison of benefits is accurate. You should assure yourself that not only are the benefit designs correctly articulated, but also that the policy provisions supporting the coverage meet your client's expectations. Avoid leaving gaps or unnecessary overlaps in coverage.

Employers also judge your competency on the basis of the ease of plan administration. Depending on the size of the group, this could be an important part of your relationship with your client. It is your responsibility to understand the administrative practices and procedures of the particular carriers you recommend. The problems that result from a poorly administered plan are expensive – in time and in your reputation.

It is vital that you understand each of your carriers' products and provisions as well as their policy administration. Fortunately, the carriers are equally concerned about their reputation. Always work closely and honestly with the insurer's representatives. Often full disclosure before the plan is written can head off major problems and result in a solution that is acceptable to all parties.

Since each company is different, you should make it a consistent habit to ask the carrier anytime you have doubts about its standards and procedures. You will find that developing a relationship with the local sales and service representative built around trust and respect for each other's efforts will pay huge dividends. Furthermore, aligning your interests with those of the sales and service representatives means they are eager to see you write new business and retain your in-force book.

Proper licensing and continuing education requirements vary by product and by state. Make sure you know and comply with these requirements. If anything, these rules are becoming increasingly complex. For asset accumulation products – 401(k) and annuities – compliance with FINRA requirements adds another level of complexity. And the evolving growth of long-term care coverage will likely come under close regulatory scrutiny.

Another major aspect of competency is knowledge of the regulations of the states in which you work. One of the value-added services you can provide to employers is information on how new federal and state regulations may affect them. Some producers rely on a primary company that is not in the employee benefit market for regular communications and updates on legislative and regulatory changes. In this case, it is important to establish a source of quality information on employee benefits in the states where you do business. Again, this reinforces the value of a close relationship with representatives of your group carriers.

Proper Approach

As an agent or broker in the employee benefit market, you offer a variety of programs that may be underwritten and administered by several different insurers. You should develop a communication approach that makes your role in the sale clear. This ensures that your relationship and responsibility to all parties is understood. This disclosure is vital if you will act in an intermediary capacity, including premium collection. If you act in a fiduciary role, exercise your responsibilities honestly and clearly.

In your dealings with the various members of the group, you should be vigilant that all of your communications are clear and well documented. As stated before, there are different parties to an employee benefit sale and the needs of each will vary. The employees and their covered dependents, the plan administrator and payroll department, and most certainly the employer, the policyholder, all have a stake in the success of the benefit program.

The nature of the enrollment process can vary widely from case to case. A carrier representative or employer representative may or may not be present. In any case, it is essential that everyone present understand each other's roles and that the information presented is accurate.

Use language your customer understands in your oral and written communications. How you represent yourself will reflect on your reputation and you will be regarded as someone who can be trusted.

Proper Sale

Just as with individual products, a benefit program recommendation should be based upon the needs of the client. Good fact-finding ensures that you have a firm grasp on the specific needs for the group. There are several areas that you must review to determine a suitable program of benefits. Cost is only one factor – for many clients, service and design may be even more important.

Often your new employee benefit sale results in the replacement of existing coverage. There are a variety of sound and ethical reasons for replacement, but in order to ensure that the replacement meets the client's needs, it is essential that you have a firm grasp of the existing plan. This enhances your credibility with decision-makers and the confidence they place in you.

In evaluating the existing plan, the place to start is with the individual responsible for the plan administration. Make sure you obtain all available data concerning participants and desired benefits. In addition to contract cost, you should be knowledgeable about contributory amounts and the general philosophy behind the benefit package.

With this information, you can prepare a complete cost illustration that includes all assumptions as to the participants and their estimated volumes. This should include a complete comparison of the proposed plan with the existing one, highlighting any changes. If it is a new sale, then a clear communication of what is or is not covered must be included. Remember to avoid jargon and ensure that your client understands the terms and conditions.

In the case of medical programs, you must determine and explain any possible loss of coverage or preexisting conditions. The illustration must also detail the size of the network, complete geographical locations of all the physicians, and

available access to them. Also, evaluate the overlap and displacement from one network to another. For managed care programs, you should outline any penalties for out-of-network procedures. Your reliance on the insurance representative's knowledge of state and federal regulations will be prudent.

Finally, you also represent the carrier you selected for these benefits. Full and complete disclosure of all information to them will allow a fair risk assessment and adequate pricing. Your integrity in dealing with the insurer will enhance your reputation for proper field underwriting and trustworthiness. This will come back to you in your other dealings with that carrier.

Disclosing completely what the plan will and won't cover could result in a lost sale. Sometimes the existing plan is simply better suited to the client. However, the trust you earn for your candor and advice to remain with the existing carrier can create opportunities for referrals and other sales to that prospect.

Other times, you may find that your carrier is unwilling to accept the risk. However, if you have a reputation for honesty and integrity, underwriters may be more willing to issue your cases than those of producers who have a reputation for withholding key information. In any event, make sure you have a firm commitment for coverage from the new carrier before advising the client to cancel existing coverage.

Guaranteed issue cases represent a different situation. It is essential that you understand applicable state and federal regulations. If the group must meet eligibility requirements, your role as a communicator becomes even more critical. You must show the carrier how the employer meets the eligibility criteria, or else explain to the employer how the regulations affect him or her.

Excellent Service

In the employee benefit world, as in life, your word is your bond. Promises made and kept are invaluable and the key to credible referrals. Today, due to a lack of product differentiation, the quality of your service gives you a competitive advantage that goes beyond the price of the product. Select a carrier whose sense of quality service matches your commitment to your client. At claim time, the cost comparison will be forgotten.

Fortunately, there are many carriers today who strive to provide quality service as a strategy to enhance their own reputation through high marks for customer satisfaction. Promote your own due diligence by selecting the right insurance company to represent. Then work closely with their representatives. And by all means let them do what they do best – service your customer. They want to earn your trust for continued good business from you.

Today's market is characterized by similar products and competitive pricing. In a highly regulated market, service becomes an increasingly important differentiator. It is your value added – not only to the policyholder but to all others that you have a chance to help. Providing quality service and sound advice generates prospecting opportunities from the ranks of employees. Your client list will continue to grow. The employee benefit market can also be a springboard to additional estate planning or business insurance sales.

Epilogue

*“And this above all — to thine own self
be true. And, it must follow as the
night the day, thou canst not then be
false to any man.”*

— Polonius, in *Hamlet*, by William Shakespeare

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