

Principles and Practices for the Sale of Products and Services by Property and Casualty Insurance Brokers

The statement of *Principles and Practices for the Sale of Products and Services* by Property and Casualty (P&C) Insurance Brokers has been developed by the Insurance Brokers Association of Canada (IBAC).

The purpose of this document is to set out best practices that should apply to the conduct of P&C brokers in their dealings with consumers of P&C insurance. It will also help to provide consumers with a benchmark to assess the conduct of any P&C broker with whom they currently have a relationship, or are considering establishing a relationship. To this end, IBAC has also developed a companion Consumer's Guide to help clarify the stated principles and practices for the benefit of consumers.

IBAC is seeking voluntary endorsement of these principles and practices. It is hoped that Member associations will inform their members of the existence of this document and encourage them to adopt these best practices.

In some areas the principles and practices may ask P&C brokers to go beyond what is explicitly required by law. That is because legislative and regulatory requirements only specify minimum obligations that must be complied with whereas this document sets out best practices that P&C brokers should strive towards as professionals. It is important to note, however, that the principles and practices are not intended to supercede legislative and regulatory requirements. If any principle or practice is inconsistent with a provision of an applicable law, regulation or rule, the applicable law, regulation or rule will take precedence.

1. Interests of the Client

The client's interests take priority over the P&C broker's interests and should not be sacrificed to the interests of others.

Commentary: This principle is paramount. All remaining principles and practices expand upon this fundamental principle.

2. Needs of the Client

In order to understand the client's interests, the P&C broker must obtain or confirm information about the needs of the client and, when making a recommendation, must reasonably ensure that any product or service offered is suitable to fulfill those needs. The P&C broker will facilitate client purchasing decisions so that they may be made solely on the attributes of the insurance product or service offered, including the value of the services of the P&C broker.

Commentary: In assessing the needs of the client, the P&C broker should take into account the financial significance and complexity of the product or service being sold.

3. Legitimate Business Interests

The P&C broker must collect enough information about the client and the transaction to reasonably determine the identity of the client and that the transaction is lawful. The intermediary must not act on behalf of a client when there are reasonable grounds to believe that the transaction is of an unlawful nature.

Commentary: When obtaining information about the client and his/her business, the P&C broker must not continue to act for the client if it is known that the transaction is unlawful. In some circumstances, the P&C broker will be required to report the transaction to regulatory authorities.

4. Professionalism

P&C brokers must act in good faith at all times. They must acquire an appropriate level of knowledge relating to their particular business and meet professional ethical standards, including acting with honesty, integrity, fairness, due diligence and skill. The concept of professionalism includes but is not limited to the following:

- a. **Education:** In a rapidly changing financial marketplace, P&C brokers must keep abreast of changes in products, regulations and other factors that will affect their ability to provide high standards of service to clients. Education, including continuing education, is a necessary component of professional skill.
- b. **Holding Out:** A P&C broker must inform the client of the types of activity he or she is licensed or registered for, as well as the business name(s) of firm(s) under which he or she is authorized to operate.
- c. **Advertising and all other Client Communications:** P&C brokers must ensure that all references to their business activities, services and products are clear, descriptive and not misleading.

- d. **Business Operations:** P&C brokers must ensure that their financial records are properly maintained and that they follow sound business practices.
- e. **Fair Practices:** P&C brokers must not engage in practices that intentionally mislead the client, place the interests of others ahead of the client's interests, or influence a client to purchase an insurance product or service based on anything other than its own attributes, including the value of the services of the P&C broker. Unfair practices are contrary to the underlying spirit of the principles and practices set out in this document. The P&C broker must refrain from practices that contravene, directly or indirectly, the spirit or intent of any of the requirements of these principles and practices.
- f. **Financial Accountability:** P&C brokers should have appropriate resources in place to compensate clients who suffer a loss as a result of an error or omission. The P&C broker must ensure that all financial obligations are met

Commentary: Professionalism means that P&C brokers will strive to adhere to best practices and will not be limited to standards required under law or regulation.

5. Confidentiality

P&C brokers must protect clients' personal information and take all reasonable steps to ensure that personal information is not divulged and is only used for the purpose for which it was collected, unless the client provides proper authorization, or as required by applicable laws or regulations.

Commentary: The requirement of confidentiality extends to participants in group plans or other situations whereby there are several individuals covered by a particular policy. A basic requirement for P&C brokers is to ensure that proper care is taken when handling documents that contain personal information provided by clients/group plan participants.

6. Conflicts of Interest

The P&C broker must avoid knowingly entering into situations where the underlying circumstances could prejudice or bias the direction of advice he or she provides. In the case of a conflict of interest, the client must be made aware of the nature of the conflict.

Commentary: If a situation arises where a conflict exists and cannot be avoided, the condition can only be mitigated by objective, plain-language disclosure to the client of the nature and impact of the conflict. The client must then be given an opportunity to halt the transaction, to seek other professional advice, or to knowingly proceed with the transaction.

7. General Information Disclosure

The P&C broker has the responsibility to ensure that the client is fully informed of all relevant information before the client makes a decision. The client is entitled to disclosure of the risks and benefits of the financial products being considered and information about the P&C broker's business relationships that are relevant to the transaction.

Commentary: There are two aspects to disclosure and both must be satisfactorily taken into account under these principles and practices: (1) "product information" regarding product or service features, as well as the main risks and benefits inherent in the transaction or purchase; and (2) P&C broker information" regarding relationship issues which are important to the consumer.

- a. **Product Information:** The P&C broker must clearly describe the product or service for the client and the ways in which the transaction will fulfil the needs of the client.
- b. **P&C Broker/Business Relationship Information:** Upon request by a client and wherever relevant to the transaction, the P&C broker must include the names of organizations or persons that are, to his or her knowledge, directly providing remuneration to the P&C broker. Upon request by a client and where the outcome of a transaction may be influenced, the P&C broker must also disclose the relationship between the P&C broker and the firm whose product is being considered; and any relationship(s) among the firms directly involved in a transaction. The P&C broker should also disclose any other direct or indirect relationships that are relevant to, and may have influence in, the transaction. Upon request by a client and wherever relevant to the transaction, the P&C broker must also disclose all fees payable by the client, the method of the P&C broker's remuneration (disclosure of specific amount is not required, but disclosure of the type of compensation is, i.e., fixed and percentage commission, salary, or other) and must disclose the existence of any other benefits from sales incentive programs related to the transaction (note: as with compensation, this disclosure only applies to the type of compensation the P&C broker receives, not the specific amount).

8. Client Redress

The P&C broker must deal directly with all formal and informal complaints or disputes, or refer them to the appropriate person or process, in a timely and forthright manner.

9. Definitions

"Client" means any customer or potential customer with whom a P&C broker interacts in the course of his or her business.

“P&C Broker” means an intermediary who has the ability to offer the P&C products/services of several carriers to the insurance buying public in order to provide the most suitable one(s) for the buyer’s needs. The P&C Broker can be an individual or a business.

“Personal Information” has the same meaning as defined by existing federal and provincial privacy legislation.