

Powered by
ExamFX - Online
Training &
Assessment

Select Chapter ▼



Study Chapter Practice Question

Quiz

Producer's Responsibilities to the Insured

Some people believe that an insurance agent's greatest single obligation is to his or her policyowners. But if you're an agent of the insurer, how can this be? How can an insurance sales representative serve the best interests of both the insurer and policyowner? The answer lies in knowing that these interests are not really in conflict. By promoting the concepts that insurers stand for and selling the appropriate products in a competent, professional manner, the agent meets the needs of both the insurer and the insured. In this section, we discuss how agents can fulfill their ethical responsibilities to policyowners through needs selling and quality service.

The following are the duties of an agent to his or her client:

- Provide adequate coverage
- Provide proper legal notification
- Place business on the best possible terms for the client
- Investigate carrier stability
- Give correct coverage options related to the insurance
- Other duties as determined by the courts

The agent is legally obligated to perform his or her duties in an ethical manner. An insurance agent who agrees to obtain coverage for a client is obligated to exercise the same degree of care as would be expected from a reasonable, prudent, and competent professional in the field. This responsibility is referred to as the agent's **fiduciary responsibility**.

A. Fiduciary Duty

If **fiduciary** funds are received by a licensed producer, he or she must

- Remit and return premiums received to the insurer (minus commissions due)
- Maintain fiduciary funds at all times in a trustee bank account separate from any other accounts, in an amount at least equal to the premium
- Return premiums that are received by the producer and/or unpaid to the person entitled to those funds

The responsibility of the licensee is to **transfer** the funds to the appropriate party as soon as practicable. If authorized through the written agreement of all involved parties, the licensee may place the funds in U.S. government instruments, certificates of deposit, or government bonds which meet specified guidelines until such time as they are to be transferred. Any losses resulting from such investments are the responsibility of the licensee. Such losses in no way reduce the amount of funds they must transfer.

PENALTY BOX

Commingling is something agents get in trouble for all the time. Here is a recent listing of actions for which producers may be penalized.

- *Misappropriating or converting money belonging to an insurer or insured*
- *Failing to deposit premiums in a designated premium account*
- *Failing to promptly forward refunds to applicants*
- *Failing to submit applications and premiums promptly to the insurer*
- *Agent license was revoked and ordered to pay \$5,000 fine plus \$10,000 restitution for failing to submit applications to the insurer and converting premiums to his own use*
- *Taking an application, failing to submit it to the insurer, and failing to inform the insured that no coverage was in effect.*

A licensee with the authority to **transfer** the funds to the appropriate party is usually a **managing general agent** whose **fiduciary** capacity includes

- Having a written management **contract** and an appointment with one or more admitted insurers that cover a substantial portion of the insurance business in the state
- Managing transactions of either all or some classes of insurance for those insurers
- Appointing, supervising, and terminating the appointments of local agents
- Accepting and declining risks
- Collecting premium funds from producing broker-agents and remitting the funds to the insurers

PENALTY BOX

Insurance Commissioner Announces Sentencing of Insurance Agent for Fraud

Agent misappropriated \$400,000 in premiums for personal use

*Licensed agent X, 54, of Bakersfield was sentenced to one year in jail for each of three felony counts of **fraud** he was charged with in Kern County Superior Court. X was immediately remanded to the Kern County Sheriff where his sentence has begun, and where his remaining time will be served concurrently in the Kern County Jail. X was also sentenced to three years felony probation and ordered to make restitution to 21 of his victims in an amount to be determined by the probation department.*

"This agent's egregious behavior put his clients at great financial risk," said Commissioner Jones. "His deceit and disregard for his policyholders could have led to tragic results."

X's conviction and sentencing resulted from an investigation conducted by the California Department of Insurance (CDI), Investigation Division, Valencia Regional Office. According to investigators, as the owner of X Insurance Agency, X accepted over \$400,000 from his clients to pay premiums for homeowners insurance, commercial liability insurance and performance (construction) bonds. Instead of paying the premiums on behalf of his clients, he misappropriated the premiums for his own personal use.

X failed to place coverage with insurers and knowingly prepared fraudulent Certificates of Insurance, leading his clients to believe that coverage was in place. Unbeknownst to numerous commercial clients, X also knowingly obtained fraudulent performance bonds from a bogus off-shore surety company, thereby exposing his clients and numerous governmental agencies to uninsured losses.

As a result of the CDI investigation, the Department issued an Order of Immediate Suspension, which prohibited X from conducting any type of business related to

insurance, including the collection of premiums. X also surrendered his insurance license.

B. Professionalism

Producers are required to perform in a professional manner at all times.

Professionalism can be defined as a person in an occupation requiring an advanced level of training, knowledge, or skill.

Being professional means placing the public's interest above your own in all situations. Any deviation could result in a penalty.

A professional agent can meet his or her ethical responsibilities to an insured or **policyowner** by fulfilling the customer's needs and providing quality service. Service is a primary function of the insurance industry. The way that service is provided often determines the agent's future, since clients are a good source for future sales and references.

In addition to quality service, the agent owes the policyowner the same degree of loyalty that he or she provides to the insurer. The agent is also responsible for ethical behavior regarding full **disclosure**, confidentiality, the timely submission of all applications, and prompt policy delivery.

C. Suitability and Needs-Based Selling

An insurance agent has one principal reason for calling on a prospect: to offer a product or service that will benefit the prospect in some way. An agent must sell the kinds of policies that will best fit the prospect's needs in amounts that the prospect can afford to pay. No one profits — not the insurer, not the agent, and especially not the **policyowner** — if an individual is coerced or misled into buying too much insurance or purchasing coverage that doesn't suit that individual's specific needs.

Because of the various uses of insurance products, agents should always assess how well a recommended product will meet the applicant's needs and resources. In other words, agents assess the **suitability** of a product. It is a producer's responsibility to evaluate the consumer's suitability information, which includes

- Age
- Income
- Financial situation and financial experience
- Needs and objectives
- Risk tolerance
- Tax status

Before an individual becomes a policyowner, he or she is a prospect. The transition from prospect to policyowner—and ultimately from policyowner to client—comes when an agent follows two basic rules:

- Make sure the product matches the needs of the client (i.e., determine suitability).
- Provide continued service to the client.

Fortunately, most agents recognize that selling to fit needs is the best approach to the products and services that they represent. They know that specific types of insurance policies are designed to meet specific needs, so matching policies to the appropriate needs produces the maximum benefit to the policyowner. They also know that needs selling involves problem analysis, action planning, product recommendation, and plan implementation. This requires two important commitments on the agent's part.

- A commitment to obtaining and maintaining the knowledge and skills necessary to carry out those tasks
- A commitment to educating the prospect or client about the products and plans that may be implemented

1. Commitment to Knowledge and Skills

The relationship between the professional insurance agent and the **applicant** or **policyowner** is usually built upon the policyowner's trust in the agent's knowledge and skills. The policyowner relies on the agent to provide informed options and trusts that the agent's recommendations for insurance are in the client's best interest.

An agent thus has an obligation to ensure that this trust is justified. This means that an agent has the ethical responsibility to obtain the necessary knowledge and skills needed to evaluate and service the insurance needs of clients. Indeed, the term "professional" implies that the individual possesses knowledge and skill. If the agent feels that he or she is not properly trained to perform the needed service, then another professional should be called in to assist.

An agent must also keep his or her base of knowledge and skills current. To this end, the agent must be committed to a program of continuing professional education. He or she must also stay informed of the latest developments affecting a client's interests. In recent years, there has been an increasing trend toward insurance professionalism. Agents should be competent professionals with a high degree of technical knowledge so that they consistently match a prospect's need with the appropriate solution.

PENALTY BOX: CONTINUING EDUCATION

Staying abreast of new developments in the insurance industry is not just an ethical practice, it is a requirement in every state. The NAIC recommendation is for each producer to complete 24 hours of continuing professional education in each biennial license renewal period, with at least 3 of those hours being in Ethics. (Many but not all states have adopted this standard.)

Failing to complete continuing education can result in penalties and fines including suspension of a producer license.

Texas Enforcement Actions:

Order Number: 110416

Action Taken: Fined \$2,000; Must complete 4 hours of continuing education

Violation: Failed to comply with continuing education requirements

Order Number: 110299

Action Taken: Fined \$2,500; Must complete 4 hours of continuing education

Violation: Failed to comply with continuing education requirements

2. Commitment to Educating the Prospect/Client

Client trust must be earned, nurtured, and constantly reinforced. The agent who remembers this basic rule is the agent who communicates to his or her client the reasons he or she is recommending a particular **insurance policy** or program and how it will serve the client.

Individuals who understand what a particular insurance plan or policy will do for them are more likely to buy, more likely to be satisfied with their insurance, and more likely to keep their business on the books. This communication and education continues

long after the particular policy or program is sold and becomes part of the overall insurance program designed for that client. As noted earlier, the professional agent has established his or her clients insurance program based on needs. These needs should be reviewed annually and supported by explanation and communication of the programs put in place to meet those needs.

Chapter Complete

© 2020 ExamFX All rights reserved.

[Contact Us](#) | [Privacy Statement](#) | [Terms Of Use](#) |
[Terms and Conditions](#)