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Quiz

Insurance Company Responsibilities to the Public and Regulators

A. Role of Insurers

Insurance companies operate with many different departments and divisions. Among them are 4 principal departments responsible for the major functions: Marketing or Sales, Underwriting, Claims, and Actuarial. These departments each have a specific purpose within the structure of an insurer, and each can have an impact — positive or negative — on the profitability of the company.

The **marketing department** is responsible for advertising, promoting, and distributing an insurer's products to the public. This department also sells the products, trains the producers, and develops any materials related to the marketing process. Agents are field representatives of the marketing department, responsible for putting the company's products and services in the hands of clients. Monitoring compliance with the various laws relating to the conduct of agents and the transacting of contracts may also be handled within the marketing department. The marketing department is also responsible for watching consumer trends and then researching and developing or modifying products and services to meet the needs or demands of the marketplace.

The **underwriting department** is responsible for receiving applications for insurance and then evaluating them according to established guidelines. Applications are either approved or declined. Those that are declined do not meet the company's guidelines, but not all approved applicants are equal either. Many present risks that, although the company is willing to insure them, are greater than average risks the company expects to insure. Those particular risky applicants will be classified as **substandard**. There will also be some applicants whose risks are more favorable than average, and those will be classified as **preferred**.

The underwriting department's main objective is to prevent **adverse selection**, which is an imbalance of risks, or the selection of poor risks (in other words, too many substandard risks compared to preferred and standard risks). If the underwriting department approves too many poor risks, the statistical predictions of the actuaries may not hold up, and the company will not have the level of profit it expected, or could even suffer a loss.

The **claims department** is responsible for receiving claim requests, evaluating them in light of the actual contract, paying those claims which are covered by the terms of the contract, and rejecting those which are not. The claims department may employ or contract with adjusters or other investigators to assist in the evaluation of claims, or to seek evidence of false or fraudulent claims. If the claims department does not settle

claims promptly or fairly, or makes payments for claims that are not actually covered by the contract, the profitability of the company can be affected.

The **actuarial department** is where the science of statistics is put into practice. Insurance company actuaries are persons who study mortality and morbidity statistics, the nature of claims and actual claims experience, and even factor in the potential for fraudulent claims and the financial impact of those claims, including investigating fraudulent claims and payments. The actuaries must also account for the ordinary expenses of doing business, including the payment of claims, as well as make a conservative estimate of earnings from invested reserves — premiums received by the company but not currently needed to pay expenses. After all the analyses and calculations have been made, the actuaries publish the rates that must be charged for each line of business the company insures. The intent of their work is to achieve profitability.

1. Insurance Company Responsibilities to the Producer

The relationship between the agent and the principal is a two-way street. The duties of an insurer to the insurance agent are also established under the concept of agency. This concept is tangibly represented by the agency **contract**, which both parties agree to and sign. The principal also owes certain duties to the agent. A rule of agency law is that the principal is responsible for all of an agent's acts when he or she is acting within the scope of his or her authority. This responsibility includes fraudulent acts, omissions, and misrepresentations. Ethical insurance companies provide their producers with:

- Clear compliance directives
- Training and education
- Supervision and oversight of sales activities

A Compliance Procedure Manual should include all of the following.

- *General standards of conduct*
- *Licensing requirements*
- *Product compliance*
- *Training*
- *Advertising rules*
- *Compensation*
- *Underwriting*
- *Claims*
- *Field communications*
- *Complaint handling*
- *Reporting of misconduct*
- *Monitoring and enforcement*

The principal must carefully select honest, loyal, and hard-working agents to protect itself from potential liability. In return, the principal gives the agent all of the following.

- Compensation, or payment, for the business that the agent has given to the principal
- Employment (the principal must specify a reasonable period of time during which the agent is expected to produce a certain amount of business)
- Indemnity (the principal is obligated to reimburse the agent for any damages or expenses incurred in defending against claims that the agent may be held liable for in the course of fulfilling his or her agency obligations)

Agency Agreements should clearly establish

- *Fiduciary expectations*

- *Binding Authority*
- *Premium remittance procedures*
- *Cancellation procedures (if the agency agreement is terminated)*
- *Processing and recordkeeping requirements*
- *Any requirement to carry errors and omissions coverage*
- *Compensation and indemnification arrangements*

2. Insurance Company Responsibilities to the Insured

Fair Sales and Marketing Practices

The potential for deceptive advertising or promotion by companies and agents alike is significant, and the consequences to the consumer can be quite grave. Accordingly, all states have enacted laws regulating insurance advertising. The basis for many of these state statutes is the NAIC's model Unfair Trade Practices Act, which expressly cites false advertising as an unfair trade practice and prohibits it. In this context, the term "advertising" is quite broad. It includes print and radio material, descriptive literature, sales aids, slide shows, prepared group talks, brochures, sales illustrations, policy illustrations, and TV commercials – in short, almost any kind of communication or presentation used to promote the sale of an [insurance policy](#).

The purpose of the NAIC model act is to establish guidelines to ensure that insurance companies and their agents promote their products properly and accurately without exaggerating the benefits or minimizing the drawbacks. Advertising and sales literature must provide full and fair [disclosure](#) of all material information. The act forbids any misrepresentations of the benefits, terms, [conditions](#), or features of any insurance policy, including dividends. The act also bars any misrepresentation of an insurer's financial condition or its [legal reserve](#) system, and it prohibits names or titles of insurance policies that do not represent their true character.

ETHICAL ADVERTISING STANDARDS

- *Advertising may not be obscure, ambiguous, deceptive, or misleading and may not use jargon or terminology that is confusing for a person unfamiliar with insurance coverages.*
- *An advertisement may not imply that an insurer or a policy has been endorsed by an individual or group unless true*
- *Statistical information used in advertisements must be accurate, reflect all material facts, and disclose the source of the data*
- *Advertisements may not use language that exaggerates benefits or fails to disclose policy [exclusions](#) and limitations*
- *Advertisements may not mislead the public with regard to the purpose of the policy, benefits included (for example a life policy where the primary purpose is providing a [death benefit](#) may not be characterized as an investment product with returns).*
- *Life insurance advertising may not imply that policy dividends are guaranteed*
- *Testimonials must be applicable to the policy being advertised and must disclose whether the person giving the testimonial is being paid or otherwise compensated.*

Some states have enacted regulations that separately address life insurance and health insurance advertising. Life insurance advertising, for instance, cannot use the terms "investment," "savings," or "profit" in a misleading way. Health insurance advertising must disclose provisions regarding renewability, cancellability, termination, or modification of benefits.

Generally speaking, the burden of complying with state insurance advertising law rests on insurance companies because most advertisements or promotional pieces,

regardless of the writer or presenter, are considered to be the responsibility of the insurer whose policies are being advertised. In practice, most of the advertising and sales literature that an agent uses is prepared by the insurer under the careful eye of its legal staff. For an agent, then, the ethical issue isn't necessarily the material itself but instead how the material is used and the deceptive sales presentation that may result.

SOCIAL MEDIA AND ADVERTISING

A newly emerging area of concern is the use of social media sites such as LinkedIn and Facebook to make the public aware of insurance products and services. The absence of specific regulations around such communications does not mean they are unregulated.

Insurance rules that are generally believed to apply to social media include

- *Advertising rules*
- *Record Retention*
- *Licensing and jurisdiction*
- *Complaint records*
- *Compensation and referrals*

Regulators hold the insurer responsible for supervision of communications posted to social media sites, including those posted by representatives and employees. Because the dynamic content of Internet postings is so difficult to control and retain, many insurance companies have resorted to a "ban" on such activities. Companies and producers must identify applicable regulatory and compliance issues and establish policies for both the business and personal uses of social media.

In New York, the use of a Linked-In profile page or a similar website for the promotion of insurance, insurers, insurance agents, or brokers constitutes an advertisement, announcement, or statement under the New York Insurance Law. OGC Opinion No. 10-11-07.

Regulators in New Jersey have begun asking companies about their policies, training, monitoring, and timely communications with consumers. Regulators are looking at consumer complaints to detect patterns of noncompliance.

Privacy

The collection of nonpublic personal financial information about individuals (both customers and consumers) requires the insurer to do all of the following.

- Provide notice to individuals about the insurer's privacy policies and practices by no later than the time an **insurance policy** is delivered and at least annually afterwards. If information about individuals is collected from a source other than the **applicant** or public records, notice must be given to the individuals at the time the information is collected.
- Describe the **conditions** under which a licensee may disclose nonpublic personal financial information about individuals to affiliates and nonaffiliated third parties. If the insured requests or authorizes a transaction in connection with servicing, processing, or maintaining an insurance product, the insurer is exempt from the requirements of **disclosure**.
- Provide methods for individuals to prevent a licensee from disclosing such nonpublic personal financial information. An **opt-out notice** must be provided to allow the consumer a choice to limit disclosure of personal information.

For health insurance, the insured's identity, financial information, and medical information may not be disclosed except as necessary to conduct the transaction,

unless permitted or required by law. All parties to the transaction must comply with privacy protections required by federal law. If the laws of the state provide for greater confidentiality than public health law requires, the regulations of the state govern.

Under the Privacy Rule for the Health Insurance Portability and Accountability Act (HIPAA), protected information includes all "*individually identifiable health information*" held or transmitted by a covered entity or its business associate, in any form or media, whether electronic, paper, or oral. This is called **protected health information**. *Individually identifiable health information* includes demographic data that relates to past, present, or future physical and/or mental health or condition(s), or payment information that could easily identify the individual. A covered entity must obtain the individual's written authorization to disclose information that is not for treatment, payment, or health care operations.

Unfair Trade Practices

The Unfair Trade Practices Act has been adopted by every state and includes both Unfair Marketing Practices and Unfair Claims Practices. In each state, statutes prohibit the following practices.

- **Misrepresentation** — It is illegal to issue, publish, or circulate any illustration or sales material that is false, misleading, or deceptive as to policy benefits or terms, the payment of dividends, etc. This also refers to oral statements.
- **Boycott, Coercion, or Intimidation** — It is illegal to be involved in any activity of boycott, coercion, or intimidation that is intended to restrict fair trade or to create a monopoly.
- **Defamation** — This occurs when an oral or written statement is made that is intended to injure a person engaged in the insurance business. This also applies to statements that are maliciously critical of the *financial condition* of any person or company.
- **Discrimination** — It is illegal to discriminate in rates, premiums, or policy benefits for persons within the same class or with the same life expectancy is illegal. No discrimination may be made on the basis of marital status of an individual, race, color, national origin, creed, or ancestry unless the distinction is made for a business purpose or required by law.
- **False or Deceptive Advertising** — Advertisements cannot include any untrue, deceptive, or misleading statements that apply to the business of insurance or anyone who conducts it. The violation of this rule is called false advertising.
- **False Financial Statements** — It is illegal to make any financial statements that are intended to deceive public officials or the general public about the financial condition of an insurer. This often occurs when an important fact about the financial status of an insurer is deliberately withheld in order to present the company in a more favorable light.
- **Rebating** — This is defined as any inducement offered to the insured in the sale of insurance products that is not specified in the policy. Rebates include money, reductions in commissions, stock, bonds, securities and their dividends or profits, special favors or advantages in benefits, and personal services. Both the offer and acceptance of a rebate are illegal.
- **Twisting** — This is a form of **misrepresentation** in which an agent persuades an insured/owner to cancel, **lapse**, or switch policies, even when doing so is to the insured's disadvantage.

If, after a hearing, the department of Insurance determines that a producer or an insurer has committed an unfair trade or competition practice, the Department may issue an order requiring the person to cease and desist from engaging in the method of competition, act, or practice, and/or impose penalties for violation of insurance laws.

Fair Credit Reporting Act

The **Fair Credit Reporting Act** established procedures that consumer-reporting agencies must follow in order to ensure that records are confidential, accurate, relevant, and properly used. The law also **protects consumers** against the circulation of inaccurate or obsolete information.

The acceptability of a risk is determined by checking the individual risk against many factors directly related to the risk's potential for loss. Besides these factors, an **underwriter** will sometimes request additional information about a particular risk from an outside source. These reports generally fall into two categories: Consumer Reports and Investigative Consumer Reports. Both reports can only be used by someone with a legitimate business purpose, including insurance underwriting, employment screening, and credit transactions.

Consumer Reports include written and/or oral information regarding a consumer's credit, character, reputation, or habits collected by a reporting agency from employment records, credit reports, and other public sources.

Investigative Consumer Reports are similar to consumer reports in that they also provide information on the consumer's character, reputation, and habits. The primary *difference* from regular consumer reports is that the information is obtained through an investigation and interviews with associates, friends, and neighbors of the consumer. Unlike consumer reports, these reports cannot be made unless the consumer is advised of the report in writing within 3 days of the date the report is requested.

The consumers must be advised that they have a right to request additional information concerning the report, and the insurer or reporting agency has 5 days to provide the consumer with the additional information.

The reporting agency and users of the information are subject to civil action for failure to comply with the provisions of the Fair Credit Reporting Act. A person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses may also be fined and/or imprisoned for up to 2 years.

An individual who **unknowingly** violates the Fair Credit Reporting Act is liable in the amount equal to the loss to the consumer, as well as any reasonable attorney fees incurred in the process.

An individual who **willfully** violates this act enough to constitute a general pattern or business practice will be subject to a penalty of up to \$2,500.

Under the Fair Credit Reporting Act, if a policy of insurance is declined or modified because of information contained in either a consumer or investigative report, the consumer must be advised and provided with the name and address of the reporting agency. **The consumer has the right to know what was in the report.** The consumer also has a right to know the identity of anyone who has received a copy of the report during the past year. If the consumer challenges any of the information in the report, the reporting agency is required to reinvestigate and may need to amend the report if warranted. If a report is found to be inaccurate and is corrected, the agency must send the corrected information to all parties to which they reported the inaccurate information within the last 2 years.

Consumer reports cannot contain certain types of information if the report is requested in connection with a life **insurance policy** or credit transaction of less than \$150,000. The **prohibited information** includes bankruptcies more than 10 years old,

civil suits, records of arrest or convictions of crimes, or any other negative information that is more than 7 years old. As defined by the act, *negative information* includes information regarding a customer's delinquencies, late payments, insolvency or any other form of default.

B. Underwriting and Claims Settlements

It is an **unfair trade practice** to make any statement that an insurer's policies are guaranteed by the existence of the Insurance Guaranty Association.

Insurance companies are expected to be financially solvent, maintain capital and reserves sufficient to meet their liabilities, follow their own underwriting rules, pay claims when due, and provide good policyholder service. Home office personnel need to know how companies operate and how to provide necessary support to agents, policyowners, and management. Claims representatives need to understand the obligations of the parties to the insurance **contract**, as well as how to deal with claimants.

To make sure that insurance companies are executing all of their responsibilities to the public, state insurance departments provide oversight and regulation. The primary purpose of state insurance regulation is consumer protection.

Insurance commissioners have the authority to investigate any insurance company or agency transacting insurance in the state in order to determine if the company/agency is complying with state insurance laws and regulations. If the commissioner believes a violation of those laws and regulations has taken place, a hearing may be scheduled to establish the facts. If a violation is found, the commission can issue a cease-and-desist order. Violations of a cease-and-desist order may result in severe fines (usually \$10,000 but the amount can vary by state), in addition to loss of license.

Insurance companies generally have an entire Compliance Department devoted to ensuring that the firm remains in compliance with all state and federal rules. Creating a "culture of compliance" and fostering an ethical business climate will help an insurance company stay out of trouble with the regulators, but again, compliance with the letter of the law is not necessarily the same thing as ethical behavior.

C. Solvency

Ultimate regulatory responsibility for insurer solvency rests with each state insurance department and the state insurance commissioner. State insurance departments are assisted by the NAIC, which is a voluntary organization of the commissioners of the state insurance departments. The NAIC's overriding objective is to assist state insurance regulators by offering financial, actuarial, legal, computer, research, and economic expertise to state regulators.

It is primarily through the states' adoption of NAIC model laws and model regulations that uniformity is achieved in the financial regulation of insurance companies. Once a state has demonstrated that it has met a wide range of legal, financial, functional, and organizational standards, it can achieve accreditation. (All 50 states and the District of Columbia are currently accredited.) The purpose of the accreditation program is for state insurance departments to meet minimum, baseline standards of solvency regulation, especially with respect to regulation of multi-state insurers.

1. The NAIC and Solvency Regulation

U.S. Insurance Financial Solvency Framework

The US Regulatory Mission is to protect policyholders/claimants/beneficiaries while also facilitating an effective and efficient marketplace for insurance products. Effective regulation requires that regulators have appropriate regulatory authority over insurers, operate independently of insurer and political interference, maintain an adequate staff of sufficiently trained personnel, and treat confidential information appropriately.

Seven “Core Principles” of US Insurance Financial Solvency

1. Regulatory Reporting, Disclosure and Transparency

Insurers are required to file standardized annual and quarterly financial reports that are used to assess the insurer’s risk and financial condition. These reports contain both qualitative and quantitative information and are updated as necessary to incorporate significant common insurer risks.

2. Off-site Monitoring and Analysis

Off-site solvency monitoring is used on an ongoing basis to assess the financial condition of the insurer as of the valuation date and to identify and assess current and prospective risks through risk-focused surveillance. The results of the off-site analysis are included in an insurer profile for continual solvency monitoring.

3. On-site Risk-focused Examinations

U.S. regulators carry out risk-focused, on-site examinations in which the insurer’s corporate governance, management oversight, and financial strength are evaluated, including the system of risk identification and mitigation, both on a current and prospective basis. The reported financial results are assessed through the financial examination process, and a determination is made regarding the insurer’s compliance with legal requirements.

4. Reserves, Capital Adequacy and Solvency

To ensure that legal obligations to policyholders, [contract](#) holders, and others are met when they come due, insurers are required to maintain reserves, capital, and surplus at all times in such forms so as to provide an adequate margin of safety. The most visible measure of capital adequacy requirements is associated with the risk-based capital (RBC) system. The RBC calculation uses a standardized formula to benchmark specified level of regulatory actions for weakly capitalized insurers.

5. Regulatory Control of Significant, Broad-based Risk-related Transactions/Activities

The regulatory framework recognizes that certain significant, broad-based transactions/activities affecting policyholders’ interests must receive regulatory approval. These transactions/activities encompass licensing requirements, change of control, the amount of dividends paid, transactions with affiliates, and [reinsurance](#).

6. Preventive and Corrective Measures, Including Enforcement

The regulatory authority takes preventive and corrective measures that are timely, suitable, and necessary to reduce the impact of risks identified during on-site and off-site regulatory monitoring. These regulatory actions are enforced as necessary.

7. Exiting the Market and Receivership

The legal and regulatory framework defines a range of options for the orderly exit of insurers from the marketplace. It defines solvency and establishes a receivership

scheme to ensure the payment of policyholder obligations by insolvent insurers subject to appropriate restrictions and limitations.

D. Marketplace Regulation & Penalties

Simply defined, **market regulation** is how insurance companies conduct themselves in the insurance marketplace. (Financial regulation, or the ability of an insurance company to pay its liabilities, is a separate regulatory function.)

Insurers must comply with certain established procedures, and failure to comply will result in penalties. Some of the areas that market conduct regulations cover include (but are not limited to) the following.

- Sales and marketing practices
- Underwriting and issuance of insurance products
- Policyholder service
- Complaint handling
- Claims handling
- Policy termination practices

Market conduct examiners take the long view of a company's general conduct in the marketplace when determining whether a company has violated the state's trade practice regulations. Evidence that a violation is a "general business practice" is more likely to result in penalties than isolated incidents of noncompliance.



The NAIC Market Regulation and Consumer Affairs Committee

The National Association of Insurance Commissioners (NAIC) is the U.S. standard-setting and regulatory support organization that is created and governed by the chief insurance regulators from the 50 states, the District of Columbia, and five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer reviews, and coordinate their regulatory oversight. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the U.S.

The mission of the NAIC Market Regulation and Consumer Affairs Committee is to monitor all aspects of the market regulatory process. This includes overseeing

- *The collection of market data,*
- *The Market Information Systems automated applications*
- *The use of desk audits, examinations, interrogatories, investigations and other resources for monitoring market activities*
- *The analysis of data relevant to market issues.*

In addition, the committee will help identify and develop uniform regulatory standards and solutions to problems related to market issues. As part of this function, the committee will facilitate interstate communication and coordinate collaborative state regulatory actions. The committee will also review and make recommendations regarding the underwriting and market practices of insurers and producers as those

practices affect insurance consumers, including availability and affordability of insurance.

Market Conduct Examinations

*"The California Department of Insurance conducts examinations of insurance companies to be sure that the companies are in compliance with the California Insurance Code (CIC) and the California Code of Regulations with respect to rating, underwriting and **claim** practices. These are called market conduct examinations. Exams can be scheduled based on consumer **complaint** activity, special requests, or at regular intervals.*

Market conduct examination reports document the findings of our examiners. The reports identify the size of the policy sample or claim sample that was reviewed by the examiners and indicate any alleged violations of the law discovered during the exam. The reports also summarize actions taken by the insurers to correct the alleged non-compliant practices. The public reports of examination available here contain alleged violations of CIC Section 790.03, Prohibited Acts, and the Fair Claims Settlement Practices regulations. In some cases, the examinations serve as the basis for a formal legal enforcement action against an insurer."

PENALTY BOX

Common Violations by Insurers (from the Texas Enforcement Files):

- *Paying a valuable **consideration** to unlicensed persons for the referral of potential customers based upon the purchase of an insurance product*
- *Charging and receiving a premium on **insurance policy** not in accordance with applicable rate filing*
- *Failing to respond to a TDI request for information in a timely manner*

E. NAIFA Code of Ethics

The National Association of Insurance and Financial Advisors (NAIFA) is one of the oldest and largest trade organizations in the insurance field. Its mission is to advocate for a positive regulatory environment and promote professionalism and competence among insurance and financial professionals. One of NAIFA's main goals is to promote the ethical conduct of its members. Insurance agents and financial advisors have professional duties not only to the companies they represent, but also to the client. NAIFA Code of Ethics was designed to address these dual obligations and to help agents strike an ethical balance as they perform their professional duties.

Learn these principles, and live by them in your professional practice.

"I Believe It To Be My Responsibility

- *To hold my profession in high esteem and strive to enhance its prestige.*
- *To fulfill the needs of my clients to the best of my ability.*
- *To maintain my clients' confidences.*
- *To render exemplary service to my clients and their beneficiaries.*
- *To adhere to professional standards of conduct in helping my clients to protect insurable obligations and attain their financial security objectives.*
- *To present accurately and honestly all facts essential to my clients' decisions.*
- *To perfect my skills and increase my knowledge through continuing education.*
- *To conduct my business in such a way that my example might help raise the professional standards of those in my profession.*
- *To keep informed with respect to applicable laws and regulations and to observe them in the practice of my profession.*

- *To cooperate with others whose services are constructively related to meeting the needs of my clients."*

F. For Florida Producers Only

Unauthorized Entities:

An entity that is required to be licensed or registered with the Florida Office of Insurance Regulation, but that is operating without the proper authorization, is identified as an **unauthorized insurer**. All persons have the responsibility of conducting reasonable research to ensure they are not writing policies or placing business with an unauthorized insurer. Any person who, directly or indirectly, aids or represents an unauthorized insurer can lose his or her licenses, or face other disciplinary sanctions. Lack of careful screening can result in significant financial loss to Florida consumers due to unpaid claims and/or theft of premiums. Under Florida law, a person can be charged with a third-degree felony and also held liable for any unpaid claims and refund of premiums when representing an unauthorized insurer. It is the person's responsibility to give fair and accurate information regarding the companies they represent. *(Please see section 626.901, Florida Statutes, to read the laws.)*

G. Course Recap

1. Exam Breakdown

The Exam Breakdown should be used to see where to focus your valuable study time. Each test is weighted per chapter, so concentrating your efforts will benefit you when taking the actual exam.



Ethics & Insurance - Final Examination 25 Questions - 2-hour time limit

Chapter	Percentage of Exam
Ethics Defined	12%
Producer's Ethical Responsibilities	12%
Producer's Responsibilities to the Insured	12%
Sales Practices and Sales Presentations	24%
Producer Responsibilities - Other Related Concepts	16%
Insurance Company Responsibilities to the Public and Regulators	24%

2. Key Concepts

This course provided an overview of ethical insurance practices, as well as standards and regulations for insurers and producers. Let's recap some of the major points. Make sure you refresh the following key concepts before taking the final exam.

ETHICS DEFINED	
Ethical Behavior - The Golden Rule	<ul style="list-style-type: none"> • The Golden Rule: treating others with the same regard as you would expect for yourself • Maintaining ethical attitude, ideas and beliefs

The Ethical Balance Sheet	<ul style="list-style-type: none"> • The ends do not justify the means (moral dilemma: production numbers vs. service) • Putting the greater good of others before one's own interests • Rationalization vs. ethics
Ethics as a Legal Force	<ul style="list-style-type: none"> • Legal vs. ethical practices • Legal actions can be unethical • The law sets minimum <i>standards</i> of behavior; ethics sets <i>goals</i> for behavior
Insurance and Industry Ethics	<ul style="list-style-type: none"> • Ethical standards: industry Code of Ethics • Living by ethical standards may not guarantee profitability
The Ethical Bottom Line	<ul style="list-style-type: none"> • Assuming personal responsibility for actions • Doing the right thing
PRODUCER'S ETHICAL RESPONSIBILITIES	
The Role of Agents/Producers	<ul style="list-style-type: none"> • Agents have ethical responsibilities to <ul style="list-style-type: none"> ◦ <i>Insurer</i>: acts of an agent are deemed to be the acts of the insurer; fiduciary duty; loyalty ◦ <i>Insured</i>: disclosing information about the insured's policies; not deceiving or coercing the applicant into buying policies ◦ <i>Public</i>: care and skill ◦ <i>Regulators</i>: legal actions; proper licensing and business transactions
Producer's Responsibilities to the Insurer	<ul style="list-style-type: none"> • Fiduciary duty: position of trust and confidence in handling another person's financial affairs • Express authority: expressly stated in the contract • File underwriting: disclose material information about the applicant to the insurer
PRODUCER'S RESPONSIBILITIES TO THE INSURED	
Fiduciary Duty	<ul style="list-style-type: none"> • Remit and return premiums; maintain funds separate from any other accounts • Managing general agent: <ul style="list-style-type: none"> ◦ Appoint insurer's agents ◦ Accept risks ◦ Collect funds from agents
Professionalism	<ul style="list-style-type: none"> • Advanced level of training, knowledge, and skill • Always placing the public's interest above one's own: quality of service • Loyalty and full disclosure: to the insurer and the customer
Suitability and Needs-Based Selling	<ul style="list-style-type: none"> • Suitability of product: evaluate customer's profile (age, income, financial situation, needs and objectives, risk tolerance, and tax status) • Products must be matched to the customer's needs • Communication and education must continue as long as the insured is the customer
SALES PRACTICES AND SALES PRESENTATIONS	
Ethical Responsibilities at Policy Application	<i>Conditional receipt</i> : explaining when the coverage begins

	<p><i>Unanswered questions on the application:</i></p> <ul style="list-style-type: none"> • Return to applicant for completion • If a policy is issued, unanswered questions are interpreted as if they insurer waived its right to have an answer <p><i>Replacement:</i> must be suitable for the insured</p> <ul style="list-style-type: none"> • Duties of the producer: <ul style="list-style-type: none"> ◦ Notice Regarding Replacement to the insured (submit a signed copy to the insurer) ◦ Obtain a list of existing policies ◦ Provide copies of communication records regarding replacement to the insured • Duties of the replacing insurer: <ul style="list-style-type: none"> ◦ Obtain a list of policies being replaced from the producer ◦ Send notifications to existing insurers about replacement
Explaining the Underwriting Process	<ul style="list-style-type: none"> • Gramm-Leach-Bliley Act: protects private customer information (nondisclosure of nonpublic personal information) • Disclosure statements: help consumers make informed decisions • Buyer's guide: allows consumers to compare the costs of different policies (generic information)
PRODUCER RESPONSIBILITIES - OTHER RELATED CONCEPTS	
Policy Delivery	<ul style="list-style-type: none"> • Agent's responsibility: promptness and policy delivery • Policy delivery in person: ensures that the policyowner fully understands all aspects of the contract
At Claims Time	<ul style="list-style-type: none"> • Agents should be familiar with the insurer's claims procedures • Agents should not be giving legal advice regarding payment of claims • If fraud is suspected, refer to the insurer's special investigative unit (SIU)
Providing Continued Service	<ul style="list-style-type: none"> • Service before, during, and after the sale • Educating the client • Loyalty
Producer Responsibilities to the Public	<ul style="list-style-type: none"> • Provide honest and fair explanation of available policies that would serve the public's needs
Producer Responsibilities to Regulators	<ul style="list-style-type: none"> • Avoiding unfair marketing practices • Controlled business: insurance on one's own life or property, or that of the agent's family or business associates <ul style="list-style-type: none"> ◦ Commissions cannot exceed a state-mandated maximum amount for the year ◦ License cannot be used to write only controlled business
Special Ethics Concerns	<ul style="list-style-type: none"> • Pretext interviews: pretending to be someone else to obtain information <ul style="list-style-type: none"> ◦ Illegal in many states unless for claims investigation

Regarding Senior Citizens	<ul style="list-style-type: none"> • High-pressure tactics and cold lead advertising are prohibited
Penalties	<ul style="list-style-type: none"> • Interstate commerce: <ul style="list-style-type: none"> ◦ Knowingly making false material statements or reports will result in a fine, imprisonment, or both ◦ If an agent has a conviction involving dishonest or breach of trust, a written consent from insurance regulatory authority is required before the agent will be allowed to work in the business of insurance affecting interstate commerce (1033 waiver)
Agent Errors and Omissions	<ul style="list-style-type: none"> • Professional liability insurance • Protects against: <ul style="list-style-type: none"> ◦ Agency's or producer's negligence ◦ Failure to render reasonable duties or services • Does NOT protect from liability resulting from criminal acts or unfair trade practices
INSURANCE COMPANY RESPONSIBILITIES TO THE PUBLIC AND REGULATORS	
Role of Insurers	<p>4 divisions of insurance companies:</p> <ul style="list-style-type: none"> • Marketing: advertising, promoting, and distributing insurer's products • Underwriting - evaluating and accepting risks • Claims - receiving, evaluating, and paying claims • Actuarial - developing mortality and morbidity tables (statistics) <p>Unfair trade practices: know them and avoid them</p> <p>Fair Credit Reporting Act:</p> <ul style="list-style-type: none"> • Protects consumers against the circulation of inaccurate or obsolete information • Consumer has the right to know the information in the consumer report
Underwriting and Claims Settlements	<ul style="list-style-type: none"> • Guaranteeing policies by the existence of the Insurance Guaranty Association is an unfair trade practice
Solvency	<ul style="list-style-type: none"> • Core principles of insurance financial solvency: <ul style="list-style-type: none"> ◦ Reporting, disclosure and transparency ◦ Off-site monitoring and analysis ◦ On-site risk-focused examinations ◦ Reserve and capital adequacy ◦ Control of significant, broad-based risk-related transactions ◦ Preventing and corrective measures and enforcement ◦ Exiting the market and receivership
Marketplace Regulation & Penalties	<ul style="list-style-type: none"> • Market conduct: code of ethics for producers and insurers • NAIC Market Regulation and Consumer Affairs Committee
NAIFA Code of Ethics	<ul style="list-style-type: none"> • Purpose: <ul style="list-style-type: none"> ◦ Advocate for positive regulatory environment ◦ Promote professionalism and competence among insurance professionals

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Chapter Complete

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