Resolving Ethical Conflicts
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Chapter One: Ethics and Agent Relationships

“Ethics” are a body of moral principals. These principals are the standards by which an individual measures his or her own actions and the actions of others. In the insurance profession, these moral principals are developed and impacted by legislation, by those in the profession, and by the standards and beliefs of the individual agent. The effects of the ethical decisions made by the agent are felt by many: the public, the insurer the agent represents, the agent’s customers, insurance regulators, the agent’s competition, and the agent’s coworkers.

Those in the insurance profession have an interest in supporting ethical practices within the industry. Promoting ethical practices improves the public image of the industry, helps reduce additional regulation, and aids in the overall competitive health of the industry. The various insurers want the industry to be healthy, fairly competitive and as free from regulation as possible. Insurers aid in the ethical behavior of the industry by acting ethically themselves, encouraging excellent training for their agents, putting strong supervisory instruments in place to monitor agents’ activities, and by cooperating with regulators. Agents are benefited personally by their own ethical conduct and the ethical conduct of other agents. Ethical conduct within the industry keeps the public willing to purchase insurance.

Agent Relationships

The Public

Whether or not an agent’s actions are ethical has an impact on the public because (1) the agent represents the insurance industry to the public, and (2) the positive or negative results of an agent’s actions may be felt by the general public.

Representatives of the Insurance Industry

The public perception of insurance is largely built by the actions of the insurers and agents within the industry. If either one of these parties behaves unethically,
the general public is more likely to view other insurance agents and insurers as lacking ethics.

Insurers may negatively impact public perception through financial instability, false advertising, or not meeting the real and perceived obligations of the policies they issue. When a major insurer is found to have a problem in one of these areas, the national and local media are likely to announce the insurer’s problems on television, magazines and newspapers. The general public then grows more wary of insurers and their products.

The agent can negatively impact public perception through improper solicitation and selling practices. The pushy insurance agent has become a running joke on television, movies and comic strips. According to the humorists, there is no worse fate than being stuck in an elevator with an insurance salesman, or marrying into a family with one. Part of the public has the impression that insurance agents are unrelenting in their pursuit of sales. Although the insurance agent of today behaves much differently than this stereotype, the fact that this perception exists is an example of how sales tactics of past agents has impacted public opinion about the industry.

By genuinely seeking to serve the public, an insurance agent helps to break such stereotypes. Using reasonable, non-threatening prospecting methods, performing thorough needs analyses and staying away from high-pressure sales tactics are the best ways an agent can best serve both the insurance industry and the public.

Another important responsibility to the public an agent assumes is to represent an insurer the agent feels comfortable being associated with. Each agent should represent an insurer whose financial stability, products and marketing methods are agreeable to that agent. Representing an insurer using a method or a product the agent does not support is not in the best interests of the public, the insurer or the agent.

**Results of Negative Public Perception**

The results of negatively impacting the public’s perception of the industry can have the effect of reducing overall sales volume, increasing regulation, and dissuading competent, ethical people from entering the insurance sales profession.
Insurance Company
The agent has ethical responsibilities to the insurance company he or she represents. For example, the agent must stay within the boundaries of authority the insurer grants. The agent solicits insurance, discusses product features, collects premium and performs ongoing customer service on behalf of the insurer. Each of these duties must be performed with care, with an effort to meet the expectations set by the insurer.

The insurer requires the agent to properly perform all of the following duties:
• Accurately disclose product features;
• Write profitable business;
• Accept applications for suitable risks, based on the underwriting specifications of the insurer;
• Accurately complete applications;
• Gather and complete any additional required documentation;
• Perform tasks in a timely manner;
• Keep paperwork and other business organized;
• Appropriately handle premium;
• Maintain required records; and
• Consistently transact business in a legal and ethical manner.

When an agent agrees to represent an insurer, and an insurer agrees to allow the agent to represent it, the relationship is both a legal one and one based on trust and loyalty. The insurer wants the agent to transact business honestly and carefully, and wants the agent to succeed within these parameters. The agent trusts the insurer to provide good product and home office service, pay fair commission or compensation and to keep the commitments made to the agent and policyholders. The relationship between the agent and insurer is an important ethical association.

Customers
The term “customers” is used to mean prospects, applicants and policyholders. These are the individuals and businesses with which the agent develops a working relationship.

Ethical Solicitation and Sales Tactics. Among the many ethical responsibilities to customers is practicing ethical solicitation and sales tactics.
Competence. Customers expect competence on the part of the agent. They want to be able to rely on the agent’s representation of the products and plans represented, as well as the agent’s assessment of the customers situation. The agent has an ethical responsibility to customers to know and understand the scope and content of the business offered and sold.

Appropriate Sales. Agents also have an ethical duty to customers to make appropriate sales. The agent can do so by assessing the needs of the customer, including a review of current insurance owned and the customer’s financial situation, tax situation, risk tolerance and experience. The risk to be insured must be thoroughly profiled as well. Appropriate sales also include proper disclosure of risks, fees, premium calculations, illustration assumptions, and contract provisions. An agent must also take sufficient time to educate the customer and respond to any questions or objections the customer may have.

Confidentiality. The customer relies on the agent to keep information confidential. The agent must be careful not to improperly disclose customer information.

Customer Service. In performing ongoing service, the agent has the responsibility to customers to act on a timely basis, execute service requests accurately, and to be responsive to customers’ needs.

Regulators
Agents are placed in a position of trust by the regulators who authorize them to transact business. The regulators expect agents to obey the laws surrounding their business and to behave ethically toward the public and the insurers agents represent. Among the requirements the regulators hold for agents include the prohibition of:
• rebating;
• improperly disclosing confidential information;
• redlining;
• twisting and churning;
• taking applications with misrepresentations;
• defaming an insurer;
• unfairly discriminating; and
• committing fraud.
The regulators require agents to act in good faith toward the public, be competent and qualified to act as an agent, and to be trustworthy. When an agent applies for and is issued a license, the agent is agreeing to comply with all that the regulators who issue the license require.

**Competition**

The agent has the ethical responsibility toward competitors to engage in fair trade practices. Specific regulations prohibit agents from making false or malicious statements against any person engaged in the business of insurance. Attempting to make a sale based on false statements against another agent or insurer puts the falsely accused party at an unfair disadvantage in the marketplace. In addition, if enough false information is circulated, an insurer’s overall financial stability could be harmed since policyholders could begin to surrender policies in large numbers.

False advertising is also a type of unfair competition, since the facts about a product are distorted. Any type of misrepresentation could also be considered unfair to competitors.

**Coworkers**

The coworkers of an agent are also impacted by the ethical decisions and actions of an agent. The actions of an ethical agent helps to promote the good reputation of the organization for which he or she works. An unethical agent’s actions can mar the reputation of that same organization.

Besides harming the reputation of an organization, an agent who does not hold high standards of professionalism can negatively impact the productivity of his or her coworkers. Sloppy paperwork, not responding to customer requests and an overall lack of care often results in other agents or support staff having to do additional work to “make up” for the work not properly completed by the irresponsible agent. Each agent owes it to his or her coworkers to take proper care of his or her own business.
Benefits of Ethical Behavior

Ethical behavior brings benefits to the public, the agent’s customers, the insurer, the competition, the agent’s coworkers and to the agent.

The Public

By taking ethical actions, an agent serves the public and his or her customers by allowing them to make reasonable decisions about insurance coverage, free from pressure or misinformation. Insurance provides protection against economic misfortune or ruin. Health insurance protects against financial loss due to sickness or accident, life insurance protects against financial loss due to death, property insurance protects against financial loss due to destruction of property, and casualty insurance protects against financial loss due to negligence or even crime. If citizens are not able to purchase insurance to protect their fortunes against these risks, many would suffer economically.

Uninsured financial loss can harm the individual, his or her family, and any employees the individual may have. Financial loss can effect following generations due to an inability to fund higher education or to fund the development of a trade or skill. Financial harm to members of society can cause a loss of economic health to the public, since business owners may have to lay off employees or may go out of business if the financial harm is severe enough. Because there is an element of welfare in our society, those financially harmed could potentially look to the government for the funds for housing, food and education lost due to the uninsured financial harm, causing taxes to rise. Speaking of taxes, businesses and their employees forced out of work due to uninsured risks do not earn any income on which to pay taxes.

Because of all these negative potentialities, insurance is viewed as an important industry, whose well-being benefits the public-at-large.

Customers

Customers are further benefited by good service, good product recommendations, prompt claim payment and so on. The ethical agent will also provide benefit to his or her customers by not pushing product onto them which is not suitable for their needs. Ethical agents provide product which meets the true financial protection needs of their customers.
Competition

It may sound a little overly generous to want to benefit competition. But ethical practices benefits competition because such practices help the health of the entire industry. “One bad apple…” as the saying goes, can hurt many involved in the insurance profession.

Coworkers

Coworkers, too, find benefit in working with ethical agents. Besides being a motivation to others, ethical agents are not a burden to coworkers. Any agent who has had to work with customers following an agent with poor work practices or following an agent who has taken unethical actions can testify to the harm done by that irresponsible agent. Customers must be “re-sold” and customer confidences rebuilt, consuming much time and effort. Ethical agents want to work with other ethical agents, those who will build up customer trust and accumulate stable production.

The Individual Agent

Ethical behavior benefits the individual agent as well. Successful agents are quick to point out that their longevity and good production are the result of good customer relations. Putting the customer first, they say, leads to additional purchases and referrals.

Besides the strength in business ethical practices bring, the ethical agent can have pride in his or her work, and has the satisfaction of knowing he or she has done the best for every client.
Chapter One Study Questions

1. ________________ is (are) impacted by an agent’s ethical practices.
   a. The public
   b. The insurer
   c. The agent’s coworkers
   d. all of the above are impacted by an agent’s ethical practices.

2. Insurers may negatively impact public perception through ________________________________, ______________________________, or not meeting the real and perceived ______________________________ of the policies they issue.

3. Put an “x” next to each duty the insurer requires of an agent:
   a. accurate disclosure of product features
   b. purchase of television advertising time
   c. writing profitable business
   d. accurate completion of applications

4. List four expectations customers have of agents:
   a.
   b.
   c.
   d.
5. The primary ethical responsibility an agent has toward competition is to engage in ______________ ______________ practices.

6. Place an “x” next to each way in which an agent can negatively impact coworkers through unethical actions:
   a. the agent can harm the reputation of an entire organization
   b. because the unethical agent will make more sales, the ethical agent’s production will decrease
   c. because the unethical agent may be sloppy in paperwork, may not respond to customer requests, and may demonstrate an overall lack of care, the agent can reduce productivity of other agents and support staff who may have to “make up” for these improper practices.

7. Ethical behavior helps the individual agent in the areas of longevity and good production because putting the customer first leads to ______________ ______________ and ______________.
Chapter Two: Ethical Conflicts of the Insurance Agent

An agent can come across many ethical conflicts as he or she is conducting business. This chapter discusses some of the more common ones an agent may encounter.

Sales Goals

Because an agent is in the business of selling insurance, he or she often has goals for the amount of premium written each month. These goals may be set by a general agent, by an insurer, or by the agent himself or herself. There may be a minimum production requirement in order to receive a certain amount of salary, short term goals set in order to win a vacation trip, or a tiered compensation system wherein hitting certain levels of production brings a higher commission percentage.

Sales people are often positively motivated by sales goals, bonuses and awards. These goals are not in and of themselves harmful nor unethical. However, when sales or commission goals become more important than the best interests of a customer, the agent may make inappropriate sales for the purpose of earning commission.

Jim took a quick peek at his watch. Mrs. Reed was pulling out a sheaf of papers from the pocket of her purse, her shaking hands slowing down the process considerably. She murmured to herself, looking up apologetically at Jim.

“Sorry this is taking so long. These old hands don’t work the way they used to,” she said.

“Oh, no, no, Mrs. Reed,” Jim said with more enthusiasm than he was feeling, “don’t worry about it. You just take your time.” Jim’s lack of enthusiasm was no reflection on Mrs. Reed; he was down because he had found out just before this appointment that he was not going to meet the sales contest goal because a large recission against his production had come in. His wife would be disappointed, he knew. Heck, his wife wasn’t just going to be disappointed – he’d been looking forward to a little vacation himself!
Finally, Mrs. Reed got the papers pulled out and handed them over to Jim. As he unfolded them, he started a little in surprise. These documents represented $150,000 in Certificates of Deposit, just the amount Jim needed to make a $1,000,000 sales month, qualifying him for a trip for two to Hawaii. And today was the last day of the month!

As Jim talked to Mrs. Reed, he discovered she was here talking to Jim because her neighbor had referred her to him after Mrs. Reed’s husband has passed away. The Certificates of Deposit made up the bulk of her total savings. She had some money in an interest bearing checking account, but it had been greatly depleted by funeral expenses. Mr. Reed had done most of the financial planning for the family, and Mrs. Reed didn’t know what to do with these CDs that were now maturing. Her friend had an annuity, and thought Mrs. Reed might want one, too.

Jim looked up at the clock on the wall, watching the time tick away toward 6 PM on the last sales day of the month, toward the end of the last day of the sales contest. He sat back in the chair across the desk from Mrs. Reed, smiled at her and said…

What should Jim say? He could try to justify to himself moving the entire amount of the CDs into an annuity, leaving Mrs. Reed without money she could access in an emergency unless she wanted to pay a withdrawal charge. Perhaps such an emergency would never occur, he might say to himself.

But, the ethical answer is obvious. Jim needs to make sure Mrs. Reed has enough money set aside in short term accounts to meet emergencies such as a flat tire, a broken refrigerator, or to treat herself to a trip to the beach or to visit her grandchildren. Jim may need to defer making any financial decision with Mrs. Reed until they have more time to take a look at her whole financial situation. He needs to understand her risk tolerance, tax situation, and goals before he suggests placing any money in any type of insurance plan. The point is that Jim must view Mrs. Reed’s needs as more important than his own, meaning that he foregoes an immediate, large sale in order to make right sales.

In order to ensure ethical sales are made, besides taking the time to do a complete needs analysis, the agent must accurately disclose product and spend time educating the customer. The customer also expects the agent to maintain confidentiality about any insurance transactions undertaken, and to provide good customer service.
Disclosure of Products

The agent must thoroughly understand the product or products being represented and accurately disclose them. If the agent misrepresents a product, the insurer may be in put in the position of financial loss in order to remedy the misrepresentation made. If significant misrepresentation occurs, the insurer and agent could suffer regulatory fines and/or suspension or revocation of licenses.

Making the Sale

Today’s ethical sales environment puts an emphasis on educating a customer, rather than “closing” a customer. Educating involves an appeal to logic and reason. Closing can mean appealing solely to emotion and the dreams or fears the customer has underlying his or her insurance need. Educating does not ignore the emotions involved in an insurance transaction, but does not place undue emphasis on such issues.

Educating a customer does not include ignoring the alternative options a customer may have. The agent who educates customers uses a process of pointing out the benefits to the program or product being offered compared to the alternatives, without resorting to any type of coercion.

Educating a customer may take patience. For example, the situation of the widow who has never had to handle insurance or finances is still commonplace today. Such a customer may require more time to educate than the financially experienced businessperson who is sold a policy over the lunch hour.

Educating a customer is an ongoing process. It involves establishing a relationship where the agent is viewed as a reliable source to turn to as life brings new insurance needs to the customer. Closing, on the other hand, is sometimes seen as a one time slam dunking of the customer into the agent’s book of business.

“Closing” is not a negative term when used to mean the point in time when the business is asked for. But, the responsible agent avoids any closing process that includes any element of overwhelming the customer through coercion, misrepresentation, omission of material facts, or irrational appeals to emotion.

Today, the agent is seen as one who suggests a product, rather than one who decides for the customer which product is best without giving the customer an opportunity to decide for him or herself. Sometimes one product is obviously
better than others for a customer, but even in such a situation the agent must provide the information necessary for the customer to reach that conclusion.

Confidentiality
When a customer comes to an agent, the customer expects that the information the agent receives will remain confidential. Georgia has standards for disclosing information in place. In addition to these and other regulations requiring confidentiality, the agent is ethically responsible to keep customer information confidential. A customer does not want personal information to be made a topic of conversation around the water cooler or at the golf course.

Service
Customer service is at the heart of a successful, ethical agent’s business. Customer service involves treating each customer’s needs as important, not focusing solely on the big sales and big deals. Customer service involves timeliness, accuracy and responsiveness to the customer.

Replacement
The chance to replace policies can come up frequently for an agent. The important factors involved in replacement are important to understand in order to make sure replacement is the right option for a customer.

“Replacement” is generally defined as occurring when an agent knows that a sale will result in an existing life policy:
- being forfeited, surrendered, terminated or allowed to lapse;
- being reissued with a reduction of cash value;
- being converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value through nonforfeiture options or other policy provisions;
- being amended for a reduction in coverage terms or benefits; or
- being used as collateral or being borrowed against for this sale.

When a replacement situation occurs, the agent must consider the following factors: existing policy provisions compared to those of the proposed policy, cost to terminate or otherwise reduce the value of the existing policy, the existing policy’s current and historical returns compared to those of the proposed policy, the dividend rate of the existing policy compared to that of the proposed policy, the guaranteed and current mortality rates of the existing policy compared to that of the proposed policy, the financial ratings of the existing company
compared to the financial ratings of the proposed insurer, the tax consequences of replacing the existing policy, the insurance needs of the policyholder, and the current health of the current policyholder.

Policy Provisions
The policy provisions of the two policies should be compared and analyzed. For example, the agent and client should evaluate:

- what premium modes are available;
- how long rates are guaranteed;
- what policy loan provisions exist;
- what riders are available and how much they cost;
- what fees are charged and in what amount;
- the minimum guaranteed rate;
- how the death benefit is calculated;
- whether the policy is participating or non-participating;
- what settlement options are available; and
- what are the terms of suicide and noncontestability clauses which will start anew under a new policy.

Cost to Terminate or Reduce the Value of the Policy.
The cost to terminate or reduce the value of the policy is an important replacement factor. The existing policy’s value may be charged surrender fees if terminated. In addition, the proposed policy may include surrender charges for a period of time beginning at issue. The policyholder needs to understand what surrender fees could be charged under a new policy.

Rate of Return
The current and historical rates of return of the two policies should be compared. The risks of return also need to be evaluated. For example, the return risk of a variable product is quite different than those of a whole life product.

Dividend Return
If dividends are paid by the insurers, the dividend rates should also be compared. If only one of the policies in question offer dividends, the relative financial advantage or disadvantage must also be reviewed with the client.

Guaranteed and Current Mortality Rates.
Life insurance contracts include disclosure of the guaranteed mortality rates of the policy. One policy may have higher current and/or future guaranteed
mortality rates than the other. This is can be a significant factor to consider in a replacement situation.

Financial Ratings

Another important point of comparison is the financial ratings of the two insurers involved, if the replacement involves more than one company. There are four well known insurance rating companies, A.M. Best, Standard and Poors, Moody’s and Duff and Phelps. Each of these rating companies reviews the financial status of the insurance company and assigns ratings based on its findings. Although a high rating from an insurance rating company is not a guarantee that an insurer will never have financial difficulties, such a rating is a measure of the current financial condition of an insurer, based on many objective factors.

A.M. BEST COMPANY, BEST’S INSURANCE REPORTS.

Best’s Insurance Reports rate insurance companies on their ability to meet policyholder and contractual obligations. Company ratings range from a high of “A++” down to a low of “F”:

- A++, A+ (superior)
- A, A- (excellent)
- B++, B+ (very good)
- C++, C+ (fair)
- D (below minimum standards)
- E (under state supervision)
- F (in liquidation)

MOODY’S INVESTOR SERVICE INSURANCE FINANCIAL STRENGTH RATINGS

Moody’s assigns ratings based on the overall financial strength of an insurance company, and therefore, the company’s ability to meet obligations to its policyholders. Moody’s highest rating is “Aaa” and its lowest “C.” Moody rates reflect an opinion of the insurance company’s ability to repay punctually senior policyholder claims and obligations. Moody’s ratings are identified as follows:

- Aaa (exceptional financial security)
- Aa (excellent financial security)
- A (good financial security)
- Baa (adequate financial security)
- Ba (questionable financial security)
Moody’s also adds a modifier to each rating of a 1, 2 or 3. Modifier 1 means that the reviewed company ranks at the higher end of its rating category, modifier 2 means that the reviewed company ranks in the mid-range of its rating category, and modifier 3 means that the reviewed company ranks in the lower end of its rating category. Thus, an insurer with a rating Aa1 is somewhat more financially secure than one with an Aa3 rating.

STANDARD & POOR’S INSURANCE RATING SERVICES.
Standard & Poor’s rates the insurer’s claims paying ability. They rate subscribing companies (companies which pay a fee for the rating) from “AAA” to “D.” Non-subscriber ratings are from “BBBq” to “Bq.”

DUFF & PHELPS CREDIT RATING COMPANY, INSURANCE RATING SERVICE
Duff & Phelps assigns claims paying ability ratings which reflect the likelihood that the insurance company will meet its policyholder obligations. Duff & Phelps claims paying ability ratings range from “AAA” to “CCC-.”

Tax Consequences
Generally, life insurance can be replaced without current tax consequences. As long as a life insurance contract is exchanged for another life insurance policy, or for an annuity contract, or if an endowment contract is exchanged for an annuity or for another endowment contract which will begin payments no later than payments would begin under the exchanged contract, or if an annuity is exchanged for another annuity contract, a tax-free exchange under IRS Section 1035 rules can be performed. In order to meet the qualifications of a tax-free exchange, certain procedures must be followed, such as having the policy values directly transferred from insurer to insurer. The agent must be careful to follow these procedures. Besides the prospect of taxation on policy gain at termination, outstanding policy loans may be taxable, even if the policy is exchanged under 1035 rules. The policyholder may need to be referred to a tax professional for advice on the tax consequences of replacing a policy.
Insurance Needs
Sometimes an agent ignores the step of assessing the insurance need when replacement is involved, making the assumption that if a policyholder already has a certain amount or type of insurance, it must be needed. However, the agent should never ignore this vital step, regardless of how much or what type of insurance is currently held. The policyholder may not need the same amount or type of insurance today as when the existing policy was purchased. Some clients may have built up a many assets since their original purchase, and now need insurance for estate planning purposes rather than strictly for the death benefit. Some may legitimately need more coverage than they have presently. Others may need less, or a different type of insurance. The agent cannot justify any recommendation without first performing a needs analysis.

Current Health
If an insured’s health has declined since the existing policy was purchased, comparable coverage may not be as affordable as the existing coverage. Health may even have declined to a point where the insured may not qualify for other coverage. An agent can do a customer a serious disservice by not looking at the aspect of health before any replacement is undertaken.

Insurers will provide the agent with the appropriate replacement forms required by the state. The forms include disclosures and analysis of important replacement factors.

Sally was seated across the desk from Mr. and Mrs. Albertson. She was completing a financial profile on the couple and was asking them about the current insurance policies they held.

“Well, let’s see,” said Mr. Albertson, “we have a policy purchased when we first married, and then we each have some life insurance through our employers.”

“Do you know the death benefit amount of each policy?” Sally asked, pen ready to take down the information.

“Oh, gee, I guess about $25,000 on that old policy. Oh, yes,” he said after Mrs. Albertson said something to him Sally couldn’t quite hear, “we also bought some additional insurance a few years back – I think $75,000 on each of us. And the policies through our employment are equal to our annual salaries.”
As Sally asked more questions, she discovered the $25,000 policy was an old whole life policy, and $25,000 was the cash value of the policy, not the death benefit. Sally also found the two $75,000 policies were affordable, suitable policies for the couple. The two were debt-free, had paid off their mortgage, and had only one offspring, a grown daughter. Both were close to retirement. Their estate was valued at under $600,000. They didn’t really need more life insurance.

But, there was that old $25,000 policy. There must be something she could recommend be done with that…

What could Sally recommend? Before any recommendation is made, she must go through the steps of reviewing the old policy, its provisions, and the financial and tax consequences of liquidating it. Based on her analysis, she can derive the best course of action to suggest, whether to leave the old policy as is, replace it with another, or liquidate it so that the values can be used to purchase some other product, such as stocks, bonds or mutual funds. Only after taking the time to study the issue will Sally be able to give her best ideas to Mr. and Mrs. Albertson.

The property-casualty agent does not face the same replacement issues as the life agent, since tax consequences, rates of return and surrender charges do not apply to property-casualty policies. The property-casualty agent must take care, though, to carefully follow ethical and regulatory rules when suggesting a policy which will take the place of an existing policy. Policy provisions and premium rates need to be compared to determine if the customer is better off in a new policy. As in all insurance transactions, the agent must not commit any unfair trade practices, such as making malicious statements against another agent or insurer.

**Fees and Commission**

Insurance agents earn commissions. Insurance counselors or advisors earn fees or commissions for giving advice about insurance policies or plans. Georgia Code Section 33-23-1(a)(5) prohibits an insurance counselor from receiving fees or commissions from different sources for the same transaction:

“Counselor” means any person who engages or advertises or holds himself or herself out as engaging in the business of counseling, advising, or rendering opinions as to the benefits promised under any contract of insurance issued or offered by any insurer or as to the terms, value, effect, advantages, or disadvantages under the contract of insurance, other than an actuary or consultant advising insurers. When receiving a fee,
commission, or other compensation for this service, such person shall not receive any compensation from any other source on or relating to the same transaction.

As used in paragraph (5) of Code Section 33-23-1, the definition of counselor, the term "transaction" refers to coverage or services in the same line or subline of insurance; provided, however, that additional ancillary services for commercial risks in excess of acquisition services shall be considered a separate transaction when such additional ancillary services are disclosed in writing to the insured and approved in advance by the insured. Additional ancillary services shall include, but not be limited to, the following: risk identification; loss measurement; gathering and analysis of loss information; verification of workers’ compensation experience modifiers; setting of risk retention levels; development of retention financing plans; development of insurance specifications; negotiation with insurers regarding coverages, costs, and payment options; implementation of retained and transferred risk programs; monitoring of annual program; and insurance audit services.

The purpose of this legislation and similar legislation in other states is to reduce the likelihood that someone the public views as an objective advisor is being paid by another party with an interest in the outcome of an advisor’s opinion.

**Overstepping Authority**

Penny was almost through looking over the structures at ABC Business. This risk was very similar to the last case she’d written—same industry, about the same number of structures and employees. The equipment used to manufacture the product was about the same, too, only a little newer here.

Penny had been called back to the site on the previous case after the state workplace safety examiner had performed an examination. The examiner had required some new procedures and equipment be installed, and the business owners had called Penny back to see if they qualified for a reduction in premium due to the changes made. They had. Through this experience, Penny had learned a lot about the state safety requirements for this industry.

As Penny walked about the current site, she was impressed with what she saw. The newer equipment at this site included safety devices the other business’ equipment hadn’t had. The overall look of the place was neat and orderly, and the business processes
included all the safety requirements Penny had learned the state required when she’d worked on the last case.

As Penny finished her inspection report, the plant supervisor approached her. “How’s it going? All through?” he asked.

“Yes, I think I’ve got all the information I need to develop an insurance plan for your company. I’d like to set up an appointment next week to show you what we can do for you.”

“Sure, sure. Hey, listen, we’re expecting the state examiner in anytime – he’s been inspecting other manufacturers in our business, and we’re overdue for a visit. Based on what you’ve seen, can you help us guarantee we won’t have any problems with an inspection? It’s important to us, and I know the boss would be real grateful, if you could help work with us on this.”

Could Penny “guarantee” the results of a state examination? No. An insurance company inspection, and resulting recommendations and/or underwriting requirements can go a long way toward increasing a company’s chances of passing state workplace examinations. However, an insurance agent or insurance examiner cannot imply that following his or her recommendations will satisfy all state requirements. To do so would be overstepping the authority of that agent.

Other areas where an agent must be careful not to act outside his or her authority are the areas of giving tax or other legal advice. Over the course of a career, an agent may learn quite a bit about the legal and tax matters related to the lines of insurance the agent offers. However, the agent must be careful to use this knowledge in order to know when to refer a customer to a tax or legal professional, and never to use this knowledge to offer tax or legal advice directly.

Independent Agents and Exclusive Agents
Independent agents face some ethical challenges which are unique from those an exclusive agent faces, and others which are similar. Exclusive agents may feel pressured either by the sales environment in which they work or by their own desire to succeed, to try to make sales to customers which have needs that are better met by products outside those they offer. Or, they might feel challenged to sell the highest commission product as often as possible, including when a lower commission product is better for the customer. The ethical agent will
always perform a careful needs analysis and make recommendations based on customer needs. Exclusive agents can also do a service for customers and the insurer by passing on information to management about the kinds of products and features customers are looking for, so that these products and features can be added to an insurer’s product line.

Independent agents, too, can come against the issue of selling the product with the highest commission, rather than the one that is best for the customer. The best interests of the customer must take precedence.

Unlike the exclusive agent, the independent agent has to assume the responsibility of assembling a group of products issued by insurers that the agent believes are the best: the best in product, service, financial stability, with fair commission structures. An exclusive agent, on the other hand, must determine if a single insurer meets his or her criteria in these areas, but once this determination is complete, the exclusive agent is free to concentrate on the products offered by the insurer the agent represents. The independent agent has a great deal more due diligence to perform, since more insurers have to be reviewed prior to the agent representing their products.

**Use of State Guaranty Association In Sales**

Life and health insurance agents are prohibited from using the existence of a state guaranty association to induce a customer to buy. In Georgia, Code Section 33-38 describes the purpose and components of the Guaranty Association in the state.

33-38-1. *The purpose of this chapter is to protect policy owners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, annuity contracts, and supplemental contracts, subject to certain limitations, against failure in the performance of contractual obligations due to the impairment or insolvency of the insurer issuing such policies or contracts. To provide this protection, (1) an association of insurers is created to enable the guaranty of payment of benefits and continuation of coverages, (2) members of the association are subject to assessment to provide funds to carry out the purpose of this chapter, and (3) the association is authorized to assist the Commissioner, in the prescribed manner, in the detection and prevention of insurer impairments or insolvencies.*

33-38-2. *(a) This chapter shall provide coverage to the persons specified in subsection (b) of this Code section for direct, nongroup life, health, annuity, and supplemental policies or contracts, for certificates under direct group policies and contracts, and for unallocated
annuity contracts issued by member insurers, except as limited by this chapter. Annuity contracts and certificates under group annuity contracts include, but are not limited to, guaranteed investment contracts, deposit administration contracts, unallocated funding agreements, allocated funding agreements, structured settlement agreements, lottery contracts, and any immediate or deferred annuity contracts.

(b) Coverage under this chapter shall be provided only:

(1) To persons who, regardless of where they reside, except for nonresident certificate holders under group policies or contracts, are the beneficiaries, assignees, or payees of the persons covered under paragraph (2) of this subsection; and

(2) To persons who are owners of or certificate holders under such policies or contracts or, in the case of unallocated annuity contracts, to the persons who are the contract holders and who:

(A) Are residents; or

(B) Are not residents, but only under all of the following conditions:

(i) The insurers which issued such policies or contracts are domiciled in this state;

(ii) Such insurers never held a license or certificate of authority in the states in which such persons reside;

(iii) Such states have associations similar to the association created by this article; and

(iv) Such persons are not eligible for coverage by such associations.

All member insurers, which are generally those who issue the types of policies mentioned above covered by the Guaranty Association, must become and remain members of the Association in order to retain their certificates of authority to transact insurance business in Georgia.

The Guaranty Association does not apply to:

• The portion of a variable life insurance or variable annuity contract which is not guaranteed, i.e. if a “fixed account” is guaranteed by the insurer, the provisions of the Guaranty Association will apply. Conversely, the variable sub-accounts of such policies are not covered by the Guaranty Association terms.

• The portion of any policy of contract under which the risk is borne by the policyholder.

• Policies or contracts assumed by an impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued.

• Certain policies issued by nonprofit hospital service corporations, nonprofit medical service corporations, prepaid legal services plans, or health maintenance organizations.

• Policies issued by fraternal benefit societies.
• Accident and sickness insurance when written by a property-casualty insurer as part of an automobile insurance contract.
• Unallocated annuity contracts issued to an employee benefit plan covered by the Pension Benefit Guaranty Corporation.
• Any portion of an unallocated annuity contract which is not issued to or in connection with a specific employee, union, or association of natural persons benefit plan.

If a domestic insurer becomes an impaired insurer, the Guaranty Association may:
• guarantee or reinsure, or cause to be guaranteed, assumed or reinsured, any or all of the covered policies of the insurer;
• provide money, pledges, notes, guarantees or other means to assure payment of obligations, and
• loan money to the impaired insurer.

If a domestic insurer becomes insolvent, the Guaranty Association will:
• guarantee, assume or reinsure, or cause to be guaranteed, assumed or reinsured, the covered policies of the insurer;
• assure payment of contractual obligations of the insurer; and
• provide moneys, pledges, notes, guarantees or other means reasonably necessary to carry out these duties.

If a foreign or alien insurer becomes insolvent, the Association will:
• guarantee, assume or reinsure, or cause to be guaranteed, assumed, or reinsured, the covered policies of residents;
• assure payment of contractual obligations of the insurer to residents; and
• provide moneys, pledges, notes, guarantees or other means reasonably necessary to carry out these duties.

If a foreign or alien insurer’s domicile jurisdiction or state provides protection substantially similar to these statutes for Georgia’s residents, the Georgia Guaranty Association is not required to guarantee the insolvent foreign or alien insurer’s policies issued to residents.

The maximum amount the Guarantee Association will cover is explained in Code Section 33-38-7(9):
With respect to any one contract holder covered by an unallocated annuity contract, the association shall be liable for not more than $5 million in benefits irrespective of the number of such contracts held by that contract holder. With respect to any other covered policy, the aggregate liability of the association on any one life shall not exceed $100,000.00 with respect to the payment of cash values or $300,000.00 for all benefits including cash values; provided, however, that with respect to claims under policies written to provide benefits as required under Chapter 9 of Title 34, relating to workers' compensation, such claims shall be in the full amount as provided by such chapter;

Because the State Guaranty Association provides protection for policyholders in addition to the insurer’s guarantees, an agent may want to address the “safety” concerns of a customer by telling the customer all about the Association. However:

33-38-21. (a) No person, including an insurer or agent or affiliate of an insurer, shall make, publish, disseminate, circulate, or place before the public or cause directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication; in the form of a notice, circular, pamphlet, letter, or poster; over any radio station or television station; or in any other way, any advertisement, announcement, or statement which uses the existence of the association for the purposes of sales, solicitation, or inducement to purchase any form of insurance covered by this chapter. This Code section shall not apply to the association or any other entity which does not sell or solicit insurance.

(b) Any person who violates subsection (a) of this Code section may, after notice and hearing and upon order of the Commissioner, be subject to one or more of the following:

(1) A monetary penalty of not more than $1,000.00 for each act or violation, but not to exceed an aggregate penalty of $10,000.00; or

(2) Suspension or revocation of his license or certificate of authority.

The agent must be careful not to violate this provision. Insurers have normally researched this issue with the state to determine when the Guaranty Association may be spoken about, e.g., when a customer asks a specific question about the Association. The agent should check with the insurer represented to determine the acceptable methods of communicating with a customer on this issue.
**Answering Questions**

No one wants to appear as though they do not have answers to questions asked of them. When asked questions, the natural tendency is to attempt to answer the question, especially when an agent feels the need to try to establish credibility with a customer.

Some customers are less patient than others when posing questions and may suggest that they expect an answer “now!” Besides pressure from customers, an agent may put pressure on himself or herself to try to answer all questions at the time a customer asks them. There are times, however, when an agent must do more research before answering a customer question or concern.

One of the most common reasons for complaints against agents is that the customer believes he or she was given incorrect information. Giving incorrect information, if given willfully, is considered misrepresentation.

Some agents find that using some method of reducing self-imposed pressure prior to an appointment helps with the issue of forcing information and other negative sales processes. A successful salesperson has explained that he tells himself prior to an appointment that he doesn’t really need this sale, that there are other sales, etc. He focuses on the customer needs he is trying to meet, and views himself as doing the customer a favor. This puts him in the proper perspective to meet challenges, such as a customer with questions he may need to research prior to making the sale.

Regardless of how an agent feels during a sales or prospecting interview or when handling a service request, the agent must answer questions clearly and accurately, even if that means having to call the customer back or schedule an additional appointment.

**Use of Errors and Omissions Insurance**

In a profession as highly regulated and requiring the high standards of behavior as does the insurance profession, it is not unlikely that an agent will, at sometime during his or her career, make an error or omit a necessary task while performing his or her professional duties. Errors and omissions insurance is used to protect an agent against such mistakes.
Insurance agents have a need for errors and omissions insurance because of their professional and fiduciary responsibilities. Insurance agents have many responsibilities toward the customers they work with, including suggesting appropriate coverage, communicating coverage provisions accurately, and submitting premium as the insurer and state laws require, to name a few. Errors and omissions insurance can provide the agent with protection against liability due to negligence, error and omissions. Intentional acts and fraud are not covered by errors and omissions insurance.

Generally, errors and omissions insurance includes an agreement to pay amounts which the insured is legally obligated to pay due to any act, error or omission in professional services rendered. The insured’s employees or representatives are also covered in respect to the carrying out of the insured’s business. The insurer assumes the right and duty to defend the insured in any claim or suit against the insured which meets the coverage terms. Excluded from coverage are dishonest or fraudulent acts. Also normally excluded are libelous or slanderous acts.

The benefit payments from errors and omissions insurance not only protect the agent from the financial consequences of events covered by the policy, but also serve to protect the agent’s customers from any unintended financial loss caused by the agent.
Chapter Two Study Questions

1. True or False. Sales goals are always an unethical practice. ______

2. Which of the following is a possible ethical action Jim could take after talking to Mrs. Reed. (Refer to the scenario under the heading “Sales Goals.”)
   a. Suggest to Mrs. Reed that she help him complete a needs analysis on herself, that he would then review it, and meet with her next week with his recommendations.
   b. Suggest to Mrs. Reed that she move the CD funds into an annuity. Jim knows she has a free look period in which she could cancel the annuity, and when he gets back from the trip to Hawaii, he’ll meet with her again, and carefully convince her to cancel the annuity and suggest some more appropriate product or more appropriate amount.

3. Which of the following circumstances are considered a “replacement” of a life policy? (More than one answer may apply.)
   a. An existing life policy is forfeited, surrendered, terminated, or allowed to lapse as the result of a life insurance sale.
   b. An existing life policy is reissued with a reduction of cash value as the result of a life insurance sale.
   c. An existing life policy is amended for a reduction in coverage terms or benefits as the result of a life insurance sale.
   d. all of the above are considered replacement.
4. Financial rating companies review the _______________ ___________ of insurance companies and assign ratings based on their finding.

5. True or False. When a customer already has a certain amount of insurance in force, the agent does not need to determine the actual amount of insurance the customer needs when the customer is interested in replacing a policy. ______

6. “Any person who engages or advertises or holds himself or herself out as engaging in the business of counseling, advising, or rendering opinions as to the benefits promised under any contract of insurance issued or offered by any insurer” is a (an):
   a. adjuster
   b. general agent
   c. insurance counselor
   d. subagent

7. True or False. Once an insurance agent or examiner completes a workplace inspection, the business examined can be guaranteed to pass any state workplace inspections. ______
8. Which of the following is an ethical challenge both an exclusive and an independent agent may face?

a. Pressure to sell the highest commission product when a lower commission product may be more suitable.

b. The responsibility to assemble a group of products the agent believes are the best, and perform due diligence on each one.

9. True or False. The Guaranty Association does not apply to that part of a variable life insurance or variable annuity contract which is not guaranteed. ______

10. Improper use of information regarding the Guaranty Association by an agent can result in a monetary penalty and/or ____________________ or ____________________ of the agent’s license.

11. True or False. Errors and omissions insurance will protect the agent against financial penalties assessed due to dishonest or fraudulent acts. ______
Chapter Three: Resolving Ethical Conflicts

The potential ethical conflicts that an agent may encounter can be innumerable, beyond the ability of any course to cover. This chapter provides some basic guidelines to apply to any insurance transaction an agent may be conducting, including those which may contain an ethical conflict.

Know and Follow the Law

"Knowledge is a treasure, but practice is the key to it."
- Proverb

The ethics of the agent are governed by several pieces of trade practices legislation. Much of this legislation is common to most states, in part because the National Association of Insurance Commissioners has developed model laws related to many of these practices. Other legislation is based on federal law. It is important for the agent to be familiar with state and federal laws relating to insurance.

Important regulations of which the agent must be aware include those regarding:
- misrepresentation
- improper premium handling
- committing insurance fraud
- cheating to obtain or renew a license
- overinsuring
- monitoring powers of the Commissioner
- illustrations
- malicious statements against others in the insurance business
- boycott, coercion and intimidation
- falsifying records
- unfair discrimination
- rebating
- disclosure of information
- twisting and churning
- accepting applications with misrepresentations
- false advertising
• unfair claims settlement practices

The state insurance and administrative codes can be checked in order to learn the specifics on these and other legal requirements. Continuing education classes may be taken which discuss the legal framework in which the agent must work.

The insurer or insurers the agent represents are the source to go to in order to obtain appropriate state required disclosure statements, replacement forms and other forms. If the agent is unsure whether such a form is needed, it is important that the insurer is contacted with any questions.

Besides knowing the law, the agent must, of course, follow the law. The regulators, insurers, and the public all expect the agent to meet the standards of the profession for which the agent is licensed.

**Know and Communicate the Product’s Features**

“*It is more from carelessness about truth than from intentional lying, that there is so much falsehood in the world.*”

- *Samuel Johnson to James Boswell*

A large number of customer complaints against agents involve the miscommunication or misrepresentation of a policy’s features. When new products are introduced, or an agent is offering products or plans in a new line of business, it is important that the agent study the products and plans carefully before offering them to the public. The agent must be sure of the facts about the products he or she offers, and able to accurately answer questions customers may have about them. There are times the agent may need to do some research before answering questions to make sure the correct information is supplied.

**Misrepresentation of a Policy**

An agent may not misrepresent an insurance policy. Section 33-6-4(a)(2) prohibits misrepresentation in the following manner:

*Georgia Code*

(2) Making, issuing, circulating, or causing to be made, issued, or circulated any estimate, illustration, circular, or statement misrepresenting the terms of any policy issued or to be issued, the
benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon; making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies; making any misleading representation or any misrepresentation as to the financial condition of any insurer, as to the legal reserve system upon which any life insurer operates; using any name or title of any policy or class of policies misrepresenting the true nature thereof; or making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce the policyholder to lapse, forfeit, or surrender his insurance. A dividend estimate prepared on company forms and clearly indicating, in type equal in size to that used in figures showing amounts of estimated dividends, that the dividends are based on estimates made by the company based upon past experience of the company shall not be considered misrepresentation and false advertising within the meaning of this paragraph.

Accepting Applications with Misrepresentation

An agent cannot knowingly accept applications with misrepresentations. Those responsible for agents must instruct and require that agents incorporate all material facts relevant to the risk in an application. The agent must incorporate into an application all relevant facts known to the agent, or which could be known by “proper diligence” (Code Section 33-6-4(b)(9)). Agents must not be encouraged to accept applications which contain material misrepresentations nor which do not include material information.

Misrepresentations are a serious matter because they can cause an insurer to issue policies for which they do not have sufficient financial resources. If an insurer carries high risk policies without being aware of them, insufficient reserves will be put aside. This condition can harm all policyholders of the insurer as well as the public at large. State and federal governments can be impacted by an insurer being unable to meet its obligations, since the government may have to step in and provide financial help to citizens who suffer financial harm in a catastrophe if the insurer is unable to do so. This means taxpayers can also be impacted by the insolvency of an insurer.

Know and Follow Company Policy

“For there is a proper time and procedure for every matter”
- King Solomon, Ecclesiastes
Following company policy protects the insurer from the agent performing unauthorized activities, and also protects the agent from inadvertently taking incorrect action.

The insurer gives the agent several powers to act on the insurer's behalf. The agent has the power to solicit business, disclose product features during the selling process, collect premium, and perform ongoing customer service on behalf of the insurer.

**Soliciting Insurance**
The agent may solicit potential customers through several marketing channels. The agent may use direct mail, telephone solicitation, seminars, and customer or professional referrals to contact customers. Each of these methods of solicitation have ethical and legal requirements related to their use. For example, individuals may request that their names not be part of direct mail or telephone solicitation lists. The agent is both ethically and legally barred from soliciting such individuals through the mail or by telephone. The insurer expects that an agent representing it will solicit responsibly and legally.

**Disclosure of Products**
The insurer gives the agent the power to disclose product features, benefits, provisions and fees to applicants and policyholders. This represents the central responsibility of the agent on behalf of the insurer. The agent must thoroughly understand the product or products being represented and accurately disclose them. If the agent misrepresents a product, the insurer may be in put in the position of financial loss in order to remedy the misrepresentation made. If significant misrepresentation occurs, the insurer could suffer regulatory fines and/or suspension or revocation of license.

**Premium Collection**
Agents may collect premium for the insurer. In some cases, agents collect initial premium only. Other agents may collect additional and renewal premium as well. Collecting premium is an important trust that both the insurer and the customer places in the agent.

Misuse of premiums collected is prohibited in the Georgia Code in Section 33-6-5(6):

Georgia Code
(A) No person shall knowingly collect any sum as premium or charge for insurance, which insurance is not then provided or not in due course to be provided subject to acceptance of the risk by the insurer by an insurance policy issued by an insurer as permitted by this title.

(B) No person shall knowingly collect as premium or charge for insurance any sum in excess of or less than the premium or charge applicable to such insurance, which sum is specified in rates as filed with and approved by the Commissioner. In cases where classifications, premiums, or rates are not required by this title to be filed and approved:

(i) The premiums and charges for insurance, except insurance written in accordance with Chapter 5 of this title, shall not be in excess of or less than those specified in the policy and as fixed by the insurer; and

(ii) The premiums and charges for insurance written in accordance with Chapter 5 of this title shall not be in excess of or less than those specified in the policy.

Section 33-23-21 also includes regulations regarding premium collection. If an agent performs any of the following actions, his or her license may be suspended or revoked:

(4) Has misappropriated, converted to his or her own use, or illegally withheld money belonging to an insurer, insured, agent, agency, applicant or a beneficiary;…

(13) Has failed or refused, upon written demand, to pay over to any insurer, agent, agency, applicant, beneficiary, or insured any moneys which belong to such insurer, agent, agency, applicant, beneficiary, or insured.

The agent must follow both state regulations and the insurer’s requirements in collecting and remitting premium.

Performing Customer Service

Another important power the insurer gives the agent is to perform customer service duties on behalf of the insurer. Customer service can include administrative duties such as answering policyholder questions, forwarding written change of address requests, supplying appropriate forms and providing phone numbers to the insured. It can also include inspecting property, putting a risk management program into place, or adjusting a claim. The insurer trusts the agent to perform these duties as company policy directs and within the professional, ethical and legal requirements of the position.
Work in the Best Interest of the Customer

Working in the best interest of others summarizes most of the many insurance regulations and is the principle on which most of the laws are based. If an agent works for the customer’s best interest, the agent will not intentionally:

- misrepresent a product
- coerce or intimidate to make a sale
- twist or churn to make a commission
- sell too much insurance
- provide deceptive illustrations
- falsify records
- disclose confidential information

and so on.

Rather, working for the best interests of the customer will result in ethical practices like these:

- selling to needs
- obtaining the education necessary to work in good faith with customers
- disclosing risks, fees and features of products clearly so that the customer understands what is being suggested
- providing accurate illustrations and explaining their meaning
- keeping confidential information confidential
- completing applications correctly and submitting them in a timely fashion
- responding to customer service requests promptly
- collecting the proper amount of premium and turning it over to the insurer as procedure requires
- avoiding all behavior that can harm a customer, including dishonesty and fraud

Be Loyal to the Insurer

If the agent is loyal to the insurer or insurers he or she represents, the agent will not:

- accept applications with misrepresentations
- write unprofitable business
- submit applications without complete information and all necessary accompanying documents
• be disorganized in the keeping of records or the following up of company requests
• misrepresent the insurer’s products
• act outside the authority the insurer has given the agent

**Be Courageous**

Being ethical can sometimes mean taking the more difficult route. It can mean being at odds with a coworker, a manager, or a customer. It takes courage to stick to that which the agent believes is right, even when others are, knowingly or unknowingly, encouraging unethical behavior. The agent may have to turn away business, may have to decide to leave certain employment situations, or may even be in the uncomfortable position of having to negatively report to an authority about unethical workplace practices.

**Be Honest**

“He that loseth his honestie hath nothing else to lose.”
- John Lyly, Euphues

Honesty will keep an agent from answering questions before he or she knows the answer, from misrepresenting features of a product, from falsely advertising and from other unfair trade practices. In determining the ethical answer to a conflict, the honest approach is always the framework within which to work.

**Results of Ethical Behavior**

In order to be an ethical insurance agent, the agent must accept the idea that doing the right thing brings reward, and doing the wrong thing brings negative consequences.

Some of the rewards of doing the right thing include:
Goodwill

“Goodwill is the one and only asset the competition cannot undersell or destroy.”

- Marshall Field

Customer goodwill is not only pleasant, but for the salesperson, can result in repeat business and referrals. People like to deal with someone they trust and who they perceive will do the best for them.

Respected Reputation

“I leave my character behind me.”

- Richard Brinsley Sheridan

Besides the goodwill of customers, maintaining a good reputation is important in dealing with insurers, competition, and others within the industry. Although an agent may be very satisfied with his or her current employment situation, there are circumstances which may arise which can cause an agent to have to seek another position. Having a respected reputation gives the agent more opportunity to gain other employment, if necessary, or to move up to new opportunities and responsibilities where he or she is currently employed. Those who mar their reputations limit opportunity in places where their reputations are known.

Business that Lasts

An agent who takes the time to make the right sales experiences fewer recissions, cancellations and terminations than the agent who sells the wrong product, or the wrong amount, or to the wrong customer. A certain amount of cancellations are to be expected, but many can be avoided by taking the time to make sure the customer’s needs are being properly met. Not only will business last, but the satisfied customer is much more likely to come back to that agent with more business in the future.
Self-Respect

“This above all: to thine own self be true,  
And it must follow, as the night the day,  
Thou canst not be false to any man.”  
- William Shakespeare, Hamlet

Self-respect in the life of the professional agent permeates all his or her business and personal dealings. The self-esteem that comes from working with integrity, honesty and helping the customer provides job satisfaction and motivation to continue in the profession. Enjoyment of the profession is anchored in self-respect.

Chapter Three Study Questions

1. Which of the following are prohibited activities for an insurance agent? (More than one answer may apply.)
   a. misrepresentation
   b. fraud
   c. cheating on an insurance exam
   d. making malicious statements against others in the insurance business
   e. falsifying records
   f. unfair discrimination
   g. rebating
   h. charging a different premium for applicants in different risk classes
   i. accepting applications with misrepresentations
2. A common reason for customer complaints against agents involve ___________________________ or ___________________________.

3. Following company policy protects the _______________ from inadvertently taking incorrect action.

4. Place an “x” next to each ethical practice listed below:
   a. selling to needs
   b. misrepresenting a product
   c. disclosing risks, fees and features of a product clearly
   d. coercing or intimidating to make a sale
   e. collecting the proper amount of premium
   f. selling too much insurance

5. Being ethical may take ( more courage / less courage ) than acting unethically.
6. Which of the following are rewards for an agent acting ethically? (More than one answer may apply.)
   a. Goodwill
   b. Respected Reputation
   c. Business That Lasts
   d. Self Respect
Appendix: Important Georgia Code Provisions

Suspension or Revocation of an Agent’s License

CODE SECTION 33-23-21.
A license, other than a probationary license, may be refused or a license duly issued may be suspended or revoked by the Commissioner if the Commissioner finds that the applicant for or holder of the license:

(1) Has violated any provision of this title or of any other law of this state relating to insurance;

(2) Has intentionally misrepresented or concealed any material fact in any application for a license or on any form filed with the Commissioner;

(3) Has obtained or attempted to obtain the license by misrepresentation, concealment, or other fraud;

(4) Has misappropriated, converted to his or her own use, or illegally withheld money belonging to an insurer, insured, agent, agency, applicant, or a beneficiary;

(5) Has committed fraudulent or dishonest practices;

(6) Has materially misrepresented the terms and conditions of an insurance policy or contract;

(7) Has failed to pass an examination pursuant to this article, or cheated on any examination required for a license;

(8) Has failed to comply with or has violated any proper order, rule, or regulation, issued by the Commissioner, including any order issued by the Commissioner or the Commissioner's designated representative during the course of any administrative hearing proceeding;

(9) Is not in good faith carrying on business as an agent or subagent, but, on the contrary, is holding such license for the purpose of securing rebates or commissions or controlled business;

(10) Is not in good faith carrying on business as a licensee under this chapter;

(11) Has shown lack of trustworthiness or lack of competence to act as an licensee under this chapter;

(12) Has knowingly participated in the writing or issuance of substantial overinsurance of any property insurance risk;
(13) Has failed or refused, upon written demand, to pay over to any insurer, agent, agency, applicant, beneficiary, or insured any moneys which belong to such insurer, agent, agency, applicant, beneficiary, or insured;

(14) Has failed to comply with Code Section 33-2-12 or 33-2-13 or has refused to appear or to produce records in response to a written demand by the Commissioner sent by registered or certified mail to the last known address of the licensee as shown in the records of the Commissioner;

(15) Has been convicted of any felony or of any crime involving moral turpitude in the courts of this state or any other state, territory, or country or in the courts of the United States; as used in this paragraph and paragraph (16) of this subsection, the term "felony" shall include any offense which, if committed in this state, would be deemed a felony, without regard to its designation elsewhere; and, as used in this paragraph, the term "conviction" shall include a finding or verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been sought;

(16) Has been arrested, charged, and sentenced for the commission of any felony, or any crime involving moral turpitude, where:

(A) First offender treatment without adjudication of guilt pursuant to the charge was granted; or

(B) An adjudication of guilt or sentence was otherwise withheld or not entered on the charge, except with respect to a plea of nolo contendere.

The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender treatment shall be conclusive evidence of arrest and sentencing for such crime;

(17) Has had a license to practice a business or profession licensed under the laws of this state or any other state, territory, country, or the United States revoked, suspended, or annulled by any lawful licensing authority other than the Commissioner; had other disciplinary action taken against him or her by any such lawful licensing authority other than the Commissioner; was denied or refused a license by any such lawful licensing authority other than the Commissioner pursuant to disciplinary proceedings; or was refused the renewal of a license by any such lawful licensing authority other than the Commissioner pursuant to disciplinary proceedings;

(18) Has failed to notify the Commissioner within 60 days of any event referred to in paragraph (15), (16), or (17) of this Code section; or

(19) Is not in compliance with an order for child support as defined by Code Section 19-6-28.1 or 19-11-9.3; for violations of this paragraph only, any hearing and appeal
procedures conducted pursuant to such Code sections shall be the only such procedures required to suspend, deny, or revoke any license under this title.

**Unfair Methods of Competition and Unfair and Deceptive Business Practices**

CODE SECTION 33-6-4.

(a) As used in this Code section, the term "policy" means any insuring bond issued by an insurer.

(b) The following acts or practices are deemed unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

(1) Making, publishing, disseminating, circulating, or placing before the public or causing directly or indirectly to be made, published, disseminated, circulated, or placed before the public in a newspaper, magazine, or other publication or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or in any other way an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which statement, assertion, or representation is untrue, deceptive, or misleading;

(2) Making, issuing, circulating, or causing to be made, issued, or circulated any estimate, illustration, circular, or statement misrepresenting the terms of any policy issued or to be issued, the benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon; making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies; making any misleading representation or any misrepresentation as to the financial condition of any insurer, as to the legal reserve system upon which any life insurer operates; using any name or title of any policy or class of policies misrepresenting the true nature thereof; or making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce the policyholder to lapse, forfeit, or surrender his insurance. A dividend estimate prepared on company forms and clearly indicating, in type equal in size to that used in figures showing amounts of estimated dividends, that the dividends are based on estimates made by the company based upon past experience of the company shall not be considered misrepresentation and false advertising within the meaning of this paragraph;

(3) Making, publishing, disseminating, or circulating directly or indirectly or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false or
maliciously critical of or substantially misrepresents the financial condition of an insurer and which is calculated to injure any person engaged in the business of insurance;

(4) Entering into any agreement to commit or by any concerted action committing any act of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of or monopoly in the business of insurance;

(5) Filing with any supervisory or other public official or making, publishing, disseminating, circulating, delivering to any person, or placing before the public or causing directly or indirectly to be made, published, disseminated, circulated, delivered to any person, or placed before the public any false statement of financial condition of an insurer with the intent to deceive;

(6) Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs or any public official to whom such insurer is required by law to report or who has authority by law to examine into its condition or into any of its affairs or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of the insurer;

(7) Issuing or delivering or permitting agents, officers, or employees to issue or deliver agency or company stock or other capital stock, benefit certificates or shares in any common-law corporation, securities, or any special or advisory board contracts of any kind promising returns and profits as an inducement to insurance;

(8)(A)

(i) Making or permitting any unfair discrimination between individuals of the same class, same policy amount, and equal expectation of life in the rates charged for any contract of life insurance or of life annuity, in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contract.

(ii) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of accident or sickness insurance, in the benefits payable thereunder, in any of the terms or conditions of the contract, or in any other manner whatever.

(iii) Making or permitting any unfair discrimination in the issuance, renewal, or cancellation of any policy or contract of insurance against direct loss to residential property and the contents thereof, in the amount of premium, policy fees, or rates charged for the policies or contracts when the discrimination is based solely upon the age or geographical location of the property within a rated fire district without regard to objective loss experience relating thereto.
(B) Knowingly permitting or offering to make or making any contract of insurance or agreement as to the contract other than as plainly expressed in the contract issued thereon; paying, allowing, giving, or offering to pay, allow, or give directly or indirectly, as inducement to any contract of insurance, any rebate of premiums payable on the contract, any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract, except in accordance with an applicable rate filing, rating plan, or rating system filed with and approved by the Commissioner; giving, selling, purchasing, or offering to give, sell, or purchase as inducement to such insurance or in connection therewith any stocks, bonds, or other securities of any company, any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract; or receiving or accepting as inducement to contracts of insurance any rebate of premium payable on the contract, any special favor or advantage in the dividends or other benefit to accrue thereon, or any valuable consideration or inducement not specified in the contract.

(C) Nothing in subparagraphs (A) and (B) of this paragraph shall be construed as including within the definition of discrimination or rebates any of the following practices:

(i) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interest of the company and its policyholders;

(ii) In the case of life or accident and sickness insurance policies issued on the industrial debit or weekly premium plan, making allowance in an amount which fairly represents the saving in collection expense to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer;

(iii) Making a readjustment of the rate of premium for a policy based on the loss or expense experienced at the end of the first or any subsequent policy year of insurance thereunder, which adjustment may be made retroactive only for the policy year;

(iv) Issuing life or accident and sickness insurance policies covering bona fide employees of the insurer at a rate less than the rate charged other persons in the same class;

(v) Issuing life or accident and sickness policies on a salary-saving, payroll deduction, preauthorized, postdated, automatic check, or draft plan at a reduced rate commensurate with the savings made by the use of such plan;
(vi) Paying commissions or other compensation to duly licensed agents or brokers or allowing or returning dividends, savings, or unabsorbed premium deposits to participating policyholders, members, or subscribers;

(vii) Paying by an insurance agent of part or all of the commissions on public insurance to a nonprofit association of insurance agents which is affiliated with a recognized state or national insurance agents' association, which commissions are to be used in whole or in part for one or more civic enterprises;

(9) Failing to instruct and require properly that agents shall, in the solicitation of insurance and the filling out of applications of insurance on behalf of policyholders, incorporate therein all material facts relevant to the risk being written, which facts are known to the agent or could have been known by proper diligence;

(10) Encouraging agents to accept applications which contain material misrepresentations or conceal material information which, if stated in the application, would prevent issuance of the policy or which would void a policy from its inception according to its terms even though premiums had been paid on the policy;

(11) Any insurer or agent of same becoming a party to requiring or imposing as a condition to the sale of real or personal property or to the financing of real or personal property, as a condition to the granting of or an extension of a loan which is to be secured by the title to or a lien of any kind on real or personal property, or as a condition to the performance of any other act in connection with the sale, financing, or lending, whether the person thus acts for himself or for anyone else, that the insurance or any renewal thereof to be issued on said property as collateral to said sale or loan shall be written through any particular insurance company or agent, provided that this paragraph shall not apply to a policy purchased by the seller, financier, or lender from his or its own funds and not charged to the purchaser or borrower in the sale price of the property or the amount of the loan or required to be paid for out of his personal funds; provided, further, that such seller, financier, or lender may disapprove for reasons affecting solvency or other sensible and sufficient reasons, the insurance company selected by the buyer or borrower. This paragraph shall not apply to title insurance;

(12)

(A) Representing that any insurer or agent is employed by or otherwise associated with any medicare program as defined in Code Section 33-43-1 or the United States Social Security Administration or that any insurance policy sold or offered for sale has been endorsed or sponsored by the federal or state government.

(B) Knowingly selling or offering to sell medicare supplement insurance coverage as defined in Code Section 33-43-1 which is not in compliance with the provisions of
Chapter 43 of this title, relating to medicare supplement insurance, or the rules and regulations promulgated by the Commissioner pursuant to Chapter 43 of this title.

(C) Representing that any individual policy is a group policy or that the insurer, agent, or policy is endorsed, sponsored by, or associated with any group, association, or other organization unless such is, in fact, the case.

(D) Knowingly selling to Medicaid recipients substantially unnecessary coverage which duplicates benefits provided under the Medicaid program without disclosing to the prospective buyer that it may not be to the buyer’s benefit or that it might actually be to the buyer's detriment to purchase the additional coverage;

(13)

(A) Making direct response advertising by an insurer, including radio or television advertisement, of any individual or group life insurance policy in which computation of the death benefit is of such a technical nature that such death benefit cannot reasonably be properly presented in the advertisement and understood by a member of the insuring public. Policies, other than variable life or other interest sensitive policies, which provide for multiple changes in death benefits, combinations of increasing and nonuniformly decreasing term insurance, or increasing life insurance benefits equal to or slightly greater than the premiums paid during the early years of the coverage combined with accidental death benefits are types of contracts within the purview of this subparagraph. Additionally, any life insurance policy which cannot be truthfully, completely, clearly, and accurately disclosed in an advertisement falls within this subparagraph.

(B) Making direct response advertising by an insurer, including radio or television advertisement, of any individual or group accident and sickness or life insurance policy which is misleading in fact or by implication that the coverage is "guaranteed issue" when there are conditions to be met by those persons to be insured, such as limited medical questions or other underwriting guidelines of the insurer.

(C) Making direct response advertising by an insurer, including radio or television advertisement, of any individual or group accident and sickness or life insurance policy where such advertisement has not been approved for use in this state by the Commissioner of Insurance; or

(14) Failing to disclose in printed advertising material that medical benefits are calculated on the basis of usual, customary, and reasonable charges.

(c) Any person violating this Code section by making unlawful, false representations as to the policy sold shall be guilty of a misdemeanor.
Unfair Claims Settlement Practices

CODE SECTION 33-6-34.

Any of the following acts of an insurer when committed as provided in Code Section 33-6-33 shall constitute an unfair claims settlement practice:

(1) Knowingly misrepresenting to claimants and insureds relevant facts or policy provisions relating to coverages at issue;

(2) Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under its policies;

(3) Failing to adopt and implement procedures for the prompt investigation and settlement of claims arising under its policies;

(4) Not attempting in good faith to effectuate prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear;

(5) Compelling insureds or beneficiaries to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them;

(6) Refusing to pay claims without conducting a reasonable investigation;

(7) When requested by the insured in writing, failing to affirm or deny coverage of claims within a reasonable time after having completed its investigation related to such claim or claims;

(8) When requested by the insured in writing, making claims payments to an insured or beneficiary without indicating the coverage under which each payment is being made;

(9) Unreasonably delaying the investigation or payment of claims by requiring both a formal proof of loss and subsequent verification that would result in duplication of information and verification appearing in the formal proof of loss form; provided, however, this paragraph shall not preclude an insurer from obtaining sworn statements if permitted under the policy;

(10) When requested by the insured in writing, failing in the case of claims denial or offers of compromise settlement to provide promptly a reasonable and accurate explanation of the basis for such actions. In the case of claims denials, such denials shall be in writing;

(11) Failing to provide forms necessary to file claims within 15 calendar days of a request with reasonable explanations regarding their use;
(12) Failing to adopt and implement reasonable standards to assure that the repairs of a repairer owned by the insurer are performed in a workmanlike manner;

(13) Indicating to a first-party claimant on a payment, draft check, or accompanying letter that said payment is final or a release of any claim unless the policy limit has been paid or there has been a compromise settlement agreed to by the first-party claimant and the insurer as to coverage and amount payable under the contract; and

(14) Issuing checks or drafts in partial settlement of a loss or claim under a specific coverage which contain language which releases the insurer or its insured from its total liability.

**Insurance Fraud**

CODE SECTION  33-1-9.
(a) Any natural person who knowingly or willfully:

(1) Makes or aids in the making of any false or fraudulent statement or representation of any material fact or thing:
   (A) In any written statement or certificate;
   (B) In the filing of a claim;
   (C) In the making of an application for a policy of insurance;
   (D) In the receiving of such an application for a policy of insurance; or
   (E) In the receiving of money for such application for a policy of insurance for the purpose of procuring or attempting to procure the payment of any false or fraudulent claim or other benefit by an insurer;

(2) Receives money for the purpose of purchasing insurance and converts such money to such person's own benefit;

(3) Issues fake or counterfeit insurance policies, certificates of insurance, insurance identification cards, or insurance binders; or

(4) Makes any false or fraudulent representation as to the death or disability of a policy or certificate holder in any written statement or certificate for the purpose of fraudulently obtaining money or benefit from an insurer commits the crime of insurance fraud.

(b) In any prosecution under this Code section, the crime shall be considered as having been committed in the county of the purported loss, in the county in which the insurer or the insurer's agent received the fraudulent or false claim or application, in the county in
which money was received for the fraudulent application, or in any county where any act in furtherance of the criminal scheme was committed.

(c)(1) Except as provided in paragraph (2) of this subsection, a person convicted of a violation of subsection (a) of this Code section shall be guilty of a misdemeanor.

(2) Where the claim, benefit, or money referred to in subsection (a) of this Code section exceeds an aggregate of $500.00, a person convicted of a violation of subsection (a) of this Code section shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than five years, or by a fine of not more than $5,000.00, or both.
Glossary

**Accident Insurance**
Insurance which protects against financial loss due to bodily harm.

**Alien Insurer**
An insurer which is formed in another country and does business in the state.

**Application**
An insurance form which is completed using information from the prospective insured pertaining to the risk to be insu red.

**Captive Agent**
Also known as an exclusive agent. An agent under a contract with an insurer or affiliated insurers and which contract limits the agent to represent that insurer or insurers.

**Casualty Insurance**
Lines of insurance that protect against financial loss due to legal liability and also include lines such as auto, crime, Workers Compensation, and surety.

**Churning**
Sales practice which involves selling a policy to replace another policy from the same insurance company for the purpose of generating a new commission for the agent.

**Contract of Adhesion**
A contract wherein one party adheres to the terms another party dictates.

**Domestic Insurer**
An insurer which is formed in the state and which does business in the state.

**Ethics**
A body of moral principals.

**Exclusive Agent**
See Captive Agent
**Fraternal Benefit Society**
An insurer incorporated without capital stock, which exists solely for the benefit of its own members, and which operates on the lodge system.

**Foreign Insurer**
An insurer which is formed in another state and does business in the state.

**Free-Look Period**
The period of time from the date a contract is issued the policyholder has to review the contract and cancel the coverage without paying a surrender fee or suffering any reduction of premium.

**Health Insurance**
Insurance which protects against financial loss due to sickness or bodily injury. Also known as “Accident and Health,” or “Accident and Sickness.”

**Insurance Services Office**
A nonprofit insurance organization serving the property-casualty industry through gathering statistics, creating policy forms, developing standardized contract language and contracts, providing loss costs and conducting rate inspections.

**Life Insurance**
Insurance which protects against the risk of financial loss due to death.

**Lloyd’s Association**
Named after an insurance association formed in London, an association of individuals or groups of individuals who volunteer to underwrite insurance contracts. Each individual or group is liable for the losses insured by the contracts underwritten.

**Misrepresentation**
Written or oral statements made by the insured, the insurer, or a representative of the insurer, which misstates information regarding the risk, terms, coverages, benefits, returns, or other material fact related to the contract.
Mutual Insurer
An insurer which is formed without capital stock, and is not owned by stockholders but by its policyholders. The policyholders share in the profits of the company through premium reduction or dividends.

National Association of Insurance Commissioners
Organization comprised of state insurance commissioners which drafts model insurance regulation and collects and reports statistics and other information on the insurance industry.

Premium
The amount paid to keep an insurance policy in force.

Property Insurer
Insurance which protects against financial loss due to property damage.

Rescission
The cancellation of an insurance contract.

State Guaranty Association
An association governed by individual state regulations, wherein member insurers are responsible for contractual obligations to policyholders if another member is unable to meet them.

Stock Insurer
An insurer formed by the issuance of capital stock. The insurer is owned by the stockholders.

Tax-Free 1035 Exchange
Internal Revenue Code regulations which allow the tax-free exchange of life insurance policies under specified conditions.

Twisting
Sales practice which involves selling a policy to replace another policy issued by a different insurer for the purpose of generating a new commission for the agent.

Variable Life Insurance
Insurance which bases cash values on the performance of sub-accounts selected by the policyowner.
Answers to Study Questions

Chapter One
1. d
2. financial instability, false advertising, obligations
3. a, x, c, x, d, x (all except b.)
4. any four of the following: ethical solicitation and sales, competence, appropriate sales, confidentiality, good customer service
5. fair trade
6. a, x, c, x (all except b.)
7. additional purchases, referrals

Chapter Two
1. false
2. a
3. d
4. financial status
5. false
6. c
7. false
8. a
9. true
10. suspension, revocation
11. false

Chapter Three
1. all are prohibited activities, except h.
2. miscommunication, misrepresentation
3. agent
4. a, x, c, x, e, x
5. more courage
6. a, b, c and d