

TABLE OF CONTENTS

List of tables.....	xii
List of abbreviations	xiii

CHAPTER 1

LEGAL FRAMEWORK GOVERNING LIFE INSURANCE

1.1 Life and accident and sickness insurance in its legal context	3
1.1.1 Life insurance.....	4
1.1.2 Accident & Sickness insurance	4
1.1.3 Insurers	4
1.1.4 Agency relationship.....	4
1.1.5 Agents	4
1.1.5.1 Independent agents	5
1.1.5.2 Captive agents	5
1.1.6 Managing general agent (MGA)	5
1.1.7 Agency	6
1.1.8 Regulation of insurance and licencing.....	6
1.2 General legal principles applicable to a life insurance agent	9
1.2.1 Capacity and status of persons	10
1.2.2 Natural persons, partnerships and legal persons (corporations)	10
1.2.2.1 Natural persons.....	10
1.2.2.2 Partnerships.....	11
1.2.2.3 Legal person (corporation)	11
1.2.3 Minors and guardians.....	12
1.2.4 Power of attorney (PoA) and enduring power of attorney.....	14
1.2.4.1 Power of Attorney.....	14
1.2.4.2 Enduring Power of Attorney	14
1.2.5 Marriage and common law spouse	16
1.2.6 Divorce and separation	17
1.2.6.1 Family property	18
1.2.7 Wills, estates and successions.....	19
1.2.7.1 Testate and intestate successions	20
1.2.8 Trusts and trustees	21

1.2.9	Bankruptcy	22
1.3	Legal principles required for the validity of the contract	25
1.3.1	Torts.....	25
1.3.2	Limitation periods	26
1.4	Public insurance and retirement regimes	26
1.4.1	Federally sponsored or facilitated programs	27
1.4.1.1	Canada Pension Plan (CPP) and disability	28
1.4.1.2	Old Age Security (OAS) and Guaranteed Income Supplement (GIS)	28
1.4.1.3	Employment Insurance	28
1.4.2	Provincially or territorially sponsored or facilitated programs	29
1.4.2.1	No-fault automobile insurance	30
1.4.2.2	Workers' compensation.....	30
1.4.2.3	Universal health care and drug plan.....	31
1.5	Other relevant provincial and territorial legislation for life insurance agents	31
1.5.1	<i>Privacy Act</i>	32
1.5.1.1	<i>Personal Information Protection and Electronic Documents Act</i> (PIPEDA)	32
1.5.2	<i>Human Rights Code</i>	33
1.6	Other relevant federal legislation for life insurance agents	33
1.6.1	<i>Criminal Code</i>	33
1.6.2	<i>Proceeds of Crime (Money Laundering) and Terrorist Financing Act</i> (PCMLTFA)	33
1.6.3	National Do Not Call List (DNCL)	34
1.6.4	Anti-spam legislation	34

CHAPTER 2

INSURANCE POLICY PROVISIONS

2.1	Parties to an individual policy.....	37
2.1.1	Insurer	37
2.1.2	Policyholder.....	37
2.1.2.1	Successor policyholder	38
2.1.3	Life insured.....	39
2.1.4	Beneficiary	40

2.1.4.1 Irrevocable beneficiary designations	41
2.1.4.2 Restriction in legislative definition of beneficiary	43
2.1.4.3 Loss of protection.....	44
2.1.4.4 Contingent beneficiary	45
2.1.5 Group insurance policies.....	45
2.1.5.1 Plan sponsor	46
2.1.5.2 Insurer.....	46
2.1.5.3 Members and scope of coverage to other insured persons	46
2.1.5.4 Beneficiaries	47
2.2 Formation of policy.....	47
2.2.1 Rules about forming an individual insurance contract	47
2.2.1.1 Application for insurance and representation of risk.....	48
2.2.1.2 Temporary insurance	48
2.2.1.3 Changes in insurability	49
2.2.1.4 Approval of application by insurer	50
2.2.1.5 Delivery of policy	50
2.3 Term and termination of policy.....	50
2.3.1 Rescission: 10-day-free look	51
2.3.2 Surrender	51
2.3.3 Expiry or termination	51
2.4 Termination by the insurer	52
2.4.1 Termination in the event of fraud, misrepresentation or concealment	52
2.4.1.1 During the application process	53
2.4.1.2 Within the first two years	53
2.4.1.3 After two years	54
2.4.2 Termination for non-payment of sickness or accident insurance premiums	55
2.4.3 Termination for non-payment of life insurance premiums	55
2.5 Assignment of a policy	56
2.5.1 Absolute assignment.....	56
2.5.2 Collateral assignment.....	57
2.6 Product specific policy provisions	57
2.6.1 Individual life insurance	58

2.6.1.1 Statutory conditions.....	59
2.6.1.2 Reduction.....	59
2.6.1.3 Exclusion.....	60
2.6.1.4 Exclusions—contractual or imposed by law	60
2.6.1.5 Pre-existing condition exclusions	60
2.6.1.6 Suicide clause.....	60
2.6.1.7 Living benefits	61
2.6.1.8 Cash surrender value (CSV)	61
2.6.1.9 Distinction between collateral loans and policy loans.....	61
2.6.1.10Riders (Policy amendments)	62
2.6.2 Group life and health insurance	62
2.6.2.1 Determination of the plan member group.....	62
2.6.2.2 Premiums and cost sharing.....	62
2.6.2.3 Types of group insurance.....	63
2.6.2.4 Administrative services only (ASO)	64
2.6.2.5 Certificates	64
2.6.2.6 Booklets	65
2.6.2.7 Access to copy of policy	65
2.6.2.8 Laws applicable to members (residence).....	65
2.6.2.9 Term and termination	66
2.6.3 Individual and group accident and sickness insurance	66
2.6.3.1 Accidental death and dismemberment (AD&D).....	67
2.6.3.2 Disability specifics	68
2.6.3.3 Drug insurance.....	68
2.6.3.4 Critical illness (CI)	68
2.6.3.5 Long-term care (LTC).....	69
2.6.3.6 Parties	70
2.6.3.7 Rights of parties	70
2.6.3.8 Effective date	70
2.6.3.9 Termination of accident and sickness insurance	70
2.6.3.10Statutory conditions.....	71
2.6.4 Annuities	72
2.6.4.1 Parties	73
2.6.4.2 The policyholder.....	73

2.6.4.3 Annuitant (life insured)	73
2.6.4.4 Payee.....	74
2.6.4.5 Immediate annuities	74
2.6.4.6 Group annuities.....	75
2.6.4.7 Structured settlements	75
2.6.5 Segregated funds.....	76
2.6.6 Pension products and other group annuity products	78
2.6.6.1 Defined benefit pension plan (DBPP).....	78
2.6.6.2 Defined contribution pension plan (DCPP).....	78
2.6.6.3 Pooled registered pension plan (PRPP).....	79
2.7 Other products	79
2.7.1 Deferred profit-sharing plan (DPSP)	79
2.7.2 Tax-free savings account (TFSA).....	79
2.7.3 Registered retirement savings plans (RRSP).....	80
2.7.4 Registered retirement income fund (RRIF).....	80
2.7.5 Locked-in retirement account (LIRA).....	80
2.7.6 Life income fund (LIF)	81

CHAPTER 3

LIFE INSURANCE, ACCIDENT & SICKNESS INSURANCE AND ANNUITY CLAIMS-PAYMENT OF PROCEEDS

3.1 Rules pertaining to claims and payment of benefits.....	83
3.1.1 Claimant.....	83
3.1.2 Insurer's records	84
3.1.3 Notice of claim.....	84
3.1.4 Proof of claim	85
3.1.4.1 Documents required.....	85
3.1.4.2 Probate	86
3.1.4.3 Proof of age	86
3.1.4.4 Proof of identity	86
3.1.4.5 Accidental vs. natural causes.....	86
3.2 Disappearance and presumption of death	87
3.2.1 Death of two or more people	88

3.3 Payment into Court	89
3.4 Proceeds on deposit and payout options	90
3.5 Time to pay claim.....	90
3.6 Denial of claim	91
3.6.1 Payment goes against public policy	91
3.7 Accident and sickness claims	92
3.7.1 Accident death and dismemberment claims.....	92
3.7.1.1 Documents required.....	92
3.7.2 Disability claims.....	92
3.7.2.1 Documents required.....	93
3.7.2.2 Medical and other examinations.....	94
3.8 Segregated funds and annuities	94
3.8.1 Death before retirement	95
3.8.2 Death after retirement	95

CHAPTER 4

RULES AND PRINCIPLES GOVERNING THE ACTIVITIES OF LIFE INSURANCE AGENTS AND ACCIDENT & SICKNESS INSURANCE AGENTS

4.1 Role of the organizations that protect clients	98
4.1.1 Provincial and territorial regulatory authorities	98
4.1.2 Provincial and territorial insurance regulators	99
4.1.2.1 British Columbia	99
4.1.2.2 Alberta	100
4.1.2.3 Saskatchewan	100
4.1.2.4 Manitoba	101
4.1.2.5 Ontario	102
4.1.2.6 Québec	102
4.1.2.7 New Brunswick	103
4.1.2.8 Nova Scotia	103
4.1.2.9 Prince Edward Island	103
4.1.2.10 Newfoundland and Labrador	104
4.1.2.11 Yukon	104

4.1.2.12 Northwest Territories	104
4.1.2.13 Nunavut.....	105
4.1.3 Canadian Insurance Services Regulatory Organizations (CISRO)	105
4.1.4 Other authorities providing client protection	105
4.1.4.1 Office of the Privacy Commissioner of Canada.....	106
4.1.4.2 Financial Transactions and Reports Analysis Centre of Canada (FINTRAC)	106
4.1.4.3 Assuris	110
4.1.4.4 OmbudService for Life and Health Insurance (OLHI).....	111
4.1.4.5 Canadian Council of Insurance Regulators (CCIR).....	111
4.1.5 Professional associations.....	112
4.1.6 International Association of Insurance Supervisors (IAIS).....	113
4.1.6.1 Insurance core principles (ICP) 18 and 19 of the IAIS	113
4.2 Main responsibilities of life insurance agents.....	113
4.2.1 Acting in good faith.....	115
4.2.1.1 Duty of care.....	115
4.2.1.2 Integrity	116
4.2.1.3 Competence.....	116
4.2.2 Managing conflicts of interest.....	117
4.2.2.1 Priority of client's interest	118
4.2.2.2 Disclosure of conflicts or potential conflicts of interest	118
4.2.2.3 Product suitability	119
4.2.2.4 Avoiding conflict-of-interest occupations	119
4.2.3 Refraining from unfair or deceptive practices	120
4.2.3.1 Tied selling	120
4.2.3.2 Churning and twisting.....	121
4.2.3.3 Premium rebating	122
4.2.3.4 Trafficking in insurance	123
4.2.3.5 Inducing to insure	124
4.2.3.6 Fronting.....	125
4.2.3.7 Unnecessary delay in delivering policies.....	126
4.2.3.8 Misrepresentation.....	126
4.2.3.9 Misappropriating client funds (commingling of funds)	127
4.2.3.10 Making a false document (forgery).....	128

