



Canadian Life  
and Health Insurance  
Association Inc.

Association canadienne  
des compagnies d'assurances  
de personnes inc.

March 4, 2004

Ms. Maria Policelli  
Policy Manager  
CCIR Secretariat  
5160 Yonge Street, 17<sup>th</sup> Floor  
Toronto, ON  
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Dear Ms. Policelli:

On behalf of member companies of the Canadian Life and Health Insurance Association (CLHIA), I am writing in response to the Canadian Council of Insurance Regulators' (CCIR) discussion paper on Referral Arrangements. CCIR is to be commended for undertaking this consultation and for endeavouring to find an approach that will harmonize regulatory requirements for referral fee arrangements across the country.

The CLHIA, founded in 1894, is a voluntary association with member companies accounting for some 98 per cent of the life and health insurance in force in Canada. The Canadian life and health insurance industry protects about 23 million Canadians and almost 19 million people elsewhere in the world. Within Canada, it makes \$42 billion a year in benefit payments, invests almost \$280 billion and provides employment directly to about 119,000 Canadians.

By way of introduction, three general comments are necessary to provide a context for the responses to specific options that follow.

- First, as the CCIR paper notes, referral arrangements are a critical component of the marketing and distribution of insurance. Client contact initiated by life agents makes a substantial contribution to building awareness of the need for insurance and measures that can be taken to provide financial security.
- Second, the discussion paper does not clearly distinguish between two fundamentally different types of referral activity. One of these is informal networking by life agents to generate leads and the other is more formal arrangements to refer individuals who are already receiving financial services. While the focus of the discussion paper appears to be on the latter, the former is not explicitly excluded. Life and health insurers are strongly committed to the view that the two should not be treated as being identical.

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- Third, the paper describes potential risks against which the restrictions on referral arrangements are intended to safeguard but does not present any evidence that abuse is actually occurring. These risks, providing advice without a licence, conflict of interest and releasing personal information, are already addressed in legislation, regulation and codes of conduct. If abuse does exist, it would seem most likely that it is a result of non-compliance with these current requirements and it is not clear that additional restrictions would provide an effective remedy.

## **Parties to Referral Arrangement**

As noted above, referral arrangements fall into two fundamentally different categories. For lead generation through informal networking, where the party making the referral is simply providing an agent with a name and address and receiving a flat fee that is not contingent on an actual sale being made, there should be no restrictions on who may make the referral and receive such a fee. In situations where the party making the referral receives payment (either flat fee or percentage) that is contingent on the sale of an insurance policy, however, the party receiving such payment should be required to be a licensed financial services provider.

## **Disclosure**

The *Personal Information Protection and Electronic Documents Act* requires disclosure of the ways in which personal information will be used. One such use is referral. Thus, to cite an example where referrals are commonly made, a general insurance agency that refers clients to a life agency would be required to disclose this practice to its clients. With this disclosure, the individual being referred is aware of the referral arrangement so further disclosure is unnecessary and should not be required.

Written disclosure should not be required. In a typical meeting, clients are receiving a large amount of written material ranging from product brochures to detailed contracts. Rather than read this material, many clients will rely on the agent to tell them what they need to know. The individual agent making disclosure should have the discretion to determine what measures are required to provide evidentiary documentation of the disclosure.

It is sufficient to simply disclose the fact that a referral fee is being paid and the names of the parties paying and receiving the fee. As the agent is disclosing the referral arrangement, the client is free to ask for additional details about the payment, how it is calculated or the exact amount.

## **Restriction on Fee Level**

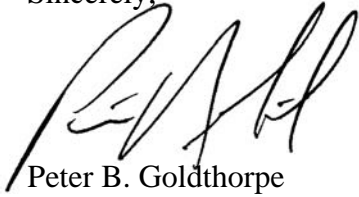
In general, there should be no restrictions on the amount of the fee or how it is calculated. Rather, this should be a private business decision between the parties to the arrangement.

## **Recording Keeping**

Agents in a referral arrangement will keep records of the payments for income tax purposes. There should be no additional record keeping requirements unique to the referral arrangement.

Once again, on behalf of CLHIA's member companies, I want to commend CCIR for this initiative. I would be pleased to discuss these matters with you further at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Goldthorpe", written in a cursive style.

Peter B. Goldthorpe  
Director, Marketplace Regulation Issues