

The Importance of Maintaining Professional Secrecy With Respect to the Personal Information of Insureds, In Particular, Their Banking Information

by Carole Chauvin, syndic

This article is based on actual cases that were brought before the syndic. We hope it will help you to reflect on the quality of your professional practice, specifically with respect to your ethical obligations.

An insured filed a complaint with the syndic's office against her damage insurance representative. It appeared that he had sent her banking information to a new automobile insurer without her consent.

The Facts of the Case

The ethical investigation revealed the following facts:

The insured had an automobile insurance contract in force with Insurer A, which was going to expire in December 2005. With the renewal date approaching, the representative decided to transfer the insurance contract to Insurer B. Since the insured paid her premium monthly to Insurer A by pre-authorized debit, the representative forwarded the insured's banking information to Insurer B so that this new insurer could begin debiting her account for the monthly premium. Although no gap in insurance coverage occurred, the representative failed to notify the insured of this change of insurer and did not obtain her consent to disclose her banking information for purposes other than those for which she had authorized its disclosure, in other words for direct debit by Insurer A.



The Formal Complaint

The undersigned proceeded to file a formal complaint against the damage insurance representative before the discipline committee. The complaint was composed of four charges, including the following:

- In November 2005, failed to respect the secrecy of personal information provided to him by the insured, specifically her banking information, which was used for purposes other than those for which he had obtained them, by providing Insurer B with a void cheque that the insured had provided to a colleague on or around November 17, 1999, all these actions being in contravention of the Act respecting the distribution of financial products and services, specifically section 16 of the Act and the Code of ethics of damage insurance representatives, specifically section 23 of this Code.

At the hearing, the respondent pleaded guilty to this charge.

The Disciplinary Ruling

The discipline committee made the following comments concerning the charge in question:

"With respect to charge no. 3 (sic) of the complaint, the Committee wishes to underline that in this case, a particularly serious offence was committed, one which goes beyond a simple violation of confidentiality, and this, despite the fact that the respondent did not derive any personal profit from the act and that his primary intent was simply to avoid the insured finding herself without insurance coverage;

The fact remains that the insured's bank account was debited without her consent."

Conclusion

I believe that this is a widespread practice within the industry when a change in insurer occurs—making this disciplinary ruling all the more significant.

Insurers and representatives who act in this manner do not do so with evil intent. Some might even say that such actions are carried out to increase efficiency.

However the fact remains that neither representatives nor insurers may use banking information for purposes other than those for which the information was obtained. You now know that the mandate that your clients give you does not extend to transmitting banking information to other insurers without first obtaining the client's consent.