



Record Keeping and Notes in Client Records

The purpose of this procedure is to ensure that members comply in a professional manner with their regulatory and ethical obligations with regard to record keeping and notes on discussions, conversations and advice provided to insureds, as well as all actions taken in a file. Notes in the record are essential to ensure proper follow-up.

The obligation to keep proper client records is related to the obligation to act with competence and professional integrity, as required under section 16 of the *Act respecting the distribution of financial products and services*. Improper record keeping is also considered to be carrying on one's activities negligently, under sections 9 and 37(1) of the *Code of Ethics of damage insurance representatives*. Finally, the contents of the record as such must comply with the requirements of section 21 of the *Regulation respecting firms, independent representatives and independent partnerships* (D-9.2, r.2, no.9), among others.

THE FIRM'S OBLIGATIONS

- Maintain a record for each client.
- Keep the client record in any one of the firm's establishments that has been declared in the register of the Autorité des marchés financiers.
 - The individual documents that make up a record may each be kept in a different location or medium (format), as long as the complete record can be reassembled and made available in a timely manner.
- Use an orderly filing system for client records.
- Store client records safely.
 - Protect **physical files** from fire or theft by having, for instance, an alarm system, fireproof filing cabinets, and fire extinguishers.
 - Protect **computerized records** from loss, destruction or falsification. Firms must therefore make back-ups of all data; control access to computers; and opt for information technology systems that make it impossible to change or erase data.
- Forbid filing notes taken on post-its or scraps of paper in a physical record. Notes taken this way should be re-transcribed properly and then placed in the record.
- Keep damage insurance records separate from other records (for example, life and health insurance) unless the client has signed a notice of specific consent. In such cases, the notice signed by the client must be filed in his record, thus allowing the records to be kept together.



PROCEDURE

AGENTS, BROKERS

- Establish a system that allows the firm to identify the date at which the file was closed or the date of the last activity carried out in the record. This must be done in order to ensure compliance with the obligations concerning the minimum period for preserving records.

REMINDER: Client records must be kept for a minimum of five years from the date of the last transaction.

All records must be kept for a minimum of five years from the date of occurrence of the last of the following events :

- the final closing of the client file,
- the date the last service was rendered to the client,
- the expiration without renewal,
- the replacement of the last product sold to the client.

"INSURERS' PORTALS" - IMPORTANT CLARIFICATION

When a firm uses an insurer's on-line portal system, the firm's record-keeping procedures must include a section on the use of such portals. Information obtained through a portal is **not the firm's client record** but rather the insurer's record. You must either print out all the documents and attach them to the paper record or create a "mirror copy" of the record on the firm's computer system. Moreover, the client record must remain available, even if the on-line link no longer functions or if the client has changed insurers.

Furthermore, an insurer's portal is not the place where the representative should file notes pertaining to the client.

THE REPRESENTATIVE'S OBLIGATIONS

- Take special care to ensure that all documents and information required by this procedure are filed in the client record.
- Ensure that client records are complete and maintained in an orderly fashion so that other representatives in the firm may provide follow-up and answer clients' questions, if necessary.
- Ensure that notes in the client record are legible and in order. For each note, the representative must
 - Specify the date on which it was written.
 - Include sufficient details to ensure that it is understandable, even several years later.
 - Indicate that he is the author of the note.

N.B.: Notes in the client record include such things as: all discussions, conversations and advice given to insureds, as well as actions taken, as explained in the "Contents of the Client Record" section.



CONTENTS OF THE CLIENT RECORD

Pursuant to the *Regulation respecting firms, independent representatives and independent partnerships (No.9)*, the client record must contain, at a minimum:

A. Basic Information

- The client's name;
- The amount, object and nature of the insurance coverage;
- The policy number, the contract issue date and proposal signature date, where applicable;
- The method and date of payment of the insurance contract.

B. Documents (examples, depending on the circumstances)

- The appraisal list of the insured's property provided by the insured, where applicable;
- Any other document related to products sold or services rendered, for example :
 - needs analyses or reviews;
 - assessments (CIV [calculation of insurable value], RCT, professional assessments, etc.);
 - photos provided by the insured;
 - insurance proposals;
 - copies of interim binders and insurance confirmations issued;
 - copies of insurance policies, endorsements and requests for changes;
 - confirmations of coverage agreements offered and coverage declines;
 - invoices, bank withdrawal authorizations (pre-authorized debits), receipts, etc.;
 - copies of correspondence received and sent, including faxes and e-mails.
- Any other information related to products sold or services rendered.

C. Notes in the Client Record

Notes in the record must be clear, complete, accurate, legible and understandable to the representative as well as to any other person who may be asked to do any subsequent work in the file, or to those authorized under the Act to verify or consult the notes.

A note that is too short or incomplete, such as "called the insured, 10 min." does not comply with this obligation.



Notes should indicate, for example:

- summaries of telephone conversations or meetings with insureds;
- notes regarding client requests or instructions;
- notes regarding advice given to the client or decisions made;
- notes regarding underwriting, coverage and deductibles offered or declined, including the reasons given (for example, the reasons for a decline or a ruling of ineligibility for coverage);
- notes regarding the needs reviewed at renewal time, or when updating the file, etc.;
- summaries of telephone conversations or meetings with other representatives, claims adjusters, insurers and other parties to the file;
- recordings of telephone conversations, where applicable;
- summaries of action or steps taken by both the representative and any other employee of the firm involved in the file.

IN THE EVENT OF A LOSS OR A CLAIM MADE TO AN INSURER

The representative must note the information gathered from his clients or from third parties, as well as the nature of the actions taken, where applicable.

IMPORTANT

Using a computerized document management system or any other paperless or paper-free method of record keeping does not diminish the firm's and representative's obligations to keep professional client records and notes in the records.

LEGISLATIVE SOURCES

The obligation to keep client records properly is related to the obligation to act with competence and professional integrity, as required under section 16 of the ***Act respecting the distribution of financial products and services***:

16. *All representatives are bound to act with honesty and loyalty in their dealings with clients. They must act with competence and professional integrity.*

Improper record keeping is also considered to be carrying on one's activities negligently, pursuant to sections 9 and 37(1) of the ***Code of ethics of damage insurance representatives***:

9. *A damage insurance representative must not neglect the professional duties related to the carrying on of his activities; he must carry out such duties with integrity.*
37. *The fact that a damage insurance representative acts contrary to the honour and dignity of the profession constitutes a*



PROCEDURE

AGENTS, BROKERS

breach of the Code of ethics, including:

(1) carrying on activities dishonestly or negligently.

Finally, the contents of the record as such must comply, in particular, with the requirements of section 21 of the **Regulation respecting firms, independent representatives and independent partnerships**:

21. *The client records that must be kept by firms, independent representatives or independent partnerships registered in the sector of damage insurance in respect of each client in the pursuit of their activities must include the following information, where necessary:*

- (1) the client's name;*
- (2) the amount, object and nature of the insurance coverage;*
- (3) the policy or contract number and the contract issue dates and proposal signature dates, where applicable;*
- (4) the method and date of payment of the insurance contract;*
- (5) any list evaluating the insured's property transmitted by the insured, where applicable.*

Any other information or document gathered from the client that pertains to the products sold or services rendered must also be filed or inscribed in the register.