



Ethics for Workers' Compensation and Liability Adjusters

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Licensing and Legal Framework

- › State by State licensure
- › Not including public adjusters
- › Identify what ethical rules, if any, control your case



The adjuster has competing responsibilities

- › Insured
- › Insurance carrier
- › Claimant/Plaintiff



Enforcement

- › Licensure
- › Sanctions



Ethical Obligations

- › National Associates of Insurance Commissioners (NAIC)
- › All 50 states have some version
- › Most violations identified



Bad Faith/Extra Contractual Liability

› Non-economic damages/punitives



Statutes vs. Ethical Canons

- › Each state is different
- › Insurance Regulations
- › CPCU Ethical Canons
- › Attorneys as adjusters



Poll

True or False?

- › The ethical rules for property and casualty adjuster are the same in every state



Conflicts of Interest

- › Vs Insured
- › Vs Claimant/Plaintiff
- › Tripartite relationships



Most Common Ethical Problems

- › Knowingly misrepresent relevant facts and policy provisions to claimant



Most Common Ethical Problems

- › Not exercising reasonable promptness in claim communications



Most Common Ethical Problems

- › Not adopting or implementing reasonable claim processing standards



Most Common Ethical Problems

- › Not exercising good faith in effectuating prompt, fair, and equitable claims resolution



Most Common Ethical Problems

- › Compelling suits by offering substantially less than the amount reasonable in a suit



Most Common Ethical Problems

- › Refusing to pay claims without a reasonable investigation



Most Common Ethical Problems

- › Failing to affirm or deny coverage of claims in a reasonable time after investigation when the insured requests it in writing



Most Common Ethical Problems

- › Making claims payments without indicating under which coverage the payment was made, when the insured has requested this information in writing



Most Common Ethical Problems

- › Requiring duplicate information in order to delay claim investigation or settlement



Most Common Ethical Problems

- › Failing to promptly explain claim denial or compromise settlement when the insured has requested this information in writing



Most Common Ethical Problems

- › Failing to provide forms that are necessary to file claims and given an explanation of their use within a reasonable time frame (or within a specified number of days, in some states)



Most Common Ethical Problems

- › Failing to adopt reasonable standards to assure that repairs by an insured-owned repair are performed in a workmanlike manner



Most Common Ethical Problems

- › Indicating a payment is final in a release unless the policy limit has been paid or there has been a compromised settlement agreed to by a first party claimant



Most Common Ethical Problems

- › Issuing checks in partial settlements under a specified coverage that release an insured of its total liability



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Which is not an ethical problem?

- a) Knowingly misrepresent relevant facts and policy provisions to claimant
- b) Failing to affirm or deny coverage of claims in a reasonable time
- c) Keeping in touch with the employees, the employers and the medical providers
- d) Failing to provide forms that are necessary to file claims



Misrepresentation regarding policy

- › Policy limits disclosure
- › Varies by state



Policy Limits-Potential Conflict

- › Powell vs. Prudential (Florida 1991)
- › Boicourt vs. Amex (California 2000)
- › Inducement to prompt settlement
- › Insured responsible for excess verdict



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True or False?

- › The lack of an offer to settle does not preclude a finding that the insurer's failure to settle was in bad faith



Unfair Settlements

- › Disclosure full authority (No!)
- › Duty to act honestly and in good faith



Legal Consequences

- › State administrative sanctions
- › Unauthorized practice of law

Questions?

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