

DECISION
of the
GENERAL INSURANCE COUNCIL OF MANITOBA
(“Council”)
respecting
CHRISTINE HYDE
(“Licensee”)

INTRODUCTION

The General Insurance Council of Manitoba (“Council”) derives its authority from *The Insurance Act* C.C.S.M. c.140 (“Act”) and the *Insurance Councils Regulation 227/91*.

Following an enquiry from the Licensee when unable to re-enter previously completed and submitted continuing education credits, an investigation was conducted pursuant to sections 375(1) and 396.1(7)(e) of the *Act* and s. 7(2)(e) of *Regulation 227/91*. The purpose of the investigation was to determine whether the Licensee’s activity violated the *Act* and/or the General Insurance Agents Licensing Rules (“Licensing Rules”). During the investigation the Licensee was notified of the complaint and provided with an opportunity to make submissions.

On September 29, 2016, during a meeting of Council, the evidence compiled during the investigation and the position of the Licensee were reviewed. Pursuant to section 375(1) of the *Act* and *Regulation 227/91*, the Council now confirms its decision and corresponding reasons.

ISSUES

The issues for Council’s consideration are:

1. Did the Licensee fail to meet the continuing education requirements to maintain her licence?
2. Did the Licensee misrepresent in her 2015 licence renewal application that she had completed the CE requirements?

FACTS AND EVIDENCE

1. Completion of eight (8) mandatory continuing education credits is required as a condition of renewal for a general insurance agent licence in accordance with Section 9(1) and (2) of the General Insurance Agents Licensing Rules. Each course is assigned a course number and specified number of credits. These credits must meet a specified definition for approval.
2. Effective 2010 until April 2015, the definition for Continuing Education for General Insurance Agents was as follows:

Continuing education must be directly related to knowledge relevant to giving advice about general insurance products or services, or the operation of a general insurance business. This includes programs that are structured for the specific purpose of education, but excludes activities such as programs and meetings primarily based on sales production, promotion and motivation.

3. Further, information provided by the Council's website during the period between 2010 and January 23, 2015, under the heading, Continuing Education Question and Answer Section (FAQs), included the following question and answer under the section - Submitting Credit Hours at Renewal – All classes of Insurance:

If I took a course in the past and would like to take the same course again will Council accept these credit hours?

No. You cannot claim credits for the same course, unless you can provide Council with proof that the course content has changed significantly since it was last taken.

4. Between 2010 and 2015, the Licensee submitted the following courses to satisfy her continuing education requirements. This list shows several repeated courses without any proof that the content had changed, and courses which did not meet the CE definition.

6391 Pet Insurance – Insurance for a Man's Best Friend	completed April 29, 2015; April 21, 2014; May 1, 2011
19639 Coping with Job Stress and Harassment	completed March 31, 2015; April 21, 2014
19769 Workplace Bullying Employee Version	completed April 29, 2015; April 2, 2014; April 17, 2013
19770 Workplace Bullying Employer Version	completed April 29, 2015; April 21, 2014

5. On or about March 4, 2016, the ICM sent notice to all licensees advising them to enter their continuing education credits. The document included the notice to ensure that the credits had been obtained from an accredited provider; that courses entered more than once required special approval; and provided information on accessing the Continuing Education Definition.
6. In 2016, the Council implemented system restrictions which prevent re-entering CE courses completed in the past five years in its computer system.

7. On April 16, 2016, the Licensee attempted to enter her continuing education credits on the ICM system and received the following message: “You are not authorized to use this CE course as it was allocated to a previous CE year....”
8. The Licensee’s licence application for May 7, 2015 indicated “Requirements Met” under Continuing Education Status, although it was noted that four courses for a total of 5 CECs were resubmitted to meet her CEC requirements. According to the ICM Continuing Education reporting system, the Licensee had one carryforward and completed 19634 Liability of Owners for their Pets for 2 credits. Although it showed that she had met the 8 credits, in fact, she did not.
9. In completing this application, the Licensee declared that the information provided was true and accepted the responsibility for the answers and undertakings. She also confirmed that she understood that a false declaration on this application could lead to disciplinary action.

The Licensee’s Responses

10. In her April 18, 2016, response to ICM’s Senior Licensing Officer, the Licensee advised that she was unaware that she could not apply the courses more than once until this year, and that some of the courses were good refreshers.
11. This was reiterated in the June 29, 2016 email response to Council in which she stated that it was difficult to find the FAQ section. She noted that the information was brought to her attention this year and she completed new courses for this year’s renewal:

35572 Developing a Customer Service Program for your Business	April 6, 2016	3 credits
12310 What Business Owners Can Do About the High Cost of Employee Dishonesty	April 6, 2016	2 credits
19652 What you need to know about Marijuana Grow Ops	April 6, 2016	1 credit
12365 Using Employee Feedback	April 7, 2016	2 credits

12. Also attached were certificates for two courses completed on April 6, 2016 which had been applied previously to meet the Licensee’s CE requirement. Note these courses were not recorded a further time.

12360 Become a Great Boss, Follow These Steps (Previously completed April 2, 2014)	2 credits
12320 Condominium Unit Owners Insurance (Previously completed April 17, 2013)	3 credits

13. The Licensee apologized and advised that she wanted to address this issue as soon as possible as she was upset and disappointed that she had not read more closely.
14. Subsequently, the Licensee has fulfilled all past continuing education requirements and current continuing education requirements for her 2016 licence.

ANALYSIS

It is a licensee's responsibility to complete the mandatory continuing education credits to maintain a licence. The records indicated that the Licensee, in multiple cases between 2011 and 2014, repeated courses or applied courses which did not meet the definition for Continuing Education Credits and reported them as proof of meeting the CEC requirement. By not meeting the CEC requirement for her licence, she violated the General Insurance Agent Licensing Rules 9 (1) and (2).

While the Council noted positively that the Licensee took courses directly relating to her agent activity as a way of refreshing her knowledge, these courses could not be applied to meet the continuing education credits. By reporting courses which were repeated or which did not meet the continuing education definition and declaring she had met the requirement, the Licensee made a material misrepresentation in violation of s. 375 (1)(a) of the *Act*.

Council considered that the Licensee back fulfilled the CECs to meet her past licence requirement and offered her apology to the Council in making its decision.

PENALTY AND FINAL DECISION

Council's Intended Decision dated October 21, 2016, outlined the foregoing background, analysis and conclusions on a preliminary basis. Having regard to its initial determination that the foregoing violations had occurred, Council imposed the following penalty and sanction pursuant to sections 375 (1.1) of *the Act* and section 7 (1) of *Regulation 227/91*:

1. The Licensee be fined \$250.00 and assessed partial investigation costs of \$450.00.

As part of its Intended Decision, Council further informed the Licensee of her right to request a hearing to dispute Council's determinations and its penalty/sanction. The Licensee expressly declined her right to a Hearing and chose not to pursue a Statutory Appeal; she instead duly paid the levied fine and partial investigation costs.

The Decision is therefore final. In accordance with Council's determination that publication of its decisions are in the public interest, this will occur, as fully contemplated by section 7.1(1) of *Regulation 227/91*.

Dated in Winnipeg, Manitoba on the 14th day of November, 2016.