

Sale of insurance by Funeral Home employees

The Insurance Branch of the Department of Justice has received reports that employees of several funeral homes are selling life insurance policies (often called preneed life insurance) to customers to fund their future funeral expenses. In many cases these funeral home employees are not licensed under the New Brunswick *Insurance Act* as a life insurance agent. The reports indicate that some of these employees prepare the insurance contracts which are later signed by a licensed life insurance agent. The employees are then paid a commission on each insurance policy sold.

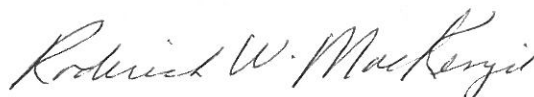
Section 351 of the *Insurance Act* provides that nobody can "act or offer or undertake to act or represent himself" as an insurance agent unless licensed under the Act.

The *Insurance Act* defines an agent as "a person who, who for compensation, ... solicits, effects or negotiates insurance on behalf of any insurer ... or transmits, for a person other than himself, an application for or a policy of insurance to or from such insurer, or acts, offers or assumes to act in the negotiation of insurance".

If employees of a funeral home are doing any of the acts set out within the definition of "agent", they are required to hold a license pursuant to s. 351. Therefore, if an employee, who is not licensed as a life insurance agent, is "selling" policies or is preparing insurance contracts or applications that are later signed by a licensed agent, they are in breach of section 351 and must cease these activities.

Further, section 368(1) of the Act provides that no insurer, agent, etc. can pay, directly or indirectly, any commission to anyone other than a licensed agent or broker. Therefore, the payment of commissions to employees of funeral homes who are not licensed agents or brokers would violate section 368(1) and this practice must also cease.

Employees of funeral homes who are selling life insurance policies must obtain a license from the Insurance Branch. Applicants must have taken the Life Licensing Qualification Program (LLQP), which includes a pre-licensing course and a certification exam given by an approved course provider, and they must have passed a provincial examination. For further information, please contact the Office of the Superintendent of Insurance at (506) 453-2541.



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