
BULLETIN NUMBER:	04-2014
TITLE:	Electronic Declarations
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PURPOSE

The *Insurance Act* sets out the statutory framework which permits an insured, under a contract of life or accident and sickness insurance, to make a declaration designating, altering or revoking the designation of the insured, the insured's personal representative or a beneficiary as one to whom or for whose benefit insurance money is to be payable.

Section 547 of the *Insurance Act* allows insurance records to be provided in electronic form in accordance with the Electronic Transactions Act ("the ETA"). However, there are certain exclusions. Section 5.4 of the Fair Practices Regulation excludes declarations unless, in addition to meeting the requirement of the ETA, declarations are made a) directly between the insurer and the insured, and b) in accordance with procedures approved by the Superintendent.

The [CLHIA Process on Designating, Altering or Revoking Declarations Electronically](#) sets out procedures approved by the Superintendent of Insurance which permits an insured, under a contract of life or accident and sickness Insurance, to electronically make a declaration designating, altering, or revoking the designation of the insured, the insured's personal representative or a beneficiary as one to whom or for whose benefit insurance money is to be payable.

In addition, life and health insurers must self-evaluate adherence to this process and update it as needed. This self-evaluation may be done as a part of the organization's Legislative Compliance Management System with approval at the senior level (e.g., Chief Compliance Officer, Chief Risk Officer).

Life and health insurers are responsible to ensure their practices are compliant with future changes to technology and law.

Any questions regarding the contents of this bulletin may be directed to the Office of the Superintendent of Insurance at 780- 427-8322, or toll-free by dialing 310-0000, then 780-427-8322, or email at tbf.insurance@gov.ab.ca

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**Canadian Life
and Health Insurance
Association Inc.**

**Association canadienne
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de personnes Inc.**

**FINAL Process: Dated April 3, 2014
Submitted to Alberta for Approval**

**CLHIA Process on Designating, Altering or Revoking
Declarations Electronically**

Declarations in a Paper-Based Environment

Alberta's Insurance Act¹ sets out the statutory framework which permits an insured², under a contract of life or accident and sickness insurance, to make a declaration designating, altering or revoking the designation of the insured, the insured's personal representative or a beneficiary as one to whom or for whose benefit insurance money is to be payable.

For example, in the case of a declaration used to designate the beneficiary of life insurance proceeds payable on death of the insured, the declaration must be signed by the insured, describe the insurance and identify the person who is to benefit. Additionally, it is understood that such a declaration must be made while the insured is still living.

Life and health insurers have designed processes to assist in ensuring that an insured's requests, made by declaration, are met. Throughout their long history of use, these paper-based processes have proven to be an effective tool for both insureds and insurers. Consequently, an insurer's existing processes should not be changed but instead adapted for the electronic environment.

In general, s. 547 of the Insurance Act allows insurance records to be provided in electronic form in accordance with Alberta's Electronic Transactions Act ("the ETA").³ There are, however, exclusions⁴ to this general rule. Indeed, s. 5.4 of Alberta's Fair Practices Regulation,⁵ excludes declarations from the application of the general rule unless, in addition to meeting the requirements of the ETA, declarations are made: a) directly between the insurer and insured, and b) in accordance with a process to be approved by the Superintendent of Insurance.

¹ R.S.A. 2000, c. I-3 (in particular s. 637(g), s. 660, s. 695(g) and s. 724).

² As defined by the Insurance Act.

³ S.A. 2001, c. E-5.5.

⁴ Subsection 547(4) states that "The Electronic Transactions Act and subsection (2) do not apply to a record under, or in relation to a provision of, this Act that is excluded by regulation."

⁵ Alta. Reg. 128/2001.

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Purpose

This document sets out a process approved by the Alberta Superintendent of Insurance under which such declarations may be made electronically.

Declarations in the Electronic Environment

The ETA contains important safeguards that protect both insureds and insurers in the context of accepting electronic declarations. One of the main principles of the ETA is consent; no person is required to accept a document in electronic form. If the insured or the insurer is unwilling or unable to meet these minimum safeguards, then the document cannot be accepted in electronic format.

Pursuant to the ETA, a legal requirement that a declaration, instrument or other document be in writing is satisfied by an electronic record if the declaration, instrument or other document is submitted to and maintained by the insurer in accordance with a process established by the insurer for the purpose of receiving such documents as an electronic record. The insurer's process must, in light of all of the circumstances, provide reasonable safeguards as to the integrity of the information contained in the electronic record.

The process with respect to declarations, in light of all circumstances, must:

1. Be supported by a system designed or adopted by the insurer which includes the purpose of accepting declarations directly between the insured and the insurer;
2. Provide assurances of the insured's identity through a verification system allowing:
 - a) the identity of the person and his/her link to the document to be confirmed by having appropriate authentication safeguards such as the use of:
 - i. password log-ins;
 - ii. personal verification questions;
 - iii. logical and operational security measures; or
 - iv. a signature pad; and
 - b) the document to be identified and, if required, allowing its origin and destination at any given time to be determined;
3. Provide for the electronic record to be:
 - a) accessible so as to be usable for subsequent reference; and
 - b) stored (electronically or otherwise) so as to be protected against unauthorized access;
4. Provide an acknowledgment of receipt by electronic or other means; and

5. Require that the declaration be signed. A legal requirement that the declaration, instrument or document must be signed is satisfied by an electronic signature if:
 - a) the electronic signature is made in accordance with a process designed or adopted by, or otherwise acceptable to, the insurer for the purpose of facilitating electronic signatures, that is reliable for the purpose of identifying the person; and
 - b) the association of the electronic signature with the declaration is reliable.

The characteristics of a process, as described immediately above, serve to provide greater clarity and outline the necessary safeguards where the insured chooses to utilize electronic means and where the insurer has reliable procedures in place to accept electronic declarations.

Additional Safeguards

Insurers should have their electronic declaration processes reviewed by experienced information security professionals both before implementation and on a regular basis thereafter to ensure they are consistent with the criteria detailed above. This would include reviewing to determine whether:

- if passwords are used:
 - there are processes that help the insured select a password;
 - the passwords are difficult to guess;
 - passwords are stored securely; and
 - processes for password resets are well designed to mitigate the risk of fraud and impersonation;
- if personal verification questions are used:
 - the questions cannot easily be guessed; and
 - processes to update the questions are well designed to mitigate the risk that an unauthorized person successfully answers the questions or changes the questions;
- if signature pads are used:
 - the signature pad technology is up to date; and
 - signatures cannot be altered or attached to documents other than the one intended by the client; or
- where other electronic signature processes are used:
 - processes are consistent with existing good systems design and information security practices and standards.

In addition, life and health insurers should self-evaluate adherence to this process and are encouraged to update it as needed. As appropriate, this self-evaluation could be done as part of the organization's Legislative Compliance Management System with appropriate approval at a senior level (e.g., Chief Compliance Officer, Chief Risk Officer).

Life and health insurers are responsible to ensure their practices are compliant with changes to technology and law.

Summary

This document sets out a process approved by the Alberta Superintendent of Insurance which permits an insured, under a contract of life or accident and sickness insurance, to electronically make a declaration designating, altering or revoking the designation of the insured, the insured's personal representative or a beneficiary as one to whom or for whose benefit insurance money is to be payable.