

## BILL ANALYSIS

Senate Research Center  
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S.B. 964  
By: Ellis  
State Affairs  
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### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Insurance carriers often compensate agents for sales of Medicare-related products with large, immediate commissions. This legislation would give the commissioner of insurance (commissioner) the authority to compel carriers to change their payment schedules if such payments incentivize sales behavior that is inappropriate or places undue pressure on the buyer.

As proposed, S.B. 964 prohibits the payments and authorizes the commissioner to order an issuer to change commission payment schedules for an agent authorized to sell Medicare-related products if such payments operate as an incentive to encourage false, deceptive, or misleading sales behavior. S.B. 964 requires an insurance agent that intends to sell, solicit, or negotiate contracts for Medicare-related products to complete eight hours of Medicare-related education initially, and eight hours of continuing education annually.

### RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Sections 1654.003 and 1654.102, Insurance Code) of this bill.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle I, Title 8, Insurance Code, by adding Chapter 1654, as follows:

#### CHAPTER 1654. REQUIREMENTS RELATING TO SALE OF CERTAIN MEDICARE-RELATED PRODUCTS

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1654.001. DEFINITIONS. Defines "Medicare advantage plan," "Medicare program," "Medicare-related product," and "Medicare supplement benefit plan."

Sec. 1654.002. APPLICABILITY. Provides that this chapter applies only to insurers and insurance agents that solicit, negotiate, or sell Medicare-related products.

Sec. 1654.003. RULES. Requires the commissioner of insurance (commissioner) to adopt rules as necessary to implement this chapter.

[Reserves Sections 1654.004-1654.050 for expansion.]

##### SUBCHAPTER B. COMPENSATION RESTRICTIONS

Sec. 1654.051. COMPENSATION RESTRICTIONS. (a) Prohibits an insurer from paying or offering to pay an insurance agent, and prohibits an insurance agent from accepting, a payment for Medicare-related products that operates as an incentive for sales behavior that may violate Chapter 541 (Unfair Methods of Competition and Unfair or Deceptive Acts or Practices) or is otherwise false, deceptive, or misleading.

(b) Authorizes the commissioner to order an insurer to change the insurer's Medicare-related agent commission payment schedules if the commissioner determines that the schedules operate as an incentive for sales behavior that may violate Chapter 541 or is otherwise false, deceptive, or misleading.

[Reserves Sections 1654.052-1654.100 for expansion.]

### SUBCHAPTER C. AGENT REQUIREMENTS

Sec. 1654.101. AGENT EDUCATION REQUIREMENTS. (a) Requires an insurance agent that intends to sell, solicit, or negotiate a contract for a Medicare-related product in this state or to represent an insurer in relation to such a product to submit evidence satisfactory to the Texas Department of Insurance of completion of at least eight hours of professional training relating to Medicare-related products before selling, soliciting, or negotiating such a contract.

(b) Provides that the requirement imposed under Subsection (a) is in addition to any other education or training requirements imposed under this code and rules adopted under this code for issuance of a license.

Sec. 1654.102. CONTINUING EDUCATION. (a) Requires each agent subject to this chapter to complete eight hours of continuing education annually that specifically relates to Medicare-related products in addition to complying with the continuing education requirements established under Subchapter B (Agent Continuing Education Requirements), Chapter 4004 (Continuing Education).

(b) Provides that Subchapter C (Continuing Education Programs), Chapter 4004, applies to continuing education programs used to satisfy the requirements to Subsection (a). Requires the commissioner by rule to adopt criteria for those programs.

SECTION 2. Amends Section 4004.053(a), Insurance Code, to provide that an individual is not required to complete more than 15 continuing education hours annually, except as provided by Chapter 1654, if the individual holds more than one license for which continuing education is otherwise required. Makes a nonsubstantive change.

SECTION 3. Requires the commissioner to adopt rules as required by Chapter 1654, Insurance Code, as added by this Act, not later than December 1, 2009.

SECTION 4. Provides that Section 1654.102, Insurance Code, as added by this Act, applies to requirements for an insurance agent license issued or renewed on or after January 1, 2010.

SECTION 5. Effective date: September 1, 2009.