

BILL ANALYSIS

Senate Research Center
89R4400 SCR-F

H.B. 2221
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2007, Texas updated its anti-rebating laws by allowing insurers to offer certain services such as wellness programs, will preparation, and funeral planning to customers as long as the benefits were reasonably related to the type of insurance product purchased and were included in the policy.

In 2021, the National Association of Insurance Commissioners (NAIC) updated its model act which allows these additional benefits, referred to as "value-added services" to be provided to consumers and not be included in the policy.

H.B. 2221 seeks to maintain state requirements that protect consumers from inappropriate inducement offers and make it easier for insurers to innovate and provide these value-added services to consumers by removing the requirement that these services be included in the policy.

The bill also aligns the life and health anti-rebating statutes with the property and casualty anti-rebating statutes by moving them out of Chapter 541 of the Insurance Code to a new chapter in the Insurance Code, maintaining the Texas Department of Insurance as the regulator for any violations.

H.B. 2221 amends current law relating to certain trade practices related to life insurance, annuity contracts, and accident and health coverage.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 2 (Section 1702.006, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Title 9, Insurance Code, to read as follows:

TITLE 9. PROVISIONS APPLICABLE TO LIFE INSURANCE, ANNUITY CONTRACTS,
AND ACCIDENT AND HEALTH COVERAGES

SECTION 2. Amends Title 9, Insurance Code, by adding Chapter 1702, as follows:

CHAPTER 1702. REGULATION OF CERTAIN TRADE PRACTICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1702.001. PURPOSE. Sets forth the purpose of this chapter.

Sec. 1702.002. DEFINITIONS. Defines "agent," "consumer," "enrollee," "health care plan," "insurer," and "loss-control or value-added product or service."

Sec. 1702.003. APPLICABILITY OF CHAPTER: LIFE INSURANCE AND ANNUITIES. Provides that except as otherwise provided by this chapter, this chapter

applies to an insurance company writing life insurance and annuities in this state, including certain companies and societies.

Sec. 1702.004. **APPLICABILITY OF CHAPTER: ACCIDENT AND HEALTH.** Provides that, except as otherwise provided by this chapter, this chapter applies to certain insurances, and a health maintenance organization operating under Chapter 843 (Health Maintenance Organizations).

Sec. 1702.005. **CONSTRUCTION.** Prohibits anything in this chapter from being construed to permit conduct that is an unfair method of competition or a false, misleading, or deceptive act or practice under Section 17.46 (Deceptive trade Practices Unlawful), Business & Commerce Code, or Chapter 541 (Consumer Data Protection) of the Insurance Code or prohibit an insurer, health maintenance organization, or agent from offering or giving to a consumer, for free or at a discounted price in a manner that is not unfairly discriminatory to consumers of the same class and of essentially the same hazard, a loss-control or value-added product or service relating to the risks covered under the relevant policy or contract, subject to Sections 1702.051 and 1702.053.

Sec. 1702.006. **RULES.** Authorizes the commissioner of insurance (commissioner) to adopt reasonable rules necessary to implement this chapter.

SUBCHAPTER B. ANCILLARY PRODUCTS OR SERVICES AND PROHIBITED INDUCEMENTS

Sec. 1702.051. **LOSS-CONTROL OR VALUE-ADDED PRODUCTS AND SERVICES.**

(a) Requires that the cost to an insurer, health maintenance organization, or agent for a loss-control or value-added product or service provided to an insured, annuitant, or enrollee be reasonable in comparison to that insured's, annuitant's, or enrollee's premiums or coverage for the class of the insured's, annuitant's, or enrollee's policy or contract.

(b) Requires an insurer, health maintenance organization, or agent, if the insurer, health maintenance organization, or agent provides a loss-control or value-added product or service to an insured, annuitant, or enrollee, to ensure that the insured, annuitant, or enrollee is provided with contact information to assist the insured, annuitant, or enrollee with questions regarding the product or service.

(c) Requires an insurer, health maintenance organization, or agent to perform certain actions.

Sec. 1702.052. **PROHIBITED INDUCEMENTS.** Prohibits an insurer, health maintenance organization, or agent, except as provided by this chapter, from offering or providing insurance, annuity, or health care plan coverage as an inducement to the purchase of another policy or contract or otherwise using "free," "no cost," or words of similar meaning in an advertisement.

Sec. 1702.053. **NON-CASH GIFTS, CHARITABLE DONATIONS, RAFFLES, OR OTHER ITEMS AND SERVICES.** (a) Authorizes an insurer, health maintenance organization, or agent to offer or provide non-cash gifts, items, or services, including meals, to or charitable donations on behalf of a consumer, in connection with the marketing, sale, purchase, or retention of policies or contracts of insurance, annuity, or health care plan coverage, provided certain criteria are met.

(b) Authorizes an insurer, health maintenance organization, or agent to conduct raffles or drawings to the extent permitted by the laws of this state, provided certain criteria are met.

SUBCHAPTER C. PRACTICES RELATED TO LIFE AND ANNUITY COVERAGE

Sec. 1702.101. **APPLICABILITY OF SUBCHAPTER.** Provides that this subchapter applies only to an insurer described by Section 1702.003.

Sec. 1702.102. PROHIBITED REBATES AND INDUCEMENTS. (a) Prohibits an insurer or agent, except as provided by this subchapter, with respect to business written in this state, from:

(1) knowingly permitting the making of, offering to make, or making a life insurance policy or annuity contract or an agreement regarding the policy or contract, other than as plainly expressed in the issued policy or contract;

(2) directly or indirectly paying, giving, or allowing or offering to pay, give, or allow as inducement to enter into a life insurance policy or annuity contract either a rebate of premiums payable on the policy or contract or a special favor or advantage in the dividends or other benefits of the policy or contract or a valuable consideration or inducement not specified in the policy or contract; or

(3) giving, selling, or purchasing or offering to give, sell, or purchase in connection with a life insurance policy or annuity contract or as inducement to enter into the policy or contract certain stocks, bonds, or other securities of an insurer or other corporation, association, or partnership, dividends or profits accrued from the stocks, bonds, or securities, or anything of value not specified in the contract.

(b) Prohibits an insurer from permitting an agent, officer, or employee to issue or deliver as an inducement to enter into a life insurance policy or annuity contract certain products or services.

(c) Provides that this section does not prohibit issuing or delivering a participating insurance policy or annuity contract otherwise authorized by law.

Sec. 1702.103. PROHIBITED DISTINCTIONS AND DISCRIMINATION. Prohibits an insurer, except as provided by Section 1702.104, with respect to a life insurance policy or annuity contract, from making or permitting a distinction or unfair discrimination between individuals of the same class and equal life expectancy regarding the rate charged, the dividend or other payable benefit, or any of the other terms of the policy or contract.

Sec. 1702.104. EXEMPTIONS. Provides that certain services or products are not considered to constitute a rebate, inducement, distinction, or discrimination prohibited by this subchapter.

SUBCHAPTER D. PRACTICES RELATED TO ACCIDENT AND HEALTH COVERAGE

Sec. 1702.151. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter applies only to an insurer or health maintenance organization described by Section 1702.004.

Sec. 1702.152. PROHIBITED REBATES AND INDUCEMENTS. (a) Prohibits an insurer, health maintenance organization, or agent, except as provided by this subchapter or another provision in this code, with respect to accident and health insurance or health care plan coverage written in this state, from performing certain actions.

(b) Prohibits an insurer or health maintenance organization from permitting an agent, officer, or employee to issue or deliver as an inducement to entering into an insurance policy or health care plan contract certain products or services.

(c) Provides that this section does not prohibit an insurer or health maintenance organization from issuing or delivering a participating insurance policy or health care plan contract otherwise authorized by law.

Sec. 1702.153. PROHIBITED DISCRIMINATION AND DISTINCTIONS. Prohibits an insurer or health maintenance organization, except as provided by Section 1702.154 and other applicable provisions in this code specific to particular types of accident and health coverage or health care plan coverage, with respect to an accident and health insurance policy or health care plan contract, from making or permitting a distinction or an unfair discrimination between individuals of the same class and equal life expectancy regarding the rate charged, the dividend or other payable benefit, or any of the other terms of the policy or contract.

Sec. 1702.154. EXEMPTIONS. Provides that certain products or services are not considered a rebate, inducement, or discrimination prohibited by this subchapter.

Sec. 1702.155. PROGRAMS PROMOTING DISEASE PREVENTION, WELLNESS, AND HEALTH. (a) Authorizes an insurer issuing an accident and health insurance policy or a health maintenance organization issuing a health care plan contract to establish premium discounts, rebates, or a reduction in otherwise applicable copayments, coinsurance, or deductibles, or any combination of those incentives, for an insured or enrollee who participates in programs promoting disease prevention, wellness, or health.

(b) Provides that a discount, rebate, or reduction established under this section is not considered a prohibited rebate or inducement or unfair discrimination.

SECTION 3. Amends Section 81.001(c), Insurance Code, to provide that Section 81.001 (Limitations Period for Certain Disciplinary Actions) does not apply to certain conduct, including conduct that is a violation of Subchapter A (General Prohibitions Against Discrimination by an Insurer or Health Maintenance Organization), Chapter 544 (Prohibited Discrimination), or Section 1702.103, rather than Section 541.057 (Unfair Discrimination in Life Insurance and Annuity Contracts), as those provisions relate to discrimination on the basis of race or color, regardless of the time the conduct occurs.

SECTION 4. Amends Section 846.007(d), Insurance Code, to provide that a discount, rebate, or reduction established under this subsection does not violate Section 1702.152, rather than Section 541.056(a) (relating to providing that it is an unfair method of competition or an unfair or deceptive act or practice in the business of insurance to knowingly permit the making of, offer to make, or make a certain contract).

SECTION 5. Amends Section 1114.057, Insurance Code, to require an insurer that offers to waive surrender charges as described by Section 1702.104(4) (relating to a waiver of surrender charges under a certain annuity contract), rather than Section 541.058(b)(4) (relating to providing that it is not a rebate or discrimination prohibited by certain provisions of Insurance Code to for a life annuity contract, to waive certain surrender charges), to provide reasonable notice of that offer to the insurer's prospective or current contract holders.

SECTION 6. Amends Section 1501.107(b), Insurance Code, to make a conforming change.

SECTION 7. Repealers: Sections 541.056 (Prohibited Rebates and Inducements) and 541.057 (Unfair Discrimination in Life Insurance and Annuity Contracts), Insurance Code.

Repealers: Sections 541.058 (Certain Practices not Considered Discrimination or Inducement) and 543.003 (Thing of Value not Specified in Policy), Insurance Code.

Repealer: Section 1201.013 (Programs Promoting Disease Prevention, Wellness, and Health), Insurance Code.

SECTION 8. Makes application of this Act prospective to January 1, 2026.

SECTION 9. Effective date: September 1, 2025.