## Welcome and thank you for attending!

The webinar will begin shortly.

## Sales Inducements More than Just a Free Meal



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## Currin Insurance Compliance Education Program

Online / on-demand training for insurance compliance professionals.

## About Kaycie

Kaycie is Currin Compliance Services' Research and Compliance Associate. She has a background in literacy and knows her way around reading and analyzing insurance regulations. She provides research organized in a way that gives our clients the information they need, including instructions and explanations to help better understand its significance.





## Sales Inducements More than Just a Free Meal <sub>Kaycie Tyll</sub>

#### Research and Compliance Associate



This event is for informational purposes only and should not be construed as legal advice.

## Agenda

- Insurance regulations
- What is rebating?
- 5 Rebating Considerations
- Case Studies
- Enforcement Actions



## INSURANCE REGULATIONS





## Insurance Regulations

- NAIC Model Unfair Trade
- State positions vary *widely*
- Bulletins
- Carriers may prohibit even if state allows



#### Insurance Regulations (cont.)

Who is subject to these Regulations?

- Insurance agents
- Insurance companies
- Marketing intermediaries



## Model Unfair Trade

*If not specified in the contract, paying, allowing, giving, or offering any of the following, will be considered an unfair or deceptive act:* 

- Rebates of the premiums payable on the policy;
- Special favors or advantages in the dividends or other benefits;
- Any valuable consideration or inducement;
- Or giving, selling, purchasing or offering, as an inducement, any stocks, bonds, or other securities, any dividends or profits accrued, or anything of value.





## WHAT IS REBATING?



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- State rules vary widely
  - MT consideration based on two-part test
    - Must be nominal (under \$25)
    - Must be available to all
  - OH advertising or meals less than \$50 (not tied to purchase)
- Commission statutes may come into play
  - Commission v. Referral fees
- Lottery/gambling laws may be applicable



## 5 REBATING CONSIDERATIONS



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## 5 Rebating Considerations

- Key things to consider:
  - Inducement to purchase
  - Benefit not stated in the contract
  - Gambling and lottery laws
  - Anti-discrimination test
  - Cash and cash equivalent vs. tangible items



# Case Studies



## CASE STUDY #1: Go Paperless Offer

#### Arizona

- Insurer pushes ad to clients Get a \$25 gift card for opting into e-statements
- Rebating?





## CASE STUDY #1: Go Paperless Offer (cont.)

#### Arizona

- AZ ST § 20-452 states that prizes, goods, wares, merchandise or tangible property is allowable if valued at \$25 or less.
- However, AZ ST § 20-449 prohibits insurers from permitting or offering to make any rebate of premiums payable on the contract, any special favor, advantage in the dividends, or any valuable consideration or inducement whatever not specified in the contract.



## CASE STUDY #2: Refer a Friend

West Virginia

- Agent wants to pay clients \$20 for every referral that successfully writes business
- Rebating?





## CASE STUDY #2: Refer a Friend (cont.)

West Virginia

- WV ADC 114-70-4 A one-time referral fee of \$25 or less is allowed; payment of a referral cannot depend on the sale or issuance of an insurance product.
- Content of conversation also critical acting as a sales person?
  - -Discussions regarding policy terms/conditions



## CASE STUDY #3: Select Client Dinner Event

Texas

- 10 Large Clients
  Set to renew in two weeks
- Invited to a fine dining outing
- Rebating?





## CASE STUDY #3: Select Client Dinner Event (cont.)

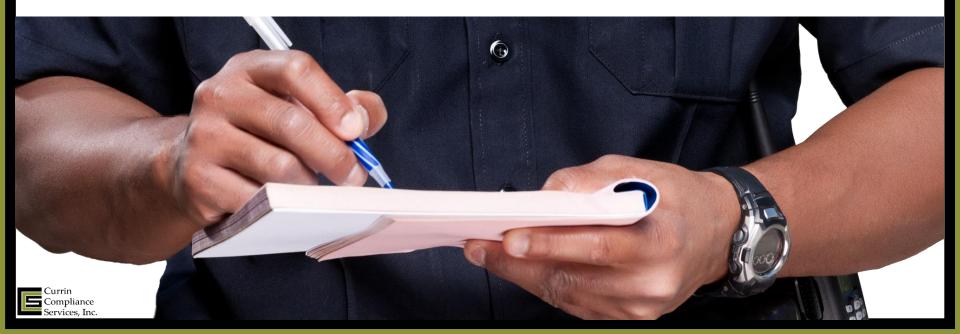
#### Texas

- TX INS s 541.058 Advertising items, educational items or a traditional courtesy commonly extended to consumers that is valued at \$25 or less is not considered a rebate or inducement.
- TDI would "look closely at these factors to determine whether such an outing would be an inducement and/or rebate"\*

http://www.insurancejournal.com/magazines/features/ 2014/08/04/336103.htm



## ENFORCEMENT ACTIONS



## **Enforcement Action**

Customer Appreciation in North Dakota

- ND agent
- MN Vikings game
- Client appreciation dinner



## **Enforcement Action**

- The 3<sup>rd</sup> Party Mailer
- FL agent
- Offer of gift card after meeting





## **Enforcement Action**

The Raffles

- ME agent
- Raffle events to promote business





## Summary

- Rebating laws can be complex and subjective
- Rebating laws may vary widely from state to state
- Important to carefully evaluate all applicable regulations
- Seek professional guidance
  - Resource: CCS 50 State Survey



# Thank you for joining us!



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