

COMMONWEALTH OF VIRGINIA

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December 7, 2005

Administrative Letter 2005 – 14

TO: All Companies licensed to Write Accident and Sickness Insurance in Virginia and Interested Parties

RE: Medicare Part D Marketing

Please distribute to the appropriate personnel within your company
in addition to **all appointed agents**

The purpose of this letter is to alert all companies and individuals who are or may become engaged in the marketing and sale of the Medicare prescription drug benefit, Medicare Part D, of applicable state oversight and enforcement authority relating to marketing activities.

Since October 1, 2005, marketing activity for the Medicare prescription drug benefit has been permissible. According to the Centers for Medicare & Medicaid Services (CMS), only **state-licensed insurance agents** may engage in marketing activity. The Medicare Modernization Act does not preempt state agent licensing laws. Agents engaged in the marketing and sale of the Medicare prescription drug plans are subject to all applicable Virginia laws and regulations, including those relating to good faith and fair dealing, the suitability of sale, and the prohibitions against misrepresentation, churning, and high pressure sales tactics. The Bureau of Insurance (the Bureau) will investigate any and all allegations of misconduct relating to Part D marketing, and will take appropriate action against any person found to be in violation of these laws or regulations. CMS will refer complaints it receives about Virginia agents to the Bureau of Insurance.

In recent weeks, the Bureau has specifically been made aware of some practices which the Bureau considers inappropriate for the market involved and strongly cautions against engaging in such activity. Companies and agents should consult Virginia law and regulations, as well as all CMS guidelines and publications for additional instructions and information relating to these and other practices.

- ❖ Agents should not take advantage of the Medicare beneficiary's lack of knowledge to offer or sell other insurance products for which the beneficiary may not be suited.

- ❖ Implying or suggesting that an agent is affiliated or associated with Medicare, or that a particular product has been approved or endorsed by Medicare is misrepresentation. The Bureau will take enforcement action against any individual who misrepresents his or her status or affiliation, or who misrepresents a product.
- ❖ Agents should not solicit the Part D benefit door-to-door uninvited. This is an abuse identified in the CMS Guidelines.
- ❖ Suggesting or implying that an individual must drop an existing Medicare Supplement plan or must purchase a particular Medicare Supplement plan in order to qualify for the Part D benefit is misrepresentation.

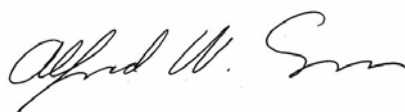
Finally, the Bureau expects and requires that all persons marketing and selling the Medicare Part D product in Virginia are licensed and appointed as required by law.

Questions regarding this letter may be directed to:

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Supervisor
Life and Health Agents Investigation
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We appreciate your consideration of this matter.

Cordially,



Alfred W. Gross
Commissioner of Insurance