

## **BILL ANALYSIS**

Senate Research Center

H.B. 2251  
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Business & Commerce  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Insurance Code and rules promulgated by the Texas Department of Insurance do not adequately address the difference between advertisements by insurers and general information provided on insurer Internet websites.

H.B. 2251 creates a new subchapter in the Insurance Code that includes statutory guidelines for when an insurer Internet site may be regulated as an insurance advertisement in this state. In addition, the bill requires mandatory disclosure language for advertisements related to Medicare coverage and guaranteed renewable accident and health insurance coverage. The bill also specifically allows for use of the term "PPO plan" in advertisements related to preferred provider benefit plans. The bill exempts advertisements otherwise subject to approval from the Texas Department of Insurance from filing for approval if the advertisement is the same or substantially similar to a previously accepted advertisement.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Section 541.082, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 541, Insurance Code, by adding Subchapter B-1, as follows:

#### **SUBCHAPTER B-1. ADVERTISING REQUIREMENTS**

Sec. 541.082. ADVERTISING AND INTERNET WEBSITES. (a) Defines "insurer."

(b) Requires an insurer's Internet website to include all appropriate disclosures and information required by applicable rules adopted by the commissioner of insurance (commissioner) relating to advertising only if the web page describes specific policies available in this state or includes an opportunity for an individual to apply for coverage or obtain a quote from an insurer for an insurance policy or certificate or an evidence of coverage.

(c) Authorizes an insurer, as specified by the commissioner by rule, to comply with Subsection (b) by including a link to a web page that includes the information necessary to comply with the applicable rules relating to advertising. Requires the link to be prominently placed on the insurer's web page.

(d) Provides that web pages of an Internet website that do not refer to a specific insurance policy or certificate of coverage or do not provide an opportunity for an individual to apply for coverage or obtain a quote from an insurer are considered to be institutional advertisements subject to rules adopted by the commissioner relating to advertising.

(e) Provides that web pages or navigation aids within an insurer's Internet website that provide a link to a web page described by Subsection (b) but that do not otherwise contain content described in Subsection (b) are considered to be institutional advertisements subject to rules adopted by the commissioner relating to advertising.

Sec. 541.083. ADVERTISEMENTS TO CERTAIN ASSOCIATIONS. Authorizes an insurer to advertise to the general public policies or coverage available only to members of an association described by Section 1251.052 (Associations).

Sec. 541.084. ADVERTISEMENTS RELATING TO MEDICARE PROGRAM. Prohibits a person from using an advertisement for an insurance product relating to Medicare coverage unless the advertisement includes in a prominent place specific language relating to the lack of connection with or endorsement by the government or Medicare program.

Sec. 541.085. ADVERTISEMENTS RELATING TO PREFERRED PROVIDER BENEFIT PLANS. Provides that it is sufficient for an insurer to use the term "PPO plan" in advertisements when referring to a preferred provider benefit plan offered under Chapter 1301 (Preferred Provider Benefit Plans).

Sec. 541.086. ADVERTISING REGARDING GUARANTEED RENEWABLE COVERAGE. (a) Requires an advertisement for a guaranteed renewable accident and health insurance policy to include, in a prominent place, a statement indicating that rates for the policy may change if the advertisement suggests or implies that rates for the product will not change.

(b) Requires a statement, if an advertisement is required to include the statement described by Subsection (a), to generally identify the manner in which rates may change, such as by age, by health status, by class, or through application of other general criteria.

Sec. 541.087. ADVERTISEMENTS EXEMPT FROM FILING REQUIREMENTS. Provides that an advertisement subject to requirements regarding filing of the advertisement with the Texas Department of Insurance (TDI) for TDI review under this code or commissioner rule and that is the same as or substantially similar to an advertisement previously reviewed and accepted by TDI is not required to be filed for TDI review.

SECTION 2. Amends Section 541.052(b), Insurance Code, to provide that this section applies to an advertisement, announcement, or statement made, published, disseminated, circulated, or placed before the public through the Internet.

SECTION 3. Amends Section 1652.156(c), Insurance Code, to prohibit an entity from using an advertisement for Medicare supplement benefit plans that does not comply with state law, including TDI rules and Section 541.084.

SECTION 4. Effective date: September 1, 2007.