

BILL ANALYSIS

C.S.H.B. 2251
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Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

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. The purpose of C.S.H.B. 2251 is to create 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

This bill amends Chapter 541 of the Texas Insurance Code to create a new subchapter related to the Internet and the regulation of advertisements. SECTION 1 (Section 541.401) gives the Commissioner rule making authority to accomplish the purposes of Chapter 541. This rulemaking authority would apply to the new proposed subchapter created by this bill.

ANALYSIS

C.S.H.B. 2251 relates to advertising by certain insurers.

The bill seeks to add a new subchapter, Subchapter B-1 which states the advertising requirements, to Chapter 541 of the Texas Insurance Code. SECTION 1 Section 541.082(a) defines "insurer" as a life insurance company, a health insurance company, an accident insurance company, a general casualty company, a mutual life insurance company or other mutual insurance company, a Lloyd's plan, a county mutual insurance company, a farm mutual insurance company, a reciprocal or interinsurance company, a reciprocal or interinsurance exchange, a fraternal benefit society, a local mutual aid association, a health maintenance organization, or a group hospital service corporation.

SECTION 1 Section 541.082(b) provides that a web page of an insurer's Internet website must include all appropriate disclosures and information required by applicable rules adopted by the Commissioner of Insurance relating to advertising only if the web page describes specific policies or coverage 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. Next, the bill states that, as specified by the commissioner by rule, an insurer may 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. The link must be prominently placed on the insurer's web page.

SECTION 1 Section 541.082(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. The next the bill states that web pages or navigation aides 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.

Section 541.083 discusses advertisements to certain associations. It provides that an insurer may advertise to the general public policies or coverage available only to members of an association described in the Texas Insurance Code Section 1251.052.

Next, the bill discusses advertisements relating to Medicare program. It states that a person may not use an advertisement for an insurance product relating to Medicare coverage unless the advertisement includes in a prominent place the following language or similar language: "Not connected with or endorsed by the United States government or the federal Medicare program."

Next, Section 541.085 deals with advertising relating to preferred provider benefit plans. It 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. The next section, Section 541.086, discusses advertising regarding guaranteed renewable coverage and provides that an advertisement for a guaranteed renewable accident and health insurance policy must include, in a prominent place, a statement indicating that the rates for the policy may change if the advertisement suggest or implies that rates for the product will not change and that if the advertisement is required to include the statement in Subsection (a), the statement must 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. Finally, SECTION 1 Section 541.087 discusses the advertisements exempt from filing requirements and it states that an advertisement subject to requirements regarding filing of the advertisement with the department for department review under this code or commissioner rule and that is the same as or substantially similar to an advertisement previously reviewed and accepted by the department is not required to be filed for department review.

Next, SECTION 2 transfers Section 541.052 of the Insurance Code, related to False Information and Advertising, to the new Subchapter B-1, Chapter 541, Insurance Code, as added by this Act, and renumbered as Section 541.081 and amended to add "through the internet; or (5)" to the types of advertising subject to this section.

SECTION 3 amends Section 1652.156(c) of the Insurance Code to state that an entity may not use an advertisement for Medicare supplement benefit plans that does not comply with state law, including department rules and Section 541.084.

EFFECTIVE DATE

Effective September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 2251 modifies and amends the original house bill in several ways. First, (8), "county mutual insurance company;" and (9), "a farm mutual insurance company;", are added to SECTION 1 Section 541.082. Also, Section 541.082(a)(13) is removed in the C.S.H.B. 2251.

C.S.H.B. 2251 also changes the language of Section 541.082(b)(1). It now states that "describes specific policies or coverage available in this state; or", as opposed to the language in the original house bill which stated "describes a specific policy or specific evidence of coverage available in this state; or". Also, C.S.H.B. 2251 adds "As specified by the commissioner by rule" to Section 541.082(c).

Next, C.S.H.B. 2251 amends 541.082(d) by deleting the word "not" and adding the word "institutional" to the original house bill. Section 541.082(d) now reads "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."

C.S.H.B. 2251 amends 541.082(e) by deleting the word "not" and adding the word "institutional" to the original house bill. Section 541.082(e) now reads "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

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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."

Next, C.S.H.B. 2251 changes the language of Section 541.085 of the original house bill. It now states "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" as opposed to the language in the original house bill which stated "An insurer may use the term "PPO" in advertisements when referring to a preferred provider benefit plan offered under Chapter 1301."

Next, C.S.H.B. 2251 changes and clarifies the language in Section 541.086. It now reads that "An advertisement for a guaranteed renewable accident and health insurance policy must 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."

Finally, C.S.H.B. 2251 amends Section 541.087 to read "An advertisement subject to requirements regarding filing of the advertisement with the department for department review under this code or commissioner rule and that is the same as or substantially similar to an advertisement previously reviewed and accepted by the department is not required to be filed for department review. The original bill language read differently and stated that "An advertisement subject to approval by the commissioner under this code or commissioner rule and that is the same as or substantially similar to an advertisement previously approved by the commissioner is not required to be filed for approval."