

BILL ANALYSIS

C.S.H.B. 739
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Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Until recently, Medicare and Medicare advantage plans were exclusively regulated by the Centers for Medicare and Medicaid Services (CMS). CMS shared little authority over the marketing and educational requirements with state insurance departments until 2008, when the commissioner of insurance signed a new memorandum of understanding with CMS allowing more state oversight. For the first time, Texas was granted the authority to define who could sell Medicare advantage plans. This was an important step in allowing the Texas Department of Insurance to oversee the marketing of these advantage plans.

The Texas Department of Insurance currently does not have authority to require certain continuing education standards for agents who sell or market Medicare-related products, nor does it have the authority to enforce the CMS educational requirements. Since Medicare advantage plans are constantly evolving and because CMS has annual rule changes, it is important that such agents be made aware of current rules and practices.

C.S.H.B. 739 establishes continuing education requirements for insurance agents who sell or market Medicare-related products that are in line with the CMS standards. These requirements foster a higher degree of professionalism among agents selling Medicare products and ensure that consumers will be provided with a higher degree of service.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTIONS 1 and 2 of this bill.

ANALYSIS

C.S.H.B. 739 amends the Insurance Code to prohibit an insurance agent who has not completed eight hours of professional training related to a Medicare-related product from selling, soliciting, negotiating, or receiving an application or contract for such a product in Texas, or representing an insurer in relation to the Medicare-related product in Texas. The bill authorizes the required training to be used to satisfy the continuing education requirements for an individual holding a license issued by the Texas Department of Insurance (TDI).

C.S.H.B. 739 requires each agent who solicits, negotiates, procures, or collects a premium on a Medicare-related product, or who represents or purports to represent an insurer, a health maintenance organization, or a preferred provider organization in relation to such a Medicare-related product, to complete four hours of continuing education annually that specifically relate to Medicare-related products. The bill requires the annual period to be based on the agent's license expiration date or another date specified by the commissioner of insurance by rule, requires the education requirement to be met within that annual period, and authorizes only training in a program that has been certified by TDI to be used to satisfy the requirement. The bill authorizes the four hours of annual continuing education that specifically relate to Medicare-related products to be used to satisfy other continuing education requirements for an individual

holding a license issued by TDI.

C.S.H.B. 739 applies existing TDI certification criteria for continuing education programs to those programs used to satisfy the continuing education requirements for insurance agents who sell Medicare-related products and requires that, for the purposes of administering the additional continuing education requirements, professional training courses are considered to be continuing education courses. The bill requires the commissioner to adopt, by rule, criteria for these programs not later than December 1, 2009, and authorizes the rules to incorporate by reference any requirements established by the Centers for Medicare and Medicaid Services or any other appropriate federal agency.

C.S.H.B. 739 specifies that continuing education exemptions for an individual who held an agent license issued under the Insurance Code for at least 20 years are not applicable to the requirements of these provisions. The bill defines "Medicare advantage plan," "Medicare program," and "Medicare-related product."

C.S.H.B. 739 makes its provisions applicable to continuing education requirements for insurance agents for a license issued or renewed on or after April 1, 2010.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 739 removes a definition in the original for "Medicare supplement benefit plan" and adds a definition not in the original for "Medicare-related product."

C.S.H.B. 739 adds provisions not in the original prohibiting an agent who has not completed eight hours of professional training related to a Medicare-related product from performing certain activities relating to such a product, and authorizing the required training to be used to satisfy other continuing education requirements for an individual holding a license issued by the Texas Department of Insurance. The substitute differs from the original by requiring certain agents to complete four hours of continuing education annually that specifically relate to Medicare-related products, whereas the original requires these agents to complete eight hours of such education. The substitute adds requirements not in the original relating to the basis for the annual period for the continuing education provisions and certification of the training program. The substitute differs from the original by allowing the required continuing education related to Medicare-related products to be used to satisfy other continuing education requirements, whereas the original required the Medicare-related continuing education to be in addition to other continuing education requirements.

C.S.H.B. 739 adds a provision not in the original requiring that for the purposes of administering the additional continuing education requirements, professional training courses are considered to be continuing education courses.

C.S.H.B. 739 adds a provision not in the original authorizing rules adopted by the commissioner of insurance to incorporate by reference any requirements established by the Centers for Medicare and Medicaid Services or any other appropriate federal agency. The substitute removes a provision in the original that makes an exception for insurance agents who sell Medicare-related products from a provision that exempts an individual holding more than one license for which continuing education is otherwise required from having to complete more than 15 continuing education hours annually.

C.S.H.B. 739 adds a provision not in the original specifying that continuing education exemptions for an individual who held an agent license issued under the Insurance Code for at

least 20 years are not applicable to the requirements of these provisions.

C.S.H.B. 739 differs from the original by making provisions applicable to continuing education requirements for insurance agents for a license issued or renewed on or after April 1, 2010, whereas the original applied the provisions to a license issued or renewed on or after January 1, 2010.