

BILL ANALYSIS

S.B. 1795
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Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Recently enacted federal law established a navigator program to allow navigators to engage in insurance consulting, placement, and enrollment activities in connection with health benefit exchanges. However, there are concerns that the Texas Department of Insurance (TDI) does not currently have a means to hold navigators accountable and protect consumers. These concerns are magnified by reports that, while many navigators lack basic insurance knowledge and relevant experience, they are still charged with performing significant and sensitive duties. Interested parties assert that navigators should be subject to the jurisdiction and oversight of state insurance regulators so that the state will have the authority to take enforcement action when navigators engage in improper conduct. In an effort to establish such oversight and protect consumers, S.B. 1795 seeks to give TDI a mechanism to regulate the navigator program to ensure that the federal program appropriately addresses the needs of Texans.

RULEMAKING AUTHORITY

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

ANALYSIS

S.B. 1795 amends the Insurance Code to add temporary provisions, set to expire September 1, 2017, to authorize a navigator that performs the activities and duties described in provisions of federal law relating to the establishment of health benefit exchanges and that satisfies the bill's requirements to perform any duty or function authorized or required by the bill's provisions or any applicable federal law or regulation without obtaining a license from the Texas Department of Insurance (TDI) or any other state agency. The bill exempts from the bill's provisions a licensed life, accident, and health insurance agent; a licensed life and health insurance counselor; and a licensed life and health insurance company.

S.B. 1795 requires the commissioner of insurance to adopt rules necessary to implement the bill's provisions and to meet the minimum requirements of applicable federal law, including regulations. The bill requires the commissioner to determine whether the standards and qualifications for navigators provided under applicable federal law and any regulations enacted under that law are sufficient to ensure that navigators can perform the required duties, including assisting consumers in completing the uniform application for health coverage affordability programs available through a health benefit exchange, explaining how health coverage affordability programs work and interact, explaining health insurance concepts related to qualified health plans, providing culturally and linguistically appropriate information, avoiding conflicts of interest, and establishing standards and processes relating to privacy and data security. The bill requires the commissioner to make a good faith effort to work in cooperation with the U.S. Department of Health and Human Services and to propose improvements to the standards provided by federal regulations if the commissioner determines that the standards are insufficient to ensure that navigators can perform the required duties. The bill requires the commissioner by rule to establish standards and qualifications to ensure that navigators in Texas

can perform the required duties if, after a reasonable interval, the commissioner determines that the federal standards remain insufficient. The bill requires rules adopted by the commissioner relating to navigator standards and qualifications to provide, at a minimum, that a navigator in Texas has not had a professional license suspended or revoked; has not been the subject of any other disciplinary action by a financial or insurance regulator of Texas, another state, or the United States; and has not been convicted of a felony.

S.B. 1795 requires the commissioner, at regular intervals, to obtain from the health benefit exchange a list of all navigators providing assistance in Texas and, with respect to an individual, the name of the individual's employer or organization. The bill authorizes the commissioner to by rule establish a state registration for navigators sufficient to allow TDI to ensure that navigators satisfy certain specified standards and to collect the information regarding all navigators providing assistance in Texas.

S.B. 1795 sets out restrictions on the information indicated, suggested, or included in any advertisement or other materials that are published or distributed in any manner by or on behalf of a navigator. The bill prohibits a navigator from receiving compensation for services or duties as a navigator that are prohibited by federal law, including compensation from a health benefit plan issuer. The bill requires the commissioner to adopt rules authorizing additional training for navigators as the commissioner considers necessary to ensure compliance with changes in state or federal law.

S.B. 1795 prohibits a navigator from taking any of the following actions unless the navigator is licensed to act as a life, accident, and health agent: selling, soliciting, or negotiating coverage under a health benefit plan; endorsing a health benefit plan or group of health benefit plans; providing, or offering to provide, information or services related to insurance products not offered through a health benefit exchange; offering advice or advising consumers on which qualified health plan available through a health benefit exchange is preferable; or accepting any compensation that is wholly or partly dependent on whether a person enrolls in or purchases a health benefit plan. The bill clarifies that the prohibitions do not prohibit a navigator from providing information on public benefits and health coverage, or other information and services consistent with the mission of a navigator.

EFFECTIVE DATE

September 1, 2013.