

BILL ANALYSIS

Senate Research Center

H.B. 739
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The current law requires 15 hours of continuing education annually for an individual who holds a general life, accident, and health license, a life agent license, a life and health insurance counselor license, a general property and casualty license, or a personal lines property and casualty license, but provides for no restrictions against incentive payments to agents regarding Medicare-related products.

This legislation will require a standard minimum of Medicare-specific education for an agent to complete, and thereafter maintain, in order to sell, solicit, or negotiate a contract for Medicare products in this state. This will elevate the threshold of competency and familiarity with Medicare that agents must possess which will in turn protect consumers from misinformed or uninformed opinions or inappropriate or unethical behavior by agents.

H.B. 739 relates to certain continuing education requirements for insurance agents who sell Medicare-related products.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Section 4004.154, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 4004, Insurance Code, by adding Subchapter D, as follows:

SUBCHAPTER D. ADDITIONAL CONTINUING EDUCATION REQUIREMENTS FOR SALE OF MEDICARE-RELATED PRODUCTS

Sec. 4004.151. DEFINITIONS. Defines "Medicare advantage plan," "Medicare program," and "Medicare-related product."

Sec. 4004.152. AGENT EDUCATION REQUIREMENTS. (a) Prohibits an agent, unless an agent has completed eight hours of professional training related to a Medicare-related product, from selling, soliciting, negotiating, or receiving an application or contract for the Medicare-related product in this state or representing an insurer in relation to the Medicare-related product in this state.

(b) Authorizes the training required under Subsection to be used to satisfy the continuing education requirements established under Subchapter B (Agent Continuing Education Requirements).

Sec. 4004.153. REQUIRED CONTINUING EDUCATION REGARDING MEDICARE PRODUCTS. (a) Provides that this section applies to an agent who solicits, negotiates, procures, or collects a premium on a Medicare-related product, or represents or purports to represent an insurer, a health maintenance organization, or a preferred provider organization in relation to such a Medicare-related product.

(b) Requires that each agent described by Subsection (a) complete four hours of continuing education that specifically relates to Medicare-related products during the agent's two-year licensing period.

(c) Authorizes only training in a program that has been certified by the Texas Department of Insurance (TDI) to be used to satisfy the requirements of Subsection (b).

(d) Authorizes the continuing education required under Subsection (b) to be used to satisfy the continuing education requirements established under Subchapter B.

Sec. 4004.154. PROGRAM CERTIFICATION REQUIREMENTS. (a) Provides that Subchapter C, including the authorization to contract with an independent contractor under Section 4004.104 (Independent Contractors), applies to programs used to satisfy the requirements of Sections 4004.152 and 4004.153. Requires that professional training courses, for the purpose of administering the subchapter, be considered to be continuing education courses under Subchapter C (Continuing Education Programs).

(b) Requires the commissioner of insurance by rule to adopt criteria for the programs used to satisfy the requirements of Sections 4004.152 and 4004.153 that are designed to ensure that an agent has knowledge, understanding, and professional competence concerning a Medicare-related product. Authorizes the rules adopted under this subsection to incorporate by reference any requirements established by the Centers for Medicare and Medicaid Services or any other appropriate federal agency.

Sec. 4004.155. NONAPPLICATION OF CERTAIN EXEMPTIONS. Provides that the continuing education exemptions for certain agents established under Section 4004.052(b) (relating to an exemption from the continuing education requirements for an individual who has continuously held for at least 20 years an agent license issued under this code) and Section 9.02(e) (relating to a person who, immediately before the effective date of this Act, holds an agent license issued by TDI and who obtained that license by passing a written examination administered by any entity allowed by state law), Chapter 703 (S.B. 414), Acts of the 77th Legislature, Regular Session, 2001, do not apply to requirements under this subchapter.

SECTION 2. Requires the commissioner of insurance to adopt rules as required by Section 4004.154, Insurance Code, as added by this Act, not later than December 1, 2009.

SECTION 3. Makes application of Subchapter D, Chapter 4004 (Continuing Education), Insurance Code, as added by this Act, prospective to April 1, 2010.

SECTION 4. Effective date: September 1, 2009.