

BILL ANALYSIS

Senate Research Center

H.B. 219
By: Brimer (Patterson)
Economic Development
5-11-97
Engrossed

DIGEST

Currently, the Insurance Code contains separate agent licensing requirements for life, accident and health insurance and health maintenance organizations. Individuals lack the ability to obtain one license to sell life, accident and health insurance and HMO memberships. This bill would repeal the section of the HMO Act that stipulates licensing requirements for HMO agents and make those agents subject to the regulations governing life, accident and health insurance agents. Additionally, this bill would change the composition of the Advisory Board by reducing the number of life insurance agent representatives to one and adding an HMO representative.

PURPOSE

As proposed, H.B. 219 repeals the section of the Health Maintenance Organization Act that stipulates licensing requirements for HMO agents and makes those agents subject to the regulations governing life, accident and health insurance agents. This bill revises the composition of the Advisory Board by reducing the number of life insurance agent representatives to one and adding an HMO representative.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1, Article 21.07-1, Insurance Code, as follows:

Sec. 1. New heading: AGENT DEFINED. Provides that this Act has no application to agents for local mutual aid associations, or for statewide mutual associations or, except as provided by Subsection (a-1) of this section, for any type or kind of insurance organization other than legal reserve life insurance companies, and existing statutes. Prohibits a person or entity, unless a person or legal entity is licensed under this Act, from representing a health maintenance organization (HMO), in the solicitation, negotiation, procurement, or effectuation of HMO membership; or from being held out as representing an HMO for a purpose described by Subdivision (1) of this subsection. Redefines "agent," rather than "life-insurance agent." Redefines "sub-agent." Defines "membership."

SECTION 2. Amends Sections 3(a) and (b), Article 21.07-1, Insurance Code, to prohibit a person or corporation from acting as an agent, rather than a life insurance agent, within this state until the person or corporation has procured a license as required by the law of this state. Makes conforming changes.

SECTION 3. Amends Sections 4(a), (b), (d), (e), and (f), Article 21.07-1, Insurance Code, as follows:

(a) Requires a certain form to require the applicant to include, among other information, whether the applicant has ever held a license in any state to solicit life insurance or any other insurance or to solicit memberships; whether the applicant has been refused, or has had suspended or revoked a license to solicit life insurance or any other insurance or to solicit memberships in any state; what insurance or health care plan experience, if any, the applicant

has had; what insurance in life insurance and in the laws of this state governing insurance and HMOs the applicant has had or expects to have; whether an insurer, HMO, or general agent claims the applicant is indebted under any agency contract; and whether the applicant has had an agency contract cancelled and, if so, when, by what company, HMO, or general agent and the reasons thereto. Makes conforming changes.

(b) Requires a certain application to be accompanied by a certificate on forms prescribed by the commissioner of insurance (commissioner) and signed by an officer or properly authorized representative of the life insurance company or HMO that the applicant proposes to represent, stating certain information. Makes a conforming change.

(c) Makes no changes.

(d) Requires the commissioner, rather than the board of insurance (board), to issue a license to an individual or to a general partnership engaging in the business of insurance or acting as an agent for an HMO.

(e) Redefines "customer" set forth in Subdivision (3). Requires the ability of a certain corporation to pay any sum up to \$25,000 which it might become legally obligated to pay on account of a certain claim shall be proven, among other ways, a bond executed by such corporation as principal and a surety company authorized to do business in this state, as surety, in the principal sum of \$25,000, payable to the Department of Insurance (department), rather than the board, for the use and benefit of customers of such corporation; or a deposit of cash or securities of the class authorized by Articles 2.08 and 2.10 of the Insurance Code, having a fair market value of \$25,000 with the comptroller, rather than the state treasurer. Makes conforming and nonsubstantive changes.

(f) Requires certain applicants to complete, under the supervision of such sponsoring insurer or HMO, an education program that shall include, among other items, principles related to regulation of HMO and membership; and principles related to small employer insurance under Chapter 26, Insurance Code. Makes conforming changes.

SECTION 4. Amends Section 4A, Article 21.07-1, Insurance Code, as follows:

Sec. 4A. New heading: PERSONS OTHER THAN AGENTS WHO MAY SHARE IN PROFITS OF AN AGENT. Makes conforming and nonsubstantive changes.

SECTION 5. Amends Sections 5(a) and (c), Article 21.07-1, Insurance Code, as follows:

(a) Requires each applicant for a license to act as an agent within this state to submit to a personal written examination administered in the English and Spanish language to determine the applicant's competence with respect to insurance and annuity contracts, including, among other items, memberships. Provides that no written examination shall be required of, among others, an applicant for the renewal of a license issued under Article 21.07, Insurance Code, rather than by the board pursuant to Article 21.07, Insurance Code. Makes conforming changes.

(c) Requires the commissioner to appoint an advisory board consisting of eight persons of whom, among others, one, rather than two, shall be employed by a legal reserve life insurance company and familiar with the operations of legal reserve life insurance companies, and one shall be employed by an HMO and familiar with the operations of HMO. Makes a nonsubstantive change.

SECTION 6. Amends Section 6, Article 21.07-1, Insurance Code, to make a conforming change.

SECTION 7. Amends Sections 7(a) and (b), Article 21.07-1, Insurance Code, as follows:

(a) Makes a conforming change.

(b) Provides that the commissioner, rather than the life insurance commissioner, is further authorized to enter into reciprocal agreements with the appropriate official or any other state waiving the written examination of any applicant resident in such other state under certain conditions. Makes conforming changes.

SECTION 8. Amends Section 8, Article 21.07-1, Insurance Code, as follows:

Sec. 8. New heading: AGENT MAY BE LICENSED TO REPRESENT ADDITIONAL INSURERS OR HEALTH MAINTENANCE ORGANIZATIONS. Makes conforming and nonsubstantive changes.

SECTION 9. Amends Section 9(a), Article 21.07-1, Insurance Code, to make a conforming change.

SECTION 10. Amends Sections 10(a), (b), (c), (e), and (f), Article 21.07-1, Insurance Code, to require a certain training program to be construed so as to provide an applicant with basic knowledge of, among other items, the broad principles of HMOs, membership, and related licensing and regulating laws. Makes conforming and nonsubstantive changes.

SECTION 11. Amends Section 11(a), Article 21.07-1, Insurance Code, to make conforming changes.

SECTION 12. Amends Section 12(a), Article 21.07-1, Insurance Code, to authorize the commissioner to discipline a license holder or deny an application under Section 5, Article 21.01-2, Insurance Code, if the commissioner finds that the applicant, among other actions, has made or issued, or caused to be made or issued, any statement misrepresenting or making incomplete comparisons regarding the terms and conditions of, among other items, any membership legally issued by an HMO for the purpose of inducing or attempting to induce, among others, the member to forfeit or surrender such membership or allow it to lapse for the purpose of replacing such membership with another. Makes conforming and nonsubstantive changes.

SECTION 13. Amends Section 14, Article 21.07-1, Insurance Code, to make conforming changes.

SECTION 14. Amends Sections 16(a), (b), (c), (d), (h), (i), and (j), Article 21.07-1, Insurance Code, as follows:

(a) Redefines "accident and health agent," rather than "accident and health insurance agent."

(b) Makes conforming changes.

(c) Deletes text referring to the provisions of the health and accident insurance laws. Makes conforming changes.

(d) Provides that a written examination is not required of, among others, an applicant for license under this Section 16 if the applicant has previously been licensed and currently holds on the effective date of this section a valid license issued by the department under Section 15 or 15A, Texas HMO Act (Articles 20A.15 and 20.15A, V.T.C.S.), as those sections existed at any time before January 1, 2000, Article 21.07, Insurance Code, this Act, or Article 21.14, Insurance Code; and an applicant that is a partnership or corporation; provided, however, that a partnership or corporation may be licensed hereunder only if it otherwise complies with the provisions of Section 4 of this article, but in the application of such section to such compensation hereunder, any requirement pertaining to or reference therein to "life insurance" shall be changed and limited to "health and accident coverage," rather than "health and accident insurance," only as is intended by the terms of Section 16. Makes nonsubstantive and conforming changes.

(e)-(g) Makes no changes.

(h)-(j) Makes conforming changes.

SECTION 15. Amends Section 15(a), Article 20A.15, V.T.C.S. (Texas HMO Act), to prohibit a person or other legal entity from performing the acts of an HMO agent within this state unless such person or legal entity has a valid HMO agent's license issued pursuant to this Act or has a valid agent's or health and accident agent's license issued pursuant to Article 21.07-1, V.T.C.S.

SECTION 16. Amends Section 15A(a), Article 20A.15A, V.T.C.S., to provide that this section applies only to a person licensed to act as an agent for an HMO offering only a single health care service plan before January 1, 1998.

SECTION 17. (a) Repealers: Sections 15 and 15A, Article 20.15 and 20.15A, V.T.C.S. (Agents for Single Health Care Service Plans), effective: January 1, 2000.

(b) Prohibits the department, after December 31, 1997, from issuing or renewing a license under Section 15 or 15A, Article 20A.15 and 20A.15A, V.T.C.S., to act as an HMO agent or as an agent for an HMO offering only a single health service plan.

SECTION 18. Effective date: September 1, 1997, except as provided by SECTION 17(a). Makes application of this Act prospective to January 1, 1998.

SECTION 19. Emergency clause.