

SECOND REGULAR SESSION

# SENATE BILL NO. 773

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SHOEMYER.

Pre-filed December 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

3378S.01I

## AN ACT

To amend chapter 376, RSMo, by adding thereto one new section relating to the regulation and licensing of Medicare Advantage insurance agents, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 376, RSMo, is amended by adding thereto one new section, to be known as section 376.845, to read as follows:

**376.845. 1. As used in this section, the following terms mean:**

(1) "Applicant", a person who seeks to contract for insurance benefits;

(2) "Director", the director of the department of insurance, financial institutions and professional registration;

(3) "Medicare", the Health Insurance for the Aged Act, Title XVII of the Social Security Amendments of 1965, as amended;

(4) "Medicare Advantage plan", a private health plan approved by the Medicare Advantage Program under section 1876 of the federal Social Security Act, 42 U.S.C. section 1395 w-26;

(5) "Personal solicitation", either an on-site presentation at a facility or a home meeting with an insurance agent for the purpose of enrolling an applicant in a Medicare Advantage plan.

2. No applicant shall be enrolled in a Medicare Advantage plan until the lapse of two business days from the initial personal solicitation and the applicant has signed the disclosure described under subsection 3 of this section.

3. The disclosure shall be signed and dated by both the applicant and agent on the day of the initial personal solicitation and shall include:

21           (1) A statement that Medicare Advantage plans are not Medicare  
22 supplement policies or what are commonly referred to as Medigap  
23 plans;

24           (2) A statement that advises the applicant to confirm with his or  
25 her health care providers, including a primary care physician and  
26 hospital, whether or not the health care provider has contracted with  
27 the Medicare Advantage plan to provide medical services; and

28           (3) A statement advising the applicant to contact either a trusted  
29 family member, friend, or the state health insurance assistance  
30 program to review the plan with the applicant.

31           4. The director shall prescribe the format and content of the  
32 disclosure required under subsection 3 of this section. For purposes of  
33 this section, "format" means style, arrangements and overall  
34 appearance, including such items as the size, color and prominence of  
35 type and arrangement of text and captions. Any rule or portion of a  
36 rule, as that term is defined in section 536.010, RSMo, that is created  
37 under the authority delegated in this section shall become effective  
38 only if it complies with and is subject to all of the provisions of chapter  
39 536, RSMo, and, if applicable, section 536.028, RSMo. This section and  
40 chapter 536, RSMo, are nonseverable and if any of the powers vested  
41 with the general assembly pursuant to chapter 536, RSMo, to review, to  
42 delay the effective date, or to disapprove and annul a rule are  
43 subsequently held unconstitutional, then the grant of rulemaking  
44 authority and any rule proposed or adopted after August 28, 2008, shall  
45 be invalid and void.

46           5. A violation of any provision of this section shall constitute a  
47 level two violation under section 374.049, RSMo.

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