
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1268 Session of
2014

INTRODUCED BY EICHELBERGER, SCARNATI, ALLOWAY, ARGALL, WHITE,
RAFFERTY, FOLMER, ERICKSON, VOGEL, HUTCHINSON, VULAKOVICH,
MENSCH, WAUGH, BRUBAKER AND BROWNE, MARCH 10, 2014

REFERRED TO BANKING AND INSURANCE, MARCH 10, 2014

AN ACT

1 Regulating navigators, assisters and insurance producers in the
2 education and promotion of health insurance exchanges.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Navigator
7 Accessibility and Regulation Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Affiliate." A person that directly or indirectly, through
13 one or more intermediaries or controls, is controlled by or is
14 under common control with a specified person.

15 "Certificate." A registration confirmation certificate
16 issued by the Insurance Commissioner under section 5(b).

17 "Commissioner." The Insurance Commissioner of the

1 Commonwealth.

2 "Department." The Insurance Department of the Commonwealth.

3 "Exchange." A health insurance exchange established or
4 operating in this Commonwealth, including an exchange
5 established or operated by the United States Department of
6 Health and Human Services, under the Patient Protection and
7 Affordable Care Act (Public Law 111-148, 124 Stat. 119).

8 "Federal health care act." The Patient Protection and
9 Affordable Care Act (Public Law 111-148, 124 Stat. 119), as
10 amended by the Health Care Education Reconciliation Act of 2010
11 (Public Law 111-152, 124 Stat. 1029), and regulations or
12 guidance issued under those acts.

13 "Health insurance carrier" or "carrier." An entity, subject
14 to the insurance laws of this Commonwealth or under the
15 jurisdiction of the Insurance Commissioner, that contracts or
16 offers to contract to provide, deliver, arrange for, pay for or
17 reimburse any of the cost of a health care service. The term
18 includes:

19 (1) A sickness and accident insurance company.

20 (2) A health maintenance organization.

21 (3) A nonprofit hospital and health service
22 organization.

23 (4) An entity providing a plan of health insurance,
24 health benefits or health services.

25 (5) A qualified health plan and multistate exchange
26 where a navigator would be used.

27 "Health insurance producer" or "producer." An individual
28 licensed to sell, solicit or negotiate the sale of a contract of
29 insurance in this Commonwealth under Article VI-A of the act of
30 May 17, 1921 (P.L.789, No.285), known as The Insurance

1 Department Act of 1921. The term includes an individual
2 enrolling or supervising the enrollment of an individual or
3 small employer into an exchange.

4 "Navigator." An organization or individual certified by the
5 Insurance Commissioner under the Federal health care act to
6 provide public education or consumer assistance activities for
7 or on behalf of an exchange to uninsured individuals and groups
8 seeking health insurance coverage. The term shall include an
9 individual performing navigator duties for an organization,
10 association or business entity, if the organization, association
11 or business entity is serving as a navigator.

12 "Negotiate." To confer directly with or offer advice
13 directly to a purchaser or prospective purchaser of a contract
14 of insurance with respect to the substantive benefits, terms or
15 conditions of the contract, if the person engaged in the
16 conference or offering sells insurance or obtains insurance from
17 insurers, including insurers participating in the exchange, for
18 purchasers.

19 "Qualified employer" or "small employer." An employer with
20 50 or fewer full-time and part-time employees that elects to
21 make its full-time employees and, at the employer's option, some
22 or all of its part-time employees eligible for one or more
23 qualified health plans offered through the Small Business Health
24 Options Program Exchange.

25 "Qualified health plan." A health benefit plan that has in
26 effect a certification that the plan meets the criteria for
27 certification described in section 1311(c) of the Federal health
28 care act.

29 "Qualified individual." An individual, including a minor,
30 who:

1 (1) Seeks to enroll in a qualified health plan offered
2 by an exchange as an individual or through the Small Business
3 Health Options Program Exchange.

4 (2) Resides in this Commonwealth or is employed by a
5 small employer whose principal place of business is in this
6 Commonwealth.

7 (3) Is a citizen of the United States or an alien
8 lawfully present in the United States.

9 "Sell." To receive compensation from a source for the
10 enrollment of an individual or qualified employer into an
11 exchange or the SHOP exchange.

12 "SHOP exchange." The Small Business Health Options Program
13 described under section 1311(b)(1)(B) of the Federal health care
14 act (42 U.S.C. § 18031(b)(1)(B)).

15 "Solicit." To attempt to sell insurance or to ask or urge an
16 individual or qualified employer to apply for a kind of
17 insurance from a particular company. The term shall include any
18 of the following:

19 (1) Presenting a specific comparison of a qualified
20 health plan offered through an exchange.

21 (2) Offering to assist or assisting in the enrollment in
22 a qualified health plan on an exchange or the SHOP exchange.

23 Section 3. Certification of navigators.

24 (a) Prohibition.--An individual may not advertise a service
25 as a navigator or operate in this Commonwealth as a navigator
26 without first registering with the department.

27 (b) Application.--An individual shall register as a
28 navigator, on a form developed by the commissioner, and declare
29 under penalty of perjury that the statements made in the
30 application are true, correct and complete to the best of the

individual's knowledge and belief. Prior to approving an application, the commissioner must determine that the applicants have met the following requirements:

(1) Is at least 18 years of age.

(2) Resides in this Commonwealth or maintains a principal place of business in this Commonwealth.

(3) Is not disqualified for having committed an act that would be grounds for denial, suspension or revocation of a license as a health insurance producer.

(4) Has not had a license as a health insurance producer denied, suspended or revoked.

(5) Has submitted a full set of fingerprints to the commissioner and successfully completed a criminal history and regulatory record check.

(6) Has provided evidence of liability coverage held by the individual or organization seeking to be registered.

(7) Has identified the entity with which the individual is affiliated.

(8) Has paid the fees prescribed by the commissioner.

(9) Does not have a conflict of interest.

(c) Term.--The term of registration shall be two years from the date of issue.

(d) Prohibited registration.--It is a conflict of interest for any entity which provides health care services, or affiliate thereof, to serve as a navigator in this Commonwealth.

Section 4. Navigator scope of activity.

(a) Registration required.--An individual or organization may not act or present itself to be a navigator or receive funding as a navigator unless the individual or organization is registered as a navigator under this act.

1 (b) Powers.--A navigator may do the following:

2 (1) Conduct public education activities designed to
3 raise awareness of exchanges among underserved insurance
4 populations and the potential availability of Federal tax
5 subsidies in ways that are culturally and linguistically
6 appropriate to an underserved insurance population.

7 (2) Distribute fair and impartial general information
8 concerning enrollment in the exchange and the levels of
9 insurance available in the exchange without specifically
10 referencing or comparing the relative merits of a specific
11 qualified health plan.

12 (3) Educate underserved insurance populations on the
13 enrollment process without suggesting or facilitating
14 enrollment in a particular qualified health plan.

15 (4) Require specific membership to an organization, if
16 the organization is serving as a navigator. The following
17 shall apply to an organization under this paragraph:

18 (i) the organization must provide at least one
19 additional service, other than navigator services, to the
20 members of its organization; and

21 (ii) no other fee may be charged for utilization of
22 the navigator services.

23 (5) Receive funds from an insurance carrier which offers
24 a qualified health plan in this Commonwealth if the funds are
25 not associated with an individual who is enrolled through the
26 exchange.

27 (c) Limitations.--A navigator may not do any of the
28 following:

29 (1) Sell, solicit or negotiate insurance.

30 (2) Knowingly contact a person or business that is

1 currently insured under an existing health benefit plan.

2 (3) Make a specific recommendation for a particular
3 qualified health plan.

4 (4) Provide information or services related to health
5 benefit plans or other products not offered in the exchange
6 or SHOP exchange.

7 (5) Require that a potential enrollee in an exchange
8 perform some action, including paying a separate fee to an
9 organization, as a requirement for receiving navigator
10 assistance.

11 Section 5. Powers of the commissioner.

12 (a) Approval.--The commissioner shall approve an application
13 for navigator registration after review.

14 (b) Confirmation.--The commissioner shall issue a
15 certificate and identification card to each navigator, which
16 shall prominently list the expiration date of the registration
17 and which must be shown upon request to potential enrollees.

18 (c) Certification.--The commissioner may suspend, revoke or
19 refuse to issue or renew the certification of a navigator for
20 conduct which would prohibit an individual from being certified
21 under section 3 or a violation of this act or Article VI-A of
22 the act of May 17, 1921 (P.L.789, No.285), known as The
23 Insurance Department Act of 1921.

24 (d) Penalties.--The commissioner may do any of the
25 following:

26 (1) Impose a civil penalty of up to \$1,000 for each
27 violation of this act or of section 611-A of The Insurance
28 Department Act of 1921.

29 (2) Place a navigator under supervision.

30 (e) Rules.--The commissioner may promulgate rules necessary

1 to carry out this act.

2 Section 6. Effective date.

3 This act shall take effect immediately