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
Commonwealth.

"Department." The Insurance Department of the Commonwealth.

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

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

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

1. A sickness and accident insurance company.
2. A health maintenance organization.
3. A nonprofit hospital and health service organization.
4. An entity providing a plan of health insurance, health benefits or health services.
5. A qualified health plan and multistate exchange where a navigator would be used.

"Health insurance producer" or "producer." An individual licensed to sell, solicit or negotiate the sale of a contract of insurance in this Commonwealth under Article VI-A of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance
Department Act of 1921. The term includes an individual enrolling or supervising the enrollment of an individual or small employer into an exchange.

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

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

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

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

"Qualified individual." An individual, including a minor,
(1) Seeks to enroll in a qualified health plan offered by an exchange as an individual or through the Small Business Health Options Program Exchange.

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

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

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

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

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

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

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

Section 3. Certification of navigators.

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

(b) Application.--An individual shall register as a navigator, on a form developed by the commissioner, and declare under penalty of perjury that the statements made in the 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.
(b) Powers.--A navigator may do the following:

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

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

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

(4) Require specific membership to an organization, if the organization is serving as a navigator. The following shall apply to an organization under this paragraph:
   (i) the organization must provide at least one additional service, other than navigator services, to the members of its organization; and
   (ii) no other fee may be charged for utilization of the navigator services.

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

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

(1) Sell, solicit or negotiate insurance.

(2) Knowingly contact a person or business that is
currently insured under an existing health benefit plan.

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

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

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

Section 5. Powers of the commissioner.

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

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

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

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

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

(2) Place a navigator under supervision.

(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