
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, BRUBAKER AND BROWNE, MARCH 10, 2014

AS AMENDED ON SECOND CONSIDERATION, OCTOBER 7, 2014

AN ACT

1 Regulating navigators and assisters in the education and
2 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 and
7 Exchange Assister 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 "Commissioner." The Insurance Commissioner of the
13 Commonwealth.

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

15 "Exchange." A health insurance exchange established or
16 operating in this Commonwealth, including an exchange
17 established or operated by the United States Department of

1 Health and Human Services, under the Patient Protection and
2 Affordable Care Act (Public Law 111-148, 124 Stat. 119).

3 "Exchange assister." An individual or organization,
4 including a navigator, navigator organization or certified
5 application counselor, who provides public education or assists
6 consumers for or on behalf of an exchange. This term does not
7 include a licensed insurance producer. THIS TERM SHALL NOT <--
8 INCLUDE AN INDIVIDUAL EMPLOYED TO PROVIDE INSURANCE ENROLLMENT
9 OR COVERAGE ASSISTANCE BY A HEALTH CARE FACILITY AS DEFINED IN
10 SECTION 103 OF ACT OF JULY 19, 1979 (P.L.130, NO.48), KNOWN AS
11 THE HEALTH CARE FACILITIES ACT.

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

17 "Health insurance producer." An insurance producer with an
18 accident and health line of authority as defined in section 601-
19 A of the act of May 17, 1921 (P.L.789, No.285), known as The
20 Insurance Department Act of 1921.

21 "Insurance producer." Insurance producer has the meaning
22 given it in section 601-A of the act of May 17, 1921 (P.L.789,
23 No.285), known as The Insurance Department Act of 1921.

24 "Navigator." An organization or individual under the Federal
25 health care act that provides public education or consumer
26 assistance activities for or on behalf of an exchange to
27 uninsured individuals and groups seeking health insurance
28 coverage. The term shall include an individual performing
29 navigator duties for an organization, association or business
30 entity, if the organization, association or business entity is

1 serving as a navigator.

2 "Negotiate." The term has the same meaning given it in
3 section 601-A of the act of May 17, 1921 (P.L.789, No.285),
4 known as The Insurance Department Act of 1921.

5 "Registration." A registration certificate issued by the
6 department under section 3(c).

7 "Sell." The term has the same meaning given it in section
8 601-A of the act of May 17, 1921 (P.L.789, No.285), known as The
9 Insurance Department Act of 1921.

10 "Shop exchange." The term has the same meaning given it in
11 the Federal health care act.

12 "Solicit." The term has the same meaning given it in section
13 601-A of the act of May 17, 1921 (P.L.789, No.285), known as The
14 Insurance Department Act of 1921.

15 Section 3. Registration.

16 (a) Prohibition.--An individual or organization may not
17 advertise a service as a navigator or an exchange assister or
18 operate in this Commonwealth as a navigator or an exchange
19 assister without first registering with the department.

20 (b) Registration application.--An individual or organization
21 shall register with the department as a navigator or exchange
22 assister, on a form approved by the department. The department
23 shall review each application and may conduct an investigation
24 of each applicant who applies for a registration in accordance
25 with this act. The department shall issue a registration, as
26 appropriate, to an applicant when the department determines that
27 the applicant:

28 (1) Is at least 18 years of age.

29 (2) Resides in this Commonwealth or maintains a
30 registered place of business in this Commonwealth.

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

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

6 (5) Has submitted a completed application.

7 (6) Has submitted the applicant's fingerprints, for the
8 department to receive national criminal history records
9 information from the Criminal Justice Information Services
10 Division of the Federal Bureau of Investigation.

11 (7) Has paid the required registration fee and fees for
12 obtaining national criminal history records information
13 as prescribed by the department.

14 (c) Confirmation.--The department shall issue, in paper or
15 electronic form, a nontransferable registration certification to
16 each registered navigator or exchange assister, which shall
17 prominently list the expiration date of the registration and
18 which must be shown upon request to potential enrollees.

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

21 (e) Searchable list.--The department shall maintain and make
22 available to the public a searchable list of all registrants on
23 its publicly accessible Internet website.

24 Section 4. Scope of activity.

25 (a) Registration required.--An individual or organization
26 may not act or present itself to be a navigator or an exchange
27 assister unless the individual or organization is registered as
28 a navigator or an exchange assister under this act.

29 (b) Limitations.--A navigator or an exchange assister may
30 not engage in an activity for which licensure as a producer is

1 required, except as explicitly permitted by Federal law or
2 regulation, including any of the following:

3 (1) Sell, solicit or negotiate insurance.

4 (2) Urge or advise a prospective purchaser to buy a
5 particular policy or to insure with a particular company.

6 (3) Initiate sales over the telephone or otherwise.

7 (4) Collect premiums.

8 (5) Make or propose to make an insurance contract.

9 (6) Other than as necessary to inform a prospective
10 purchaser of the availability of health insurance off the
11 exchange, provide information or services related to health
12 benefit plans or other products other than those offered in
13 the health insurance marketplace, SHOP exchange, the
14 Children's Health Insurance Program or product available
15 through the Social Security Act (49 Stat. 620, 42 U.S.C. §301
16 et seq.).

17 (7) Initiate an inquiry as to the terms of existing
18 coverage.

19 (8) Recommend or initiate additions or deletions to an
20 insured's policy.

21 (9) Sign binders, endorsements and insurance policies.

22 (10) Authorize the issuance or delivery of certificates
23 of insurance, endorsements, binders or insurance policies on
24 insurance identification cards.

25 (11) Respond to a policyholder's request for advice or
26 counsel regarding policy provisions or coverage.

27 Section 5. Enforcement by department.

28 (a) Notice.--Upon evidence of a violation of this act or
29 Article VI-A of the act of May 17, 1921 (P.L.789, No.285), known
30 as The Insurance Department Act of 1921, the department shall

1 notify the person of the alleged violation. The notice shall
2 specify the nature of the alleged violation and fix a time and
3 place, at least ten days thereafter, when a hearing on the
4 matter shall be held.

5 (b) Hearing.--The department shall conduct the hearing on
6 the violation in accordance with 2 Pa.C.S. Ch. 5 Subch. A
7 (relating to practice and procedure of Commonwealth agencies).

8 (c) Evidence.--No person shall be excused from testifying or
9 from producing any books, papers, contracts, agreements or
10 documents at any hearing held by the commissioner on the ground
11 that the testimony or evidence may tend to incriminate that
12 person.

13 (d) Penalties.--After the hearing or upon failure of the
14 person to appear at the hearing, if a violation is found, the
15 commissioner may, in addition to any penalty which may be
16 imposed by a court, do any combination of the following deemed
17 appropriate:

18 (1) Deny, suspend, refuse to renew or revoke the
19 registration, if any, of the person.

20 (2) Impose a civil penalty of up to \$5,000 for each
21 violation of this act.

22 (3) Impose an order to cease and desist.

23 (4) Report violations of this act to the United States
24 Department of Health and Human Services.

25 (5) Refer potential violations of any laws of this
26 Commonwealth relating to privacy of personal information to
27 the Office of Attorney General.

28 (6) Enforce other violations of The Insurance Department
29 Act of 1921, as applicable.

30 (7) Impose any other conditions the commissioner deems

1 appropriate.

2 (e) Regulations and form.--The department may promulgate
3 regulations and publish forms as necessary and appropriate to
4 carry out this act.

5 Section 6. Effective date.

6 This act shall take effect February 15, 2015, or the close of
7 the 2015 open enrollment period, whichever is later.