
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1522 Session of
2013

INTRODUCED BY TOBASH, GINGRICH, MUSTIO, BAKER, TOEPEL, HARPER
AND C. HARRIS, JUNE 12, 2013

REFERRED TO COMMITTEE ON HEALTH, JUNE 12, 2013

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, 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 6(b).

17 "Commissioner." The Insurance Commissioner of the
18 Commonwealth.

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

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

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

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

18 (1) A sickness and accident insurance company.

19 (2) A health maintenance organization.

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

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

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

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

1 enrolling or supervising the enrollment of an individual or
2 small employer into an exchange.

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

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

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

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

27 "Qualified individual." An individual, including a minor,
28 who:

29 (1) Seeks to enroll in a qualified health plan offered
30 by an exchange as an individual or through the Small Business

1 Health Options Program.

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

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

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

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

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

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

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

21 Section 3. Certification of navigators.

22 (a) Prohibition.--An individual may not advertise a service
23 as a navigator or operate in this Commonwealth as a navigator
24 without first obtaining a certificate.

25 (b) Application.--An individual shall apply for a
26 certificate, on a form developed by the commissioner, and
27 declare under penalty of perjury that the statements made in the
28 application are true, correct and complete to the best of the
29 individual's knowledge and belief. Prior to approving an
30 application, the commissioner must determine that the applicants

1 have met the following requirements:

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

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

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

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

10 (5) Has completed the precertification training required
11 under section 4.

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

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

17 (8) Has identified the entity with which the individual
18 is affiliated.

19 (9) Has paid the fees prescribed by the commissioner.

20 (10) Does not have a conflict of interest.

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

23 (d) Prohibition from certification.--It is a conflict of
24 interest for any entity which provides health care services, or
25 affiliate thereof, to serve as a navigator in this Commonwealth.
26 Section 4. Training.

27 (a) Approval.--The commissioner shall approve at least one
28 training program which shall be offered by an approved
29 continuing education provider using approved instructors under
30 section 602-A(2) of the act of May 17, 1921 (P.L.789, No.285),

1 known as The Insurance Department Act of 1921.

2 (b) Continuing education credits.--The training under
3 subsection (a) may be offered for continuing education credits
4 for health insurance producers.

5 (c) Contents.--The training under subsection (a) shall
6 include, but not be limited to:

7 (1) Training on provisions of the Federal act relating
8 to exchanges.

9 (2) Levels of coverage in an exchange or SHOP exchange.

10 (3) Eligibility requirements for individuals and
11 qualified employers to purchase insurance through an exchange
12 or SHOP exchange.

13 (4) Individual eligibility requirements for Federal tax
14 subsidies, if applicable.

15 (5) Individual eligibility requirements for Medicaid.

16 (6) The use of enrollment forms in the exchange and SHOP
17 exchange.

18 (7) The distinction between navigators and insurance
19 producers.

20 (8) Limitations on services which can be provided by a
21 navigator.

22 (9) Privacy requirements for documents and other
23 information that must be safeguarded by department
24 regulations.

25 (d) Proof.--Each individual completing the training under
26 subsection (a) shall be provided with written proof of
27 completion.

28 (e) Requirement.--The training under subsection (a) must be
29 completed before an applicant can be initially certified as a
30 navigator and prior to the start of each subsequent two-year

1 term of certification.

2 Section 5. Navigator scope of activity.

3 (a) Certification required.--An individual or organization
4 may not act or present itself to be a navigator or receive
5 funding as a navigator unless the individual or organization is
6 certified as a navigator under this act.

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

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

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

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

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

24 (i) the organization must provide at least one
25 additional service, other than navigator services, to the
26 members of its organization; and

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

29 (5) Receive funds from an insurance carrier which offers
30 a qualified health plan in this Commonwealth if the funds are

1 not associated with an individual who is enrolled through the
2 exchange.

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

5 (1) Sell, solicit or negotiate insurance.

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

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

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

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

17 Section 6. Powers of the commissioner.

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

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

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

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

1 following:

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

5 (2) Place a navigator under supervision.

6 (e) Examination.--The commissioner may examine and
7 investigate business affairs and records of a navigator which
8 relate to the navigator function being carried out.

9 (f) Locator.--The commissioner shall post a navigator
10 locator function on its publicly accessible Internet website
11 which shall assist consumers in locating navigator services. The
12 locator function shall include navigators' addresses, telephone
13 numbers and e-mail addresses and must be accessible through a
14 geographic search.

15 (g) Rules.--The commissioner may promulgate rules necessary
16 to carry out this act.

17 (h) Report.--The commissioner shall provide an annual report
18 to the General Assembly and to the United States Department of
19 Health and Human Services which lists all navigators and any
20 enforcement action taken against a navigator.

21 Section 40. Effective date.

22 This act shall take effect immediately.