
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 293 Session of
2015

INTRODUCED BY EICHELBERGER, FOLMER, GORDNER, HUTCHINSON, WAGNER,
BARTOLOTTA, VULAKOVICH, WHITE, SCARNATI, ALLOWAY, RAFFERTY,
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JANUARY 20, 2015

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF
REPRESENTATIVES, AS AMENDED, MAY 11, 2015

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

1 established or operated by the United States Department of
2 Health and Human Services, under the Federal health care act.

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

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

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

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

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

6 "SHOP Exchange." The term has the same meaning given it in
7 the Federal health care act.

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

11 Section 3. Registration.

12 (a) Prohibition.--An individual or organization may not
13 advertise a service as a navigator or an exchange assister or
14 operate in this Commonwealth as a navigator or an exchange
15 assister without first registering with the department.

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

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

25 (2) Resides in this Commonwealth or maintains a
26 registered place of business in this Commonwealth.

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

30 (4) Has not had a license as an insurance producer

1 denied, suspended or revoked.

2 (5) Has submitted a completed application.

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

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

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

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

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

20 Section 4. Scope of activity.

21 (a) Registration required.--An individual or organization
22 may not act or present itself to be a navigator or an exchange
23 assister unless the individual or organization is registered as
24 a navigator or an exchange assister under this act.

25 (b) Limitations.--A navigator or an exchange assister may
26 not engage in an activity for which licensure as a producer is
27 required, except as explicitly permitted by Federal law or
28 regulation, including any of the following:

29 (1) Sell, solicit or negotiate insurance.

30 (2) Urge or advise a prospective purchaser to buy a

1 particular policy or to insure with a particular company.

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

3 (4) Collect premiums.

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

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

13 ~~(7) Initiate an inquiry as to the terms of existing~~ <--
14 ~~coverage.~~

15 ~~(8)~~ (7) Recommend or initiate additions or deletions to <--
16 an insured's policy.

17 ~~(9)~~ (8) Sign binders, endorsements and insurance <--
18 policies.

19 ~~(10)~~ (9) Authorize the issuance or delivery of <--
20 certificates of insurance, endorsements, binders or insurance
21 policies on insurance identification cards.

22 ~~(11) Respond to a policyholder's request for advice or~~ <--
23 ~~counsel regarding policy provisions or coverage.~~

24 Section 5. Enforcement by department.

25 (a) Notice.--Upon evidence of a violation of this act or
26 Article VI-A of the act of May 17, 1921 (P.L.789, No.285), known
27 as The Insurance Department Act of 1921, the department shall
28 notify the person of the alleged violation. The notice shall
29 specify the nature of the alleged violation and fix a time and
30 place, at least 10 days thereafter, when a hearing on the matter

1 shall be held.

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

5 (c) Evidence.--A person may not be excused from testifying
6 or from producing any books, papers, contracts, agreements or
7 documents at any hearing held by the commissioner on the ground
8 that the testimony or evidence may tend to incriminate that
9 person.

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

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

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

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

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

22 (5) Refer potential violations of any laws of this
23 Commonwealth relating to privacy of personal information to
24 the Office of Attorney General.

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

27 (7) Impose any other conditions the commissioner deems
28 appropriate.

29 (e) Regulations and form.--The department may promulgate
30 regulations and publish forms as necessary and appropriate to

1 carry out this act.

2 Section 6. Effective date.

3 This act shall take effect February 15, 2016, or the close of
4 the 2016 open enrollment period, whichever is later.