

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 3286

By: Mulready, Sherrer, Ritze
and McDaniel (Jeannie) of
the House

and

Stanislawski of the Senate

8 An Act relating to insurance; stating legislative
9 finding; defining terms; requiring navigators that
10 provide certain services to be registered; providing
11 application requirements; requiring the Insurance
12 Commissioner to develop certain form; providing
13 duration of license; providing requirements for
14 renewal of license; requiring registered navigator to
15 provide disclaimers, make certain recordings and
16 allow certain inspections; providing penalties for
17 certain violations; prohibiting certain actions by
18 navigators; directing navigators to provide certain
19 information; providing that navigator registration
20 will not constitute other certain licensing;
21 authorizing the Insurance Commissioner to promulgate
22 rules; providing for codification; and declaring an
23 emergency.

18 AUTHOR: Add the following House Coauthor: Shelton

19 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
entire bill and insert

21 "An Act relating to insurance; defining terms;
22 requiring navigators that provide certain services to
23 be registered; providing application requirements;
24 requiring the Insurance Commissioner to develop
certain form; providing duration of license;
providing requirements for renewal of license;
requiring registered navigator to provide
disclaimers, make certain recordings and allow

1 certain inspections; providing penalties for certain
2 violations; prohibiting certain actions by
3 navigators; directing navigators to provide certain
4 information; providing that navigator registration
5 will not constitute other certain licensing;
6 authorizing the Insurance Commissioner to promulgate
7 rules; providing for codification; and providing an
8 effective date.

9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 1. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1415.2 of Title 36, unless there
12 is created a duplication in numbering, reads as follows:

13 As used in this act, the term:

14 1. "Exchange" means a state, federal, or partnership exchange
15 or marketplace operating in Oklahoma pursuant to Section 1311 or
16 Section 1321 of the federal act;

17 2. "Federal act" means the federal Patient Protection and
18 Affordable Care Act (Public Law 111-148), as amended by the federal
19 Health Care and Education Reconciliation Act of 2010 (Public Law
20 111-152), and regulations or guidance issued under those acts;

21 3. "Navigator" means a person, including assistor, application
22 counselor or other person, certified or designated by an exchange to
23 facilitate enrollment in health benefit plans offered by an exchange
24 or to perform any of the other acts described in Section 1311(i) of
the federal act. Such term does not include a person licensed as a
health insurance producer under the Oklahoma Producer Licensing Act.

1 For the purposes of this act, if an organization or business entity
2 serves as a navigator, an individual performing navigator duties for
3 that organization or business entity shall be considered to be
4 acting in the capacity of a navigator;

5 4. "Navigator entity" means an organization or business entity
6 which employs or oversees the activities of a navigator or which has
7 received and possesses funding for the purpose of employing or
8 overseeing navigators; and

9 5. "Registered navigator" means a navigator who has applied,
10 been approved, and maintains approval under the requirements of this
11 act.

12 SECTION 2. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1415.3 of Title 36, unless there
14 is created a duplication in numbering, reads as follows:

15 A. No navigator shall provide assistance with regard to health
16 benefit plans as a navigator in this state under the provisions of
17 the federal act unless registered in accordance with this act. The
18 Insurance Commissioner must maintain a registry of navigators.

19 B. An individual applying for a navigator registration shall
20 make application on a form developed by the Commissioner and shall
21 declare under penalty of refusal, suspension, or revocation of the
22 registration that the statements made in the application are true,
23 correct, and complete to the best of the applicant's knowledge. The
24

1 Commissioner may not allow any applicant to register who does not
2 meet or conform to the following qualifications or requirements:

3 1. The applicant shall establish to the satisfaction of the
4 Commissioner that he or she has read and will comply with written
5 materials provided by the Commissioner concerning ethics, consumer
6 privacy, the insurance laws of this state, and any other topic or
7 topics the Commissioner deems necessary and attests to such
8 understanding and intent to comply with all state statutes and
9 rules;

10 2. The applicant shall attest to an understanding of the
11 disclosure and recordkeeping requirements of the registry and the
12 ability to provide and maintain such documents;

13 3. An applicant shall be not less than eighteen (18) years of
14 age and of good moral character;

15 4. The applicant shall successfully complete a criminal history
16 and regulatory background investigation in the manner that the
17 Commissioner requires;

18 5. The applicant shall identify the entity with which he or she
19 is, or will be, affiliated and supervised; and

20 6. The applicant shall pay a registration fee prescribed by the
21 Commissioner not to exceed Fifty Dollars (\$50.00).

22 C. An entity applying for a navigator entity registration shall
23 make application on a form developed by the Commissioner and shall
24 declare under penalty of refusal, suspension or revocation of the

1 registration that the statements made in the application are true,
2 correct and complete to the best of the applicant's knowledge. The
3 Commissioner shall not issue a registration to any entity applicant
4 that does not meet or conform to the following qualifications or
5 requirements:

6 1. Establishes policies and procedures to ensure that acts that
7 may be performed only by a registered navigator or licensed producer
8 are performed by persons who are appropriately registered or
9 licensed;

10 2. Acknowledges and accepts legal responsibility for the acts
11 of the individual navigators that it employs, supervises, or is
12 affiliated with that are performed in this state and that are within
13 the scope of the navigator's apparent authority; and

14 3. Pays a registration fee prescribed by the Commissioner not
15 to exceed Fifty Dollars (\$50.00).

16 D. The registration of an individual navigator or navigator
17 entity shall expire one year after issuance. An individual
18 applicant for a renewal registration shall provide proof that he or
19 she has completed continuing education as required under the federal
20 act and shall establish to the satisfaction of the Commissioner that
21 he or she has read and will comply with written materials provided
22 by the Commissioner concerning ethics, consumer privacy, the
23 insurance laws of this state and any other topic or topics the
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1 commissioner deems necessary and attests to such understanding and
2 intent to comply with all state statutes and rules.

3 E. A registered individual navigator must:

4 1. Provide a disclaimer in a form prescribed by the
5 Commissioner to each individual or group whom the navigator assists,
6 which shall include the name of the navigator and the navigator
7 entity;

8 2. Record the name and contact information for each individual
9 or group whom the navigator assists in enrolling on the Exchange and
10 the date of contact and provide such information to the navigator
11 entity immediately;

12 3. Allow for an inspection of operations and records
13 specifically related to the fulfillment of the enrollment or
14 assistance with enrollment duties as required by this act by the
15 navigator at any time, including providing reports as requested by
16 the Commissioner;

17 4. Report to the Commissioner any administrative action taken
18 by a governmental agency against the navigator in this state or in
19 any other jurisdiction within thirty (30) calendar days of the final
20 disposition of the matter;

21 5. Report to the Commissioner any criminal prosecution of the
22 navigator taken in any jurisdiction within thirty (30) calendar days
23 of the initial pretrial hearing date; and

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1 6. Notify the Commissioner within ten (10) calendar days of any
2 action by an exchange or related party that restricts or terminates
3 the navigator's authorization to act as a navigator.

4 F. A registered navigator entity must:

5 1. Maintain a record of all individuals employed or overseen as
6 a navigator for a period of three (3) years following the
7 termination of the employment or oversight of the individual as a
8 navigator;

9 2. Maintain all records required to be provided to the
10 navigator entity by registered navigators for a period of three (3)
11 years following the termination of the employment or oversight of
12 each individual as a navigator;

13 3. Allow for an inspection of operations and records
14 specifically related to the fulfillment of the enrollment or
15 assistance with enrollment duties as required by this act by the
16 navigator at any time, including providing reports as requested by
17 the Commissioner;

18 4. Provide the Commissioner with a list of all individual
19 navigators that it employs, supervises or is affiliated with, in a
20 manner prescribed by the Commissioner; and

21 5. Report to the Commissioner any termination of employment,
22 engagement, affiliation or other relationship with an individual
23 navigator within thirty (30) days, using a format prescribed by the
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1 Commissioner, if the navigator is terminated for failing to comply
2 with any requirement of this title.

3 G. Any person who acts as a navigator without holding an active
4 registration at the time of the action shall be guilty of a
5 misdemeanor and shall be punished by the imposition of a fine of not
6 more than Two Hundred Fifty Dollars (\$250.00) or imprisonment in the
7 county jail for not less than three (3) months nor more than six (6)
8 months, or be punished by both such fine and imprisonment.

9 H. Any navigator who violates the provisions of this act shall
10 be subject to a civil fine of not less than Fifty Dollars (\$50.00)
11 nor more than Five Hundred Dollars (\$500.00) for each occurrence.

12 I. Any navigator entity that allows an individual who is
13 employed or overseen by the navigator entity to interact with
14 individuals or groups performing any of the functions of a navigator
15 without an active registration shall be subject to a civil fine of
16 not more than Five Hundred Dollars (\$500.00) for each individual or
17 group with whom the unregistered individual interacts as a navigator
18 and a civil fine of not more than Fifty Dollars (\$50.00) for each
19 day the unregistered individual performs acts as a navigator.

20 J. Any navigator entity that fails to retain the documentation
21 required by this act shall be subject to a civil fine of not less
22 than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars
23 (\$500.00) for each occurrence.

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1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1415.4 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Violation of any provision of Title 36 of the Oklahoma
5 Statutes or the federal Patient Protection and Affordable Care Act,
6 including any act or omission that would be a ground for denial,
7 suspension or revocation of the license of an insurance producer
8 under the Oklahoma Producer Licensing Act and of the license of a
9 managing general agent under the Managing General Agents Act, shall
10 be a ground for the denial, suspension, revocation, or refusal to
11 renew a registration, the levy of a fine or any combination of
12 actions.

13 B. Registration as a navigator pursuant to the provisions of
14 this act shall not constitute licensing as a producer as defined in
15 the Oklahoma Producer Licensing Act.

16 C. Navigators shall not, except as specifically required by the
17 provisions of the federal act:

18 1. Provide advice about which health benefit plan or benefits,
19 terms and features of a particular health benefit plan are better or
20 worse for a particular individual or business;

21 2. Recommend a particular health benefit plan or advise
22 individuals or businesses about which health benefit plan to choose;

23 3. Receive any commission, compensation or anything of value
24 from any insurer, health benefit plan, business or consumer for

1 performing activities specifically required to be provided as a
2 navigator pursuant to the provisions of the federal act;

3 4. Accept any compensation or anything of value that is
4 dependent, in whole or in part, on whether a person enrolls in or
5 purchases a health plan;

6 5. Offer gifts of any value to enrollees or prospective
7 enrollees as an inducement to, or conditioned upon, the submission
8 of an application for health insurance or the purchase or renewal of
9 a health plan;

10 6. Engage in door-to-door solicitations, make unsolicited
11 telephone calls, or send unsolicited electronic communications;

12 7. Solicit any person that is known to be currently insured
13 under a health benefit plan;

14 8. Engage in voter registration activities while performing the
15 duties of a navigator;

16 9. Make or cause to be made any communication relating to the
17 exchange, health benefit plans, an insurance contract, the insurance
18 business, any insurer or any producer that contains false, deceptive
19 or misleading information;

20 10. Engage in any unfair method of competition or any
21 fraudulent, deceptive or dishonest act or practice; or

22 11. Violate any applicable insurance law or regulation of this
23 state or any subpoena or order of the Commissioner.

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1 ENGROSSED HOUSE
2 BILL NO. 3286

By: Mulready, Sherrer, Ritze
and McDaniel (Jeannie) of
the House

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4 and

5 Stanislawski of the Senate
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8 An Act relating to insurance; stating legislative
9 finding; defining terms; requiring navigators that
10 provide certain services to be registered; providing
11 application requirements; requiring the Insurance
12 Commissioner to develop certain form; providing
13 duration of license; providing requirements for
14 renewal of license; requiring registered navigator to
15 provide disclaimers, make certain recordings and
16 allow certain inspections; providing penalties for
17 certain violations; prohibiting certain actions by
18 navigators; directing navigators to provide certain
19 information; providing that navigator registration
20 will not constitute other certain licensing;
21 authorizing the Insurance Commissioner to promulgate
22 rules; providing for codification; and declaring an
23 emergency.
24

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 6. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1415.1 of Title 36, unless there
21 is created a duplication in numbering, reads as follows:

22 The Legislature finds that the provisions of the federal Patient
23 Protection and Affordable Care Act may cause the formation of health
24 insurance exchanges operating in Oklahoma under federal law and

1 employing navigators or navigator entities whose role will be to
2 direct individuals and companies to resources where health insurance
3 policies can be purchased. The Legislature further finds that the
4 registration of such navigators or navigator entities will ensure
5 that they are subject to appropriate oversight in the state-
6 regulated industry of health insurance, which is necessary to avoid
7 substantial risk to the health, safety and welfare of the residents
8 of this state.

9 SECTION 7. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1415.2 of Title 36, unless there
11 is created a duplication in numbering, reads as follows:

12 As used in this act, the term:

13 1. "Exchange" means a state, federal, or partnership exchange
14 or marketplace operating in Oklahoma pursuant to Section 1311 or
15 Section 1321 of the federal act;

16 2. "Federal act" means the federal Patient Protection and
17 Affordable Care Act (Public Law 111-148), as amended by the federal
18 Health Care and Education Reconciliation Act of 2010 (Public Law
19 111-152), and regulations or guidance issued under those acts;

20 3. "Navigator" means a person, including assistor, application
21 counselor or other person, certified or designated by an exchange to
22 facilitate enrollment in health benefit plans offered by an exchange
23 or to perform any of the other acts described in Section 1311(i) of
24 the federal act. Such term does not include a person licensed as a

1 health insurance producer under the Oklahoma Producer Licensing Act.
2 For the purposes of this act, if an organization or business entity
3 serves as a navigator, an individual performing navigator duties for
4 that organization or business entity shall be considered to be
5 acting in the capacity of a navigator;

6 4. "Navigator entity" means an organization or business entity
7 which employs or oversees the activities of a navigator or which has
8 received and possesses funding for the purpose of employing or
9 overseeing navigators; and

10 5. "Registered navigator" means a navigator who has applied,
11 been approved, and maintains approval under the requirements of this
12 act.

13 SECTION 8. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1415.3 of Title 36, unless there
15 is created a duplication in numbering, reads as follows:

16 A. No navigator shall provide assistance with regard to health
17 benefit plans as a navigator in this state under the provisions of
18 the federal act unless registered in accordance with this act. The
19 Insurance Commissioner must maintain a registry of navigators.

20 B. An individual applying for a navigator registration shall
21 make application on a form developed by the Commissioner and shall
22 declare under penalty of refusal, suspension, or revocation of the
23 registration that the statements made in the application are true,
24 correct, and complete to the best of the applicant's knowledge. The

1 Commissioner may not allow any applicant to register who does not
2 meet or conform to the following qualifications or requirements:

3 1. The applicant shall establish to the satisfaction of the
4 Commissioner that the applicant has completed four (4) clock hours
5 of study provided by the Commissioner concerning ethics and the
6 insurance laws of this state, and any other topic or topics the
7 Commissioner deems necessary and attests to such understanding and
8 intent to comply with all state statutes and rules;

9 2. The applicant shall attest to an understanding of the
10 disclosure and recordkeeping requirements of the registry and the
11 ability to provide and maintain such documents;

12 3. An applicant shall be not less than eighteen (18) years of
13 age and of good moral character;

14 4. The applicant shall successfully complete a criminal history
15 and regulatory background investigation in the manner that the
16 Commissioner requires;

17 5. The applicant shall identify the entity with which he or she
18 is, or will be, affiliated and supervised; and

19 6. The applicant shall pay a registration fee prescribed by the
20 Commissioner not to exceed Fifty Dollars (\$50.00).

21 C. An entity applying for a navigator entity registration shall
22 make application on a form developed by the Commissioner and shall
23 declare under penalty of refusal, suspension, or revocation of the
24 registration that the statements made in the application are true,

1 correct, and complete to the best of the applicant's knowledge. The
2 Commissioner shall not issue a registration to any entity applicant
3 that does not meet or conform to the following qualifications or
4 requirements:

5 1. Establishes policies and procedures to ensure that acts that
6 may be performed only by a registered navigator or licensed producer
7 are performed by persons who are appropriately registered or
8 licensed;

9 2. Acknowledges and accepts legal responsibility for the acts
10 of the individual navigators that it employs, supervises, or is
11 affiliated with that are performed in this state and that are within
12 the scope of the navigator's apparent authority; and

13 3. Pays a registration fee prescribed by the Commissioner not
14 to exceed Fifty Dollars (\$50.00).

15 D. The registration of an individual navigator or navigator
16 entity shall expire one (1) year after issuance. An individual
17 applicant for a renewal registration must complete at least four (4)
18 hours of continuing education biennially approved or authorized by
19 the Commissioner.

20 E. A registered individual navigator must:

21 1. Provide a disclaimer in a form prescribed by the
22 Commissioner to each individual or group whom the navigator assists,
23 which shall include the name of the navigator and the navigator
24 entity;

1 2. Record the name and contact information for each individual
2 or group with whom the navigator interacts and the date of contact,
3 and provide such information to the navigator entity immediately;

4 3. Allow for an inspection of operations and records related to
5 the fulfillment of navigator duties at any time, including providing
6 reports as requested by the Commissioner;

7 4. Report to the Commissioner any administrative action taken
8 by a governmental agency against the navigator in this state or in
9 any other jurisdiction within thirty (30) calendar days of the final
10 disposition of the matter;

11 5. Report to the Commissioner any criminal prosecution of the
12 navigator taken in any jurisdiction within thirty (30) calendar days
13 of the initial pretrial hearing date; and

14 6. Notify the Commissioner within ten (10) calendar days of any
15 action by an exchange or related party that restricts or terminates
16 the navigator's authorization to act as a navigator.

17 F. A registered navigator entity must:

18 1. Maintain a record of all individuals employed or overseen as
19 a navigator for a period of three (3) years following the
20 termination of the employment or oversight of the individual as a
21 navigator;

22 2. Maintain all records required to be provided to the
23 navigator entity by registered navigators for a period of three (3)
24

1 years following the termination of the employment or oversight of
2 each individual as a navigator;

3 3. Allow for an inspection of operations and records related to
4 the fulfillment of navigator duties at any time, including providing
5 reports as requested by the Commissioner;

6 4. Provide the Commissioner with a list of all individual
7 navigators that it employs, supervises, or is affiliated with, in a
8 manner prescribed by the Commissioner; and

9 5. Report to the Commissioner any termination of employment,
10 engagement, affiliation, or other relationship with an individual
11 navigator within thirty (30) days, using a format prescribed by the
12 Commissioner, if the navigator is terminated for failing to comply
13 with any requirement of this title.

14 G. Any person who acts as a navigator without holding an active
15 registration at the time of the action shall be guilty of a
16 misdemeanor and shall be punished by the imposition of a fine of not
17 more than Two Hundred Fifty Dollars (\$250.00) or imprisonment in the
18 county jail for not less than three (3) months nor more than six (6)
19 months, or be punished by both said fine and imprisonment.

20 H. Any navigator who violates the provisions of this act shall
21 be subject to a civil fine of not less than Fifty Dollars (\$50.00)
22 nor more than Five Hundred Dollars (\$500.00) for each occurrence.

23 I. Any navigator entity that allows an individual who is
24 employed or overseen by the navigator entity to interact with

1 individuals or groups performing any of the functions of a navigator
2 without an active registration shall be subject to a civil fine of
3 not more than Five Hundred Dollars (\$500.00) for each individual or
4 group with whom the unregistered individual interacts as a navigator
5 and a civil fine of not more than Fifty Dollars (\$50.00) for each
6 day the unregistered individual performs acts as a navigator.

7 J. Any navigator entity that fails to retain the documentation
8 required by this act shall be subject to a civil fine of not less
9 than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars
10 (\$500.00) for each occurrence.

11 SECTION 9. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1415.4 of Title 36, unless there
13 is created a duplication in numbering, reads as follows:

14 A. Violation of any provision of Title 36 of the Oklahoma
15 Statutes or the federal Patient Protection and Affordable Care Act,
16 including any act or omission that would be a ground for denial,
17 suspension or revocation of the license of an insurance producer
18 under the Oklahoma Producer Licensing Act and of the license of a
19 managing general agent under the Managing General Agents Act, shall
20 be a ground for the denial, suspension, revocation, or refusal to
21 renew a registration, the levy of a fine, or any combination of
22 actions.

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1 B. Registration as a navigator pursuant to the provisions of
2 this act shall not constitute licensing as a producer as defined in
3 the Oklahoma Producer Licensing Act.

4 C. Navigators shall not, except as specifically required by the
5 provisions of the federal act:

6 1. Provide advice about which health benefit plan or benefits,
7 terms and features of a particular health benefit plan are better or
8 worse for a particular individual or business;

9 2. Recommend a particular health benefit plan or advise
10 individuals or businesses about which health benefit plan to choose;

11 3. Receive any commission, compensation or anything of value
12 from any insurer, health benefit plan, business, or consumer for
13 performing activities specifically required to be provided as a
14 navigator pursuant to the provisions of the federal act;

15 4. Accept any compensation or anything of value that is
16 dependent, in whole or in part, on whether a person enrolls in or
17 purchases a health plan;

18 5. Offer gifts of any value to enrollees or prospective
19 enrollees as an inducement to, or conditioned upon, the submission
20 of an application for health insurance or the purchase or renewal of
21 a health plan;

22 6. Engage in door-to-door solicitations, make unsolicited
23 telephone calls, or send unsolicited electronic communications;

1 7. Solicit any person that is known to be currently insured
2 under a health benefit plan;

3 8. Engage in voter registration activities while performing the
4 duties of a navigator;

5 9. Make or cause to be made any communication relating to the
6 exchange, health benefit plans, an insurance contract, the insurance
7 business, any insurer, or any producer that contains false,
8 deceptive, or misleading information;

9 10. Engage in any unfair method of competition or any
10 fraudulent, deceptive, or dishonest act or practice; or

11 11. Violate any applicable insurance law or regulation of this
12 state or any subpoena or order of the Commissioner.

13 SECTION 10. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1415.5 of Title 36, unless there
15 is created a duplication in numbering, reads as follows:

16 The Insurance Commissioner shall be authorized to adopt rules
17 and regulations to effect the implementation of this act.

18 SECTION 11. It being immediately necessary for the preservation
19 of the public peace, health and safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

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1 Passed the House of Representatives the 11th day of March, 2014.

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3 _____
4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2014.

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8 _____
9 Presiding Officer of the Senate