

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 3286

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

6 and

7 Stanislawski of the Senate

8
9 COMMITTEE SUBSTITUTE

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

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

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

As used in this act, the term:

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

4 2. "Federal act" means the federal Patient Protection and
5 Affordable Care Act (Public Law 111-148), as amended by the federal
6 Health Care and Education Reconciliation Act of 2010 (Public Law
7 111-152), and regulations or guidance issued under those acts;

8 3. "Navigator" means a person, including assistor, application
9 counselor or other person, certified or designated by an exchange to
10 facilitate enrollment in health benefit plans offered by an exchange
11 or to perform any of the other acts described in Section 1311(i) of
12 the federal act. Such term does not include a person licensed as a
13 health insurance producer under the Oklahoma Producer Licensing Act.
14 For the purposes of this act, if an organization or business entity
15 serves as a navigator, an individual performing navigator duties for
16 that organization or business entity shall be considered to be
17 acting in the capacity of a navigator;

18 4. "Navigator entity" means an organization or business entity
19 which employs or oversees the activities of a navigator or which has
20 received and possesses funding for the purpose of employing or
21 overseeing navigators; and

22 5. "Registered navigator" means a navigator who has applied,
23 been approved, and maintains approval under the requirements of this
24 act.

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

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

8 B. An individual applying for a navigator registration shall
9 make application on a form developed by the Commissioner and shall
10 declare under penalty of refusal, suspension, or revocation of the
11 registration that the statements made in the application are true,
12 correct, and complete to the best of the applicant's knowledge. The
13 Commissioner may not allow any applicant to register who does not
14 meet or conform to the following qualifications or requirements:

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

21 2. The applicant shall attest to an understanding of the
22 disclosure and recordkeeping requirements of the registry and the
23 ability to provide and maintain such documents;

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

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

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

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

10 C. An entity applying for a navigator entity registration shall
11 make application on a form developed by the Commissioner and shall
12 declare under penalty of refusal, suspension, or revocation of the
13 registration that the statements made in the application are true,
14 correct, and complete to the best of the applicant's knowledge. The
15 Commissioner shall not issue a registration to any entity applicant
16 that does not meet or conform to the following qualifications or
17 requirements:

18 1. Establishes policies and procedures to ensure that acts that
19 may be performed only by a registered navigator or licensed producer
20 are performed by persons who are appropriately registered or
21 licensed;

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

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

5 D. The registration of an individual navigator or navigator
6 entity shall expire one (1) year after issuance. An individual
7 applicant for a renewal registration must complete at least four (4)
8 hours of continuing education biennially approved or authorized by
9 the Commissioner.

10 E. A registered individual navigator must:

11 1. Provide a disclaimer in a form prescribed by the
12 Commissioner to each individual or group whom the navigator assists,
13 which shall include the name of the navigator and the navigator
14 entity;

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

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

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

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

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

7 F. A registered navigator entity must:

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

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

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

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

22 5. Report to the Commissioner any termination of employment,
23 engagement, affiliation, or other relationship with an individual
24 navigator within thirty (30) days, using a format prescribed by the

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 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,
19 deceptive, 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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SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1415.5 of Title 36, unless there is created a duplication in numbering, reads as follows:

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

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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