STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 3286 By: Mulready

COMMITTEE SUBSTITUTE

An Act relating to insurance; stating legislative finding; defining terms; requiring navigators that provide certain services to be registered; providing application requirements; requiring registered navigator to provide disclaimers, make certain recordings and allow certain inspections; providing penalties for certain violations; prohibiting certain actions by navigators; directing navigators to provide certain information; providing that navigator registration will not constitute other certain licensing; authorizing the Insurance Commissioner to promulgate rules; providing for codification; and providing an effective date.

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 1415.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

3. "Navigator" means an individual, including assistor, application counselor or other person, authorized pursuant to the federal act to provide insurance advice and guidance to uninsured individuals and groups seeking health insurance coverage. For the purposes of this act, if an organization or business entity serves

as a navigator, an individual performing navigator duties for that organization or business entity shall be considered to be acting in the capacity of a navigator;

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

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

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

A. No navigator shall provide advice, guidance or other assistance with regard to health benefit plans as a navigator in this state under the provisions of the federal act unless registered in accordance with this act. The Insurance Commissioner must maintain a registry of navigators.

B. The Commissioner may not allow any applicant to register who does not meet or conform to the following qualifications or requirements:

1. The applicant shall establish to the satisfaction of the Commissioner that the applicant has studied and understands self-study and reference educational materials equivalent to four (4)

clock hours of study provided by the Commissioner on the regulation of the sale, solicitation, and negotiation of insurance in this state, and attests to such understanding and intent to comply with all state statutes and rules;

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

3. An applicant shall be not less than eighteen (18) years of age and of good moral character and must submit in a form approved by the Commissioner such information, including, without limitation, criminal history and regulatory background information as the Commissioner may require.

C. A registered navigator must:

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

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

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

D. A navigator entity must:

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

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

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

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

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

G. Any navigator entity that allows an individual who is employed or overseen by the navigator entity to interact with individuals or groups performing any of the functions of a navigator

without an active registration shall be subject to a civil fine of not more than Five Hundred Dollars ($500.00) for each individual or group with whom the unregistered individual interacts as a navigator and a civil fine of not more than Fifty Dollars ($50.00) for each day the unregistered individual performs acts as a navigator.

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

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1415.4 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Violation of any provision of Title 36 of the Oklahoma Statutes or the federal Patient Protection and Affordable Care Act, including any act or omission that would be a ground for denial, suspension or revocation of the license of an insurance producer under the Oklahoma Producer Licensing Act and of the license of a managing general agent under the Managing General Agents Act, shall be a ground for revocation of a registration under this act.

B. No navigator shall solicit any person or business that is currently insured under an existing health benefit plan.

C. No navigator shall receive any commission, compensation or anything of value from any insurer, health benefit plan, business or consumer for providing advice or services specifically authorized to

be provided as a navigator pursuant to the provisions of the federal act. Navigators shall be compensated for advice or services rendered pursuant to the provisions of the federal act only as provided for by the federal act.

D. Navigators shall provide factually accurate information to uninsured persons and businesses regarding the availability of premium tax credits under Section 36B of the Internal Revenue Code of 1986 and cost-sharing reductions under Section 1402 of the federal Patient Protection and Affordable Care Act.

E. Registration as a navigator pursuant to the provisions of this act shall not constitute licensing as a producer as defined in the Oklahoma Producer Licensing Act. No person providing advice or services as a navigator under the provisions of the federal act shall be compensated for such advice or services as the holder of a license issued pursuant to the Oklahoma Producer Licensing Act; provided, however, that the provisions of this subsection shall not prohibit the holder of a license issued pursuant to the Oklahoma Producer Licensing Act from being compensated for advice or services rendered as such a licensee and not as a navigator. Navigators registered pursuant to the provisions of this act shall not, except as specifically authorized by the provisions of the federal act:

1. Engage in any activities that would require licensing pursuant to the provisions of the Oklahoma Producer Licensing Act unless licensed thereunder;

2. Provide advice concerning the benefits, terms and features of a particular health benefit plan or offer advice about which health benefit plan is better or worse for a particular individual or business, except in the capacity of a licensee pursuant to the provisions of the Oklahoma Producer Licensing Act; or

3. Recommend a particular health benefit plan or advise individuals or businesses about which health benefit plan to choose, except in the capacity of a licensee pursuant to the provisions of the Oklahoma Producer Licensing Act.

SECTION 5. 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 6. This act shall become effective November 1, 2014.

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