

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 HOUSE BILL 3286

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

6 and

7 Stanislawski of the Senate

8  
9  
10 COMMITTEE SUBSTITUTE

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

1 As used in this act, the term:

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

5 2. "Federal act" means the federal Patient Protection and  
6 Affordable Care Act (Public Law 111-148), as amended by the federal  
7 Health Care and Education Reconciliation Act of 2010 (Public Law  
8 111-152), and regulations or guidance issued under those acts;

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

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

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

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

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

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

18           1. The applicant shall establish to the satisfaction of the  
19 Commissioner that he or she has read and will comply with written  
20 materials provided by the Commissioner concerning ethics, consumer  
21 privacy, the insurance laws of this state, and any other topic or  
22 topics the Commissioner deems necessary and attests to such  
23 understanding and intent to comply with all state statutes and  
24 rules;

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

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

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

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

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

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

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

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

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

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

17           E. A registered individual navigator must:

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

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

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

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

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

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

14 F. A registered navigator entity must:

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

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

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

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

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

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

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

21           I. Any navigator entity that allows an individual who is  
22 employed or overseen by the navigator entity to interact with  
23 individuals or groups performing any of the functions of a navigator  
24 without an active registration shall be subject to a civil fine of

1 not more than Five Hundred Dollars (\$500.00) for each individual or  
2 group with whom the unregistered individual interacts as a navigator  
3 and a civil fine of not more than Fifty Dollars (\$50.00) for each  
4 day the unregistered individual performs acts as a navigator.

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

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

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

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

24

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

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

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

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

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

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

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

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

23 8. Engage in voter registration activities while performing the  
24 duties of a navigator;

1           9. Make or cause to be made any communication relating to the  
2 exchange, health benefit plans, an insurance contract, the insurance  
3 business, any insurer, or any producer that contains false,  
4 deceptive, or misleading information;

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

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

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

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

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

18

19           54-2-3566       GL           3/27/2014 11:05:27 AM

20

21

22

23

24