

An Act

ENROLLED HOUSE
BILL NO. 3286

By: Mulready, Ritze and Wood of
the House

and

Stanislawski of the Senate

An Act relating to insurance; defining terms; requiring navigators that provide certain services to be registered; providing application requirements; 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 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.

SUBJECT: Insurance navigators

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. "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 a person, including assistor, application counselor or other person, certified or designated by an exchange to facilitate enrollment in health benefit plans offered by an exchange 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. 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 2. 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 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. An individual applying for a navigator registration shall make application on a form developed by the Commissioner and shall declare under penalty of refusal, suspension, or revocation of the registration that the statements made in the application are true, correct, and complete to the best of the applicant's knowledge. 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 he or she has read and will comply with written

materials provided by the Commissioner concerning ethics, consumer privacy, the insurance laws of this state, and any other topic or topics the Commissioner deems necessary and attests to such understanding and intent to comply with all state statutes and rules;

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

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

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

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

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

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

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

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

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

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

E. A registered individual 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 whom the navigator assists in enrolling on the exchange and the date of contact and provide such information to the navigator entity immediately;

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

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

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

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

F. A registered 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;

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

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

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

G. 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 such fine and imprisonment.

H. 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.

I. 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.

J. 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 3. 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 the denial, suspension, revocation, or refusal to renew a registration, the levy of a fine or any combination of actions.

B. 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.

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

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

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

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

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

5. Offer gifts of any value to enrollees or prospective enrollees as an inducement to, or conditioned upon, the submission

of an application for health insurance or the purchase or renewal of a health plan;

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

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

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

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

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

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

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. This act shall become effective September 1, 2014.

Passed the House of Representatives the 13th day of May, 2014.

Presiding Officer of the House
of Representatives

Passed the Senate the 15th day of April, 2014.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____