SENATE FLOOR VERSION
February 19, 2015

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 236 By: Yen of the Senate

and

Cox of the House

An Act relating to health insurance navigators; amending Sections 1 and 2, Chapter 321, O.S.L. 2014 (36 O.S. Supp. 2014, Sections 1415.2 and 1415.3), which relate to definitions and navigator registration; defining term; modifying inspection requirements; providing that reports not include certain information; requiring verification of certain information; and providing an effective date.

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

SECTION 1. AMENDATORY Section 1, Chapter 321, O.S.L. 2014 (36 O.S. Supp. 2014, Section 1415.2), is amended to read as follows:

Section 1415.2. 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. "Personally identifiable information" means information which can identify an individual including, but not limited to, name, birth date, social security number, official state- or government-issued driver license or identification number, alien registration number, government passport number, employer or taxpayer identification number; and

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

SECTION 2. AMENDATORY Section 2, Chapter 321, O.S.L. 2014 (36 O.S. Supp. 2014, Section 1415.3), is amended to read as follows:

Section 1415.3. 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 on-site 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 summary reports as requested by the Commissioner, which shall not include personally identifiable information. Provided, however, a registered individual navigator shall, upon inquiry by the Commissioner, verify the name, contact information, and date of contact for an individual or group assisted in enrolling on the exchange by the navigator;

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 on-site 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 summary reports as requested by the Commissioner, which shall not include personally identifiable information. Provided, however, a registered navigator entity shall, upon inquiry by the Commissioner, verify the name, contact information, and date of contact for an individual or group assisted in enrolling on the exchange by any navigator employed or overseen by the navigator entity;

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. This act shall become effective November 1, 2015.

COMMITTEE REPORT BY: COMMITTEE ON INSURANCE
February 19, 2015 - DO PASS AS AMENDED