



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3161

Introduced 2/11/2020, by Sen. Ann Gillespie

SYNOPSIS AS INTRODUCED:

215 ILCS 121/5
215 ILCS 121/10
215 ILCS 121/15
215 ILCS 121/30
215 ILCS 121/35
215 ILCS 121/45
215 ILCS 121/20 rep.
215 ILCS 121/25 rep.
215 ILCS 121/40 rep.

Amends the Navigator Certification Act. Provides that certified application counselors are subject to the same certification requirements as navigators. Provides that navigators or certified application counselors may not engage in any unfair method of competition or any fraudulent, deceptive, or dishonest act or practice related to the health insurance marketplace or to that individual's or entity's absence of a conflict of interest in connection with the enrollment of any individuals or employees in a particular private health benefit plan. Provides that a navigator or certified application counselor who fails to timely file for certificate renewal shall be charged a late fee in an amount prescribed by the Director of Insurance. Replaces provisions concerning criteria and requirements for entities or individuals applying for a navigator certificate with language allowing the Director of Insurance to establish certification terms and requirements for completed applications and exemptions from certification by rule for navigator or certified application counselor certificates. Revises the meaning of the terms "certified application counselor" and "navigator". Makes other changes. Effective immediately.

LRB101 16275 BMS 66182 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Navigator Certification Act is amended by
5 changing Sections 5, 10, 15, 30, 35, and 45 as follows:

6 (215 ILCS 121/5)

7 Sec. 5. Definitions. As used in this Act:

8 "Certified application counselor" has the same meaning as
9 in federal regulations and guidelines, including 45 CFR
10 155.225.

11 "Director" means the Director of Insurance.

12 "Exchange" means any health benefit exchange established
13 or operating in this State, including any exchange established
14 or operated by the United States Department of Health and Human
15 Services.

16 "Navigator" means a person or entity selected to perform
17 the activities and duties identified in 42 U.S.C. 18031(i) in
18 this State. ~~"Navigator" includes any person or entity who~~
19 ~~receives grant funds from the United States Department of~~
20 ~~Health and Human Services, the State of Illinois, or an~~
21 ~~exchange or private funds to perform any of the activities and~~
22 ~~duties identified in 42 U.S.C. 18031(i), including, but not~~
23 ~~limited to, in-person assisters as defined by federal~~

1 ~~regulations or guidelines.~~

2 (Source: P.A. 98-524, eff. 8-23-13.)

3 (215 ILCS 121/10)

4 Sec. 10. Certificate required.

5 (a) No individual or entity shall perform, offer to
6 perform, or advertise any service as a navigator or certified
7 application counselor in this State or receive navigator grant
8 funding from the United States Department of Health and Human
9 Services, the State of Illinois, or an exchange or private
10 funds unless certified as a navigator or certified application
11 counselor by the Director under this Act.

12 (b) The Director may establish exemptions from
13 certification by rule. A navigator who complies with the
14 requirements of this Act shall do the following:

15 ~~(1) conduct public education activities to raise~~
16 ~~awareness of the availability of qualified health plans;~~

17 ~~(2) distribute fair and impartial information~~
18 ~~concerning enrollment in qualified health plans offered~~
19 ~~within the exchange and the availability of the premium tax~~
20 ~~credits under Section 36B of the Internal Revenue Code of~~
21 ~~1986, 26 U.S.C. 36B, and cost-sharing reductions under~~
22 ~~Section 1402 of the federal Patient Protection and~~
23 ~~Affordable Care Act;~~

24 ~~(3) facilitate enrollment in qualified health plans;~~

25 ~~(4) provide referrals to appropriate federal and State~~

1 ~~agencies for any enrollee with a grievance, complaint, or~~
2 ~~question regarding their health plan or coverage or a~~
3 ~~determination under such plan or coverage;~~

4 ~~(5) provide information in a manner that is culturally~~
5 ~~and linguistically appropriate to the needs of the~~
6 ~~population being served by the exchange.~~

7 (c) A navigator or certified application counselor may not:

8 (1) sell, solicit, or negotiate, as these terms are
9 defined in Section 500-10 of the Illinois Insurance Code,
10 any of the classes of insurance enumerated in Section 4 of
11 the Illinois Insurance Code;

12 (2) offer advice about which health plan is better or
13 worse for a particular individual or employer;

14 (3) recommend or endorse a particular health plan or
15 advise consumers about which health plan to choose;

16 (4) provide any information or services related to
17 health benefit plans or other insurance products not
18 offered in the exchange, except for health care providers
19 when furnishing information or services related to a
20 patient's existing health benefit plan or other existing
21 health insurance coverage; ~~or~~

22 (5) accept any compensation or consideration, directly
23 or indirectly, from any issuer of accident and health
24 insurance or stop-loss insurance that is dependent, in
25 whole or in part, on whether a person enrolls in or
26 purchases a particular private health benefit plan; or

1 (6) engage in an unfair method of competition or a
2 fraudulent, deceptive, or dishonest act or practice with
3 respect to the health insurance marketplace or with respect
4 to that individual's or entity's absence of a conflict of
5 interest in connection with the enrollment of an individual
6 or employee in a particular private health benefit plan.

7 (d) Items (1), (2), (3), (4), and (5) of subsection (c) of
8 this Section do not apply to navigators or certified
9 application counselors when assisting individuals with the
10 enrollment process in the State Medicaid program or other
11 public programs.

12 (Source: P.A. 98-524, eff. 8-23-13.)

13 (215 ILCS 121/15)

14 Sec. 15. Application for certificate.

15 (a) An entity or individual applying for an initial or
16 renewal ~~at~~ navigator or certified application counselor
17 certificate shall make application to the Director on a form
18 developed by the Director and declare under penalty of refusal,
19 suspension, or revocation of the certificate that the
20 statements made in the application are true, correct, and
21 complete to the best of the individual's or entity's knowledge
22 and belief. ~~Before approving the application, the Director~~
23 ~~shall find that the individual:~~

24 ~~(1) is at least 18 years of age;~~

25 ~~(2) resides in this State or maintains his or her~~

1 ~~principal place of business in this State;~~

2 ~~(3) is not disqualified due to having committed any act~~
3 ~~that would be grounds for denial, suspension, or revocation~~
4 ~~of a navigator certification in accordance with Section 30~~
5 ~~of this Act;~~

6 ~~(4) has successfully completed the federal and State~~
7 ~~training provided by the exchange or equivalent State~~
8 ~~requirements as determined by the Department; and~~

9 ~~(5) when applicable, has the written consent of the~~
10 ~~Director pursuant to 18 U.S.C. 1033, or any successor~~
11 ~~statute regulating crimes by or affecting persons engaged~~
12 ~~in the business of insurance whose activities affect~~
13 ~~interstate commerce.~~

14 (b) The Director shall establish certification terms and
15 requirements for completed applications, including educational
16 requirements, by rule. ~~An entity that acts as a navigator,~~
17 ~~supervises the activities of individual navigators, or~~
18 ~~receives funding to perform such activities shall obtain a~~
19 ~~navigator entity certificate. An entity applying for a~~
20 ~~navigator entity certificate shall make application on a form~~
21 ~~containing the information prescribed by the Director and shall~~
22 ~~list the individuals acting as navigators under the entity~~
23 ~~certificate.~~

24 ~~(1) The entity shall designate a certified navigator~~
25 ~~responsible for the navigator entity's compliance with the~~
26 ~~laws of this State and the exchange.~~

1 ~~(2) The entity, under penalty of revocation,~~
2 ~~suspension, or other discipline prescribed by the~~
3 ~~Director, shall certify that each individual completes the~~
4 ~~mandatory training required by item (4) of subsection (a)~~
5 ~~of Section 15 of this Act.~~

6 (c) The Director may require any documents deemed necessary
7 to verify the information contained in an application submitted
8 in accordance with subsections (a) and (b) of this Section.

9 (d) Any navigator or certified application counselor who
10 fails to timely file for certificate renewal shall be charged a
11 late fee in an amount prescribed by the Director ~~Entities~~
12 ~~certified as navigators shall provide the Director with a list~~
13 ~~of all individual navigators that it employs, supervises, or is~~
14 ~~affiliated with at renewal.~~

15 (e) The Director may require, in a manner determined by the
16 Director, that each entity that acts as a navigator or
17 certified application counselor demonstrate a level of
18 financial responsibility capable of protecting all persons
19 against the wrongful acts, misrepresentations, or negligence
20 of the navigator or certified application counselor.

21 (f) Prior to any exchange becoming operational in this
22 State, the Director, in coordination with the exchange, shall
23 prescribe the initial training and continuing education
24 requirements for navigators and certified application
25 counselors.

26 (g) Certificate holders must inform the Director, in

1 writing, of a change of address within 30 days after the
2 change.

3 (h) In order to assist in the performance of the Director's
4 duties, the Director may contract with the National Association
5 of Insurance Commissioners (NAIC), or any affiliates or
6 subsidiaries that the NAIC oversees, to perform any ministerial
7 functions, including the collection of fees, related to
8 certification that the Director and the nongovernmental entity
9 may deem appropriate.

10 (Source: P.A. 98-524, eff. 8-23-13.)

11 (215 ILCS 121/30)

12 Sec. 30. Certificate denial, nonrenewal, or revocation.

13 (a) The Director may place on probation, suspend, revoke,
14 or refuse to issue or renew a navigator or certified
15 application counselor ~~navigator's~~ certificate or may levy a
16 civil penalty as established by rule.

17 (b) If an action by the Director is to nonrenew, suspend,
18 or revoke a certificate or to deny an application for a
19 certificate, then the Director shall notify the applicant or
20 certificate holder and advise, in writing, the applicant or
21 certificate holder of the reason for the suspension,
22 revocation, or denial or nonrenewal of the applicant's or
23 certificate holder's certificate. The applicant or certificate
24 holder may make written demand upon the Director within 30 days
25 after the date of mailing for a hearing before the Director to

1 determine the reasonableness of the Director's action. The
2 hearing must be held within not fewer than 20 days nor more
3 than 30 days after the mailing of the notice of hearing ~~and~~
4 ~~shall be held pursuant to Part 2402 of Title 50 of the Illinois~~
5 ~~Administrative Code.~~

6 (c) A navigator or certified application counselor entity
7 certificate may be suspended, revoked, or refused or
8 information turned over to the U.S. Department of Health and
9 Human Services and applicable state agencies if the Director
10 finds, after hearing, that a certified individual's violation
11 was known or should have been known by one or more of the
12 partners, officers, or managers acting on behalf of the
13 navigator entity.

14 (d) In addition to or instead of any applicable denial,
15 suspension, or revocation of a certificate, a person may, after
16 hearing, be subject to a civil penalty in accordance with
17 emergency rules issued by the Director.

18 (e) The Director has the authority to enforce the
19 provisions of and impose any penalty or remedy authorized by
20 this Act against any person who is under investigation of or
21 charged with a violation of this Act or rules, even if the
22 person's certificate has been surrendered or has lapsed by
23 operation of law.

24 (f) Upon the suspension, denial, or revocation of a
25 certificate, the certificate holder or other person having
26 possession or custody of the certificate shall promptly deliver

1 it to the Director in person or by mail. The Director shall
2 publish all suspensions, denials, or revocations after the
3 suspensions, denials, or revocations become final in a manner
4 designed to notify the public.

5 (g) A person whose certificate is revoked or whose
6 application is denied pursuant to this Section is ineligible to
7 apply for any certificate for 3 years after the revocation or
8 denial. A person whose certificate as a navigator or certified
9 application counselor has been revoked, suspended, or denied
10 may not be employed, contracted, or engaged in an
11 exchange-related capacity during the time the revocation,
12 suspension, or denial is in effect.

13 (Source: P.A. 98-524, eff. 8-23-13.)

14 (215 ILCS 121/35)

15 Sec. 35. Reporting to the Director.

16 (a) Each navigator or certified application counselor
17 shall report to the Director within 30 calendar days after the
18 final disposition of a matter ~~that violates the provisions set~~
19 ~~forth in this Act~~ that results in any administrative action
20 taken against the navigator or certified application counselor
21 ~~him~~ in another jurisdiction or by another governmental agency
22 in this State. The report shall include a copy of the order,
23 consent to order, or other relevant legal documents.

24 (b) Within 30 days after the initial pretrial hearing date,
25 a navigator or certified application counselor shall report to

1 the Director any criminal prosecution of the navigator or
2 certified application counselor ~~of a matter that violates the~~
3 ~~provisions set forth in this Act~~ taken in any jurisdiction. The
4 report shall include a copy of the initial complaint filed, the
5 order resulting from the hearing, and any other relevant legal
6 documents.

7 (c) An entity that is certified ~~acts~~ as a navigator or
8 certified application counselor that terminates the
9 employment, engagement, affiliation, or other relationship
10 with an individual navigator or certified application
11 counselor shall notify the Director within 30 days following
12 the effective date of the termination, using a format
13 prescribed by the Director, if the reason for termination is
14 related to the requirements or standards ~~one of the reasons~~ set
15 forth in this Act or the rules adopted by the Director pursuant
16 to this Act, or the entity has knowledge the navigator or
17 certified application counselor was found by a court or
18 government body to have engaged in any of the activities
19 prohibited by this Act or the rules adopted by the Director
20 pursuant to this Act. Upon the written request of the Director,
21 the entity shall provide additional information, documents,
22 records, or other data pertaining to the termination or
23 activity of the individual.

24 (Source: P.A. 98-524, eff. 8-23-13.)

1 Sec. 45. Other laws; rulemaking authority.

2 (a) The requirements of this Act shall not apply to any
3 individual or entity licensed as an insurance producer in this
4 State.

5 (b) Pursuant to the authority granted by this Act, the
6 Director may adopt rules as may be necessary or appropriate for
7 the administration and enforcement of this Act. Such rules may
8 not conflict with or prevent the application of the provisions
9 of Title I of the Patient Protection and Affordable Care Act or
10 the federal regulations promulgated under such provisions.

11 (Source: P.A. 98-524, eff. 8-23-13.)

12 (215 ILCS 121/20 rep.)

13 (215 ILCS 121/25 rep.)

14 (215 ILCS 121/40 rep.)

15 Section 10. The Navigator Certification Act is amended by
16 repealing Sections 20, 25, and 40.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.