

AN ACT concerning insurance.

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

Section 1. Short title. This Act may be cited as the Navigator Certification Act.

Section 5. Definitions. As used in this Act:

"Certified application counselor" has the same meaning as in federal regulations and guidelines.

"Director" means the Director of Insurance.

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

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

Section 10. Certificate required.

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

(b) A navigator who complies with the requirements of this Act shall do the following:

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

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

(3) facilitate enrollment in qualified health plans;

(4) provide referrals to appropriate federal and State agencies for any enrollee with a grievance, complaint, or question regarding their health plan or coverage or a determination under such plan or coverage;

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

(c) A navigator may not:

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

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

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

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

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

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

Section 15. Application for certificate.

(a) An entity or individual applying for a navigator certificate shall make application to the Director on a form developed by the Director and declare under penalty of refusal, suspension, or revocation of the certificate that the statements made in the application are true, correct, and complete to the best of the individual's or entity's knowledge and belief. Before approving the application, the Director shall find that the individual:

(1) is at least 18 years of age;

(2) resides in this State or maintains his or her principal place of business in this State;

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

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

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

(b) An entity that acts as a navigator, supervises the activities of individual navigators, or receives funding to perform such activities shall obtain a navigator entity

certificate. An entity applying for a navigator entity certificate shall make application on a form containing the information prescribed by the Director and shall list the individuals acting as navigators under the entity certificate.

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

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

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

(d) Entities certified as navigators shall provide the Director with a list of all individual navigators that it employs, supervises, or is affiliated with at renewal.

(e) The Director may require, in a manner determined by the Director, that each entity that acts as a navigator demonstrate a level of financial responsibility capable of protecting all persons against the wrongful acts, misrepresentations, or negligence of the navigator.

(f) Prior to any exchange becoming operational in this State, the Director, in coordination with the exchange, shall prescribe the initial training and continuing education

requirements for navigators.

(g) Certificate holders must inform the Director, in writing, of a change of address within 30 days after the change.

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

Section 20. Certificate renewal.

(a) An individual navigator entity certificate shall be valid for one year.

(b) A navigator may file an application for renewal of a certificate in a method prescribed by the Director. Any navigator who fails to timely file for certificate renewal shall be charged a late fee in an amount prescribed by the Director.

(c) Prior to the filing date for application for renewal of a certificate, an individual navigator shall comply with ongoing training and continuing education requirements established by the Director. The navigator shall file with the Director, by a method prescribed by the Director, satisfactory certification of completion of the continuing education

requirements. Any failure to fulfill the ongoing training and continuing education requirements shall result in the expiration of the certificate.

Section 25. Navigator referrals. On contact with a person who acknowledges having existing health insurance coverage obtained through an insurance producer, a navigator shall refer the person back to that insurance producer for information, assistance, and any other services unless:

(1) the individual is eligible for but has not obtained a federal premium subsidy and cost-sharing assistance available only through an exchange;

(2) the insurance producer is not authorized to sell health plans in an individual exchange; or

(3) the individual would prefer not to seek further assistance from the individual's insurance producer.

Section 30. Certificate denial, nonrenewal, or revocation.

(a) The Director may place on probation, suspend, revoke, or refuse to issue or renew a navigator's certificate or may levy a civil penalty as established by rule.

(b) If an action by the Director is to nonrenew, suspend, or revoke a certificate or to deny an application for a certificate, then the Director shall notify the applicant or certificate holder and advise, in writing, the applicant or certificate holder of the reason for the suspension,

revocation, or denial or nonrenewal of the applicant's or certificate holder's certificate. The applicant or certificate holder may make written demand upon the Director within 30 days after the date of mailing for a hearing before the Director to determine the reasonableness of the Director's action. The hearing must be held within not fewer than 20 days nor more than 30 days after the mailing of the notice of hearing and shall be held pursuant to Part 2402 of Title 50 of the Illinois Administrative Code.

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

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

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

(f) Upon the suspension, denial, or revocation of a certificate, the certificate holder or other person having possession or custody of the certificate shall promptly deliver it to the Director in person or by mail. The Director shall publish all suspensions, denials, or revocations after the suspensions, denials, or revocations become final in a manner designed to notify the public.

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

Section 35. Reporting to the Director.

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

(b) Within 30 days after the initial pretrial hearing date, a navigator shall report to the Director any criminal prosecution of the navigator of a matter that violates the

provisions set forth in this Act taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

(c) An entity that acts as a navigator that terminates the employment, engagement, affiliation, or other relationship with an individual navigator shall notify the Director within 30 days following the effective date of the termination, using a format prescribed by the Director, if the reason for termination is one of the reasons set forth in this Act or the entity has knowledge the navigator was found by a court or government body to have engaged in any of the activities prohibited by this Act. Upon the written request of the Director, the entity shall provide additional information, documents, records, or other data pertaining to the termination or activity of the individual.

Section 40. Certified application counselor.

(a) A certified application counselor may not:

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

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

(3) recommend or endorse a particular health plan or

advise consumers about which plan to choose;

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

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

(b) Items (1), (2), (3), (4) and (5) of subsection (a) of this Section do not apply to certified application counselors when assisting individuals with the enrollment process in the State Medicaid program or other public programs.

(c) The Director shall develop education and certification requirements for certified application counselors by rule.

Section 45. Other laws; rulemaking authority.

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

(b) Pursuant to the authority granted by this Act, the Director may adopt rules as may be necessary or appropriate for the administration and enforcement of this Act.

Public Act 098-0524

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Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

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