



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 613*

129th General Assembly
(As Reported by H. Health and Aging)

Rep. Sears

BILL SUMMARY

- Provides for the certification of navigators for the purpose of assisting individuals in purchasing health insurance through a health insurance exchange established under the Patient Protection and Affordable Care Act of 2010.
- Enables both an individual that *is* licensed as an insurance agent and an individual that is *not* licensed as an insurance agent to be certified as a navigator.
- Specifies that a navigator that is not a licensed insurance agent is prohibited from engaging in the act of selling insurance and other related functions.
- Specifies eligibility requirements for navigators.
- Specifies navigator duties.
- Prescribes duties for the Superintendent of Insurance in relation to the certification of navigators.
- Specifies the disciplinary actions that the Superintendent can take against a navigator that commits a violation of the Insurance Law.
- Requires a health insurance exchange to maintain a list of the contact information of licensed insurance agents that are also certified as navigators.

* This analysis was prepared before the report of the House Health and Aging Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Requires a health insurance exchange to provide information on contacting both licensed and nonlicensed individuals or entities who are certified as navigators and operating in an individual's area to any individual seeking such information.

CONTENT AND OPERATION

Overview

The bill provides for the certification and oversight of health exchange navigators. These navigators are an element of the health care reforms included in the Patient Protection and Affordable Care Act of 2010 (ACA). Navigators are individuals or entities charged with helping individuals obtain information on purchasing health insurance through health care exchanges established under the ACA.¹ Entities that have regular access to groups of working individuals who might not be provided with insurance through an employer group plan, such as trade associations, chambers of commerce, or community organizations, are likely candidates for becoming navigators.

General navigator provisions

Authorized activities

The bill expressly authorizes certified navigators that are not licensed insurance agents to undertake certain activities. Under the bill, nonlicensed navigators are authorized to do all of the following:

- Conduct public education activities to raise awareness of the availability of qualified health plans;
- Distribute fair and impartial general information concerning enrollment in all qualified health plans offered within the exchange and on the availability of the premium tax credits and cost sharing reductions under the ACA;
- Facilitate enrollment in qualified health plans, without suggesting that an individual select a particular plan.²

Prohibited activities

Unless a navigator has a valid insurance agent's license, the bill specifies that a navigator is not an insurance agent and cannot engage in the activities associated with

¹ Department of Health and Human Services, *Final rule on the Establishment of Exchanges and Qualified Health Plans*, published March 27, 2012, p. 140.

² R.C. 3905.471(A).

selling insurance. The bill prohibits a navigator from doing any of the following, unless that navigator is otherwise licensed to do so under Ohio Insurance Law (R.C. Chapter 3905.):

- Sell, solicit, or negotiate health insurance;
- Enroll an individual or employee in a qualified health plan offered through an exchange;
- Assist or provide information to an individual or entity seeking to purchase health insurance through the small business health options program (SHOP) portion of an exchange.³

Eligibility requirements

The bill outlines basic eligibility requirements for individuals seeking to be certified as a navigator or individuals working for an entity that is certified as a navigator. An individual, or an individual performing navigator duties on behalf of an organization serving as a navigator, must meet all of the following requirements:

- Is at least 18 years of age;
- Has completed and submitted a disclosure form declaring any potential conflicts of interest and any other information the Superintendent of Insurance considers pertinent;
- Has completed a criminal records check;
- Has successfully completed the navigator certification and training requirements adopted by the Superintendent;
- Has paid all associated fees.⁴

Under the bill, any fees collected in association with navigator certification are to be deposited in the Department of Insurance Operating Fund.⁵ Also, the bill subjects navigators to Ohio Insurance Law, and any rules adopted pursuant to that Law, in so far as that Law is applicable.⁶

³ R.C. 3905.471(B).

⁴ R.C. 3905.471(C) and (D)(2).

⁵ R.C. 3905.471(I).

⁶ R.C. 3905.471(F).

Responsibilities of the Superintendent of Insurance

The bill prescribes certain duties for the Superintendent of Insurance in relation to the certification of navigators. The bill requires the Superintendent to adopt rules to establish a certification and training program for a prospective navigator and the navigator's employees that includes screening via a criminal records check, initial and continuing education requirements, and an examination. The certification and training program is required to include training on compliance with the Health Insurance Portability and Accountability Act of 1996 (popularly known as HIPAA), training on ethics, and training on provisions of the ACA related to navigators and exchanges. Additionally, the Superintendent is required to develop a disclosure form by which a navigator may disclose any potential conflicts of interest and any other information the Superintendent considers pertinent.⁷

Revocation of certification

The Superintendent may suspend, revoke, or refuse to issue or renew the navigator certification of any person that has committed any act that would be a ground for the denial, suspension, or revocation of an insurance agent license. The bill requires the Superintendent to not certify as a navigator, or to revoke any existing navigator certification of, any person or entity that is receiving financial compensation, including monetary and in-kind compensation, gifts, or grants, on or after October 1, 2013, from an insurer offering a qualified health benefit plan through an exchange operating in Ohio.⁸ Finally, the Superintendent may deny, suspend, approve, renew, or revoke the certification of a navigator if the Superintendent determines that doing so would be in the interest of Ohio insureds or the general public. Such actions are not subject to the Administrative Procedure Act.⁹

The bill authorizes the Superintendent to adopt rules to implement the bill's provisions.¹⁰

Insurance agents receiving navigator certification

The bill provides for insurance agents to be certified as navigators. The bill requires agents seeking such certification to complete initial training related to the ACA and exchanges. After this initial training, agents must also complete continuing

⁷ R.C. 3905.471(D).

⁸ R.C. 3905.471(E).

⁹ R.C. 3905.471(G).

¹⁰ R.C. 3905.471(H).

education to remain certified. The bill requires the Superintendent to adopt appropriate education requirements and specifies what must be included in these courses. Any course the Superintendent approves must consist of topics related to insurance offered within an exchange, including (1) the levels of coverage provided in an exchange, (2) the eligibility requirements for individuals to purchase insurance through an exchange, (3) the eligibility requirements for employers to make insurance available to their employees through a SHOP program, (4) individual eligibility requirements for Medicaid, (5) the use of enrollment forms used in an exchange, and (6) any other topics as required by the Superintendent. Insurance agent continuing education courses approved by the Superintendent under continuing law may satisfy the continuing education requirement.¹¹

Contact information of licensed and unlicensed navigators

The bill provides a means for individuals seeking insurance through an exchange to contact both a licensed agent certified as a navigator and a nonlicensed navigator. An individual that is a licensed agent that is also certified as a navigator is required to provide the individual's contact information to the exchange. The bill requires the exchange to maintain a current list of licensed and nonlicensed navigators and their contact information. An exchange is required to make available to an individual, upon the individual's request, a list of navigators operating near the individual's residence. Also, any web site, software application, or other electronic medium, or an exchange-sanctioned outreach event that provides information related to the purchase of health insurance through an exchange must also provide information on how an individual can contact an individual or entity that is certified as a navigator.¹²

Plans offered through an exchange

The bill requires an exchange to permit an insurer to offer any health benefit plan that the insurer seeks to offer through the exchange, so long as the health benefit plan in question is a qualified health plan under the ACA, as determined by the Superintendent.¹³

Definitions

The bill adds the following definitions to Ohio Insurance Law:

¹¹ R.C. 3905.47(A) to (C).

¹² R.C. 3905.47(D) and 3905.473.

¹³ R.C. 3905.472.

- "Affordable Care Act" means the "Patient Protection and Affordable Care Act," 124 Stat. 119, 42 U.S.C. 18031 (2011).
- "Navigator" means a person selected to perform the activities and duties identified in division (i) of section 1311 of the Affordable Care Act that is certified by the Superintendent under the provisions of the bill. Under that division, an entity that serves as a navigator must (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, and the availability of premium tax credits and cost-sharing reductions under the Affordable Care Act, (3) facilitate enrollment in qualified health plans, (4) provide referrals to any applicable office of health insurance consumer assistance or health insurance ombudsman established under the federal Public Health Service Act or any other appropriate state agency or agencies, for any enrollee with a grievance, complaint, or question regarding their health plan, coverage, or a determination under such plan or coverage, and (5) provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the exchange or exchanges.¹⁴
- "Exchange" means a health benefit exchange established by Ohio or an exchange established by the United States Department of Health and Human Services in accordance with the Affordable Care Act.¹⁵

HISTORY

ACTION

DATE

Introduced
Reported, H. Health and Aging

11-28-12

H0613-129/ejs

¹⁴ 42 U.S.C. 18031(i)(3).

¹⁵ R.C. 3905.01(A), (M), and (V).

