

AMENDMENTS TO LB 568

Introduced by Banking, Commerce and Insurance

1           1. Strike the original sections and insert the following  
2 new sections:

3           Section 1. Sections 1 to 10 of this act shall be known  
4 and may be cited as the Health Insurance Exchange Navigator  
5 Licensure Act.

6           Sec. 2. For purposes of the Health Insurance Exchange  
7 Navigator Licensure Act:

8           (1) Director means the Director of Insurance;

9           (2) Exchange means any health insurance exchange  
10 established or operating in this state, including any exchange  
11 established or operated by the United States Department of Health  
12 and Human Services; and

13           (3) Navigator means any individual or entity, other than  
14 an insurance producer or consultant, that:

15           (a) Receives any funding, directly or indirectly, from an  
16 exchange, the state, or the federal government to perform any of  
17 the activities and duties identified in 42 U.S.C. 18031(i), as such  
18 section existed on January 1, 2013;

19           (b) Facilitates enrollment of individuals or employers  
20 in health plans or public insurance programs offered through an  
21 exchange;

22           (c) Conducts public education or consumer assistance  
23 activities for or on behalf of an exchange; or

1           (d) Is described or designated by an exchange, the state,  
2 or the United States Department of Health and Human Services,  
3 or could reasonably be described or designated as, a navigator,  
4 an in-person assister, an enrollment assister, an application  
5 assister, or an application counselor.

6           Sec. 3. (1) No individual or entity shall perform, offer  
7 to perform, or advertise any service as a navigator in this state  
8 unless licensed as a navigator by the director.

9           (2) A navigator may:

10          (a) Conduct public education activities to raise  
11 awareness of the availability of qualified health plans offered  
12 in the exchange and public insurance programs offered through the  
13 exchange;

14          (b) Distribute fair and impartial general information  
15 concerning enrollment in (i) all qualified health plans offered in  
16 the exchange and the availability of the premium tax credits under  
17 section 36B of the Internal Revenue Code of 1986 and cost-sharing  
18 reductions under section 1402 of the federal Patient Protection  
19 and Affordable Care Act and (ii) public insurance programs offered  
20 through the exchange;

21          (c) Facilitate enrollment in (i) qualified health plans,  
22 without suggesting that an individual select a particular plan, and  
23 (ii) public insurance programs offered through the exchange;

24          (d) Provide referrals to appropriate state or federal  
25 agencies for any enrollee with a grievance, complaint, or question  
26 regarding their health plan, coverage, or a determination under  
27 such plan coverage; or

1           (e) Provide information in a manner that is culturally  
2 and linguistically appropriate to the needs of the population being  
3 served by the exchange, including individuals with limited English  
4 proficiency, and ensure accessibility and usability of navigator  
5 tools and functions for individuals with disabilities in accordance  
6 with the Americans with Disabilities Act and section 504 of the  
7 Rehabilitation Act.

8           (3) A navigator shall not:

9           (a) Engage in any activities that would require an  
10 insurance producer license;

11           (b) Offer advice about which health plan is better or  
12 worse for a particular individual or employer;

13           (c) Recommend or endorse a particular health plan or  
14 advise consumers about which health plan to choose;

15           (d) Provide any information or services related to health  
16 plans or other products not offered in the exchange;

17           (e) Accept any compensation or consideration that is  
18 dependent, in whole or in part, on whether a person enrolls in or  
19 purchases a qualified health plan; or

20           (f) Fail to respond to any written inquiry from the  
21 director or request additional reasonable time to respond within  
22 fifteen working days.

23           Sec. 4. Except as otherwise permitted by law, only a  
24 person licensed as an insurance producer or consultant in this  
25 state can:

26           (1) Sell, solicit, or negotiate health insurance;

27           (2) Provide advice concerning the benefits, terms, and

1 features of a particular health plan or offer advice about which  
2 health plan is better or worse for a particular individual or  
3 employer; or

4 (3) Recommend a particular health plan or advise  
5 consumers about which health plan to choose.

6 Sec. 5. (1) An individual applying for an individual  
7 navigator license shall make application to the director on a  
8 form developed by the director and which contains the information  
9 prescribed by the director and which, unless preempted by federal  
10 law, is accompanied by the initial individual license fee in  
11 an amount not to exceed fifty dollars as established by the  
12 director. The individual shall declare in the application under  
13 penalty of refusal, suspension, or revocation of the license that  
14 the statements made in the application are true, correct, and  
15 complete to the best of the individual's knowledge and belief.  
16 Before approving the application, the director shall find that the  
17 individual:

18 (a) Is at least eighteen years of age;

19 (b) Has successfully passed the examination prescribed by  
20 the director, except that the director shall exempt an individual  
21 from the requirement for passage of an examination if the  
22 individual has successfully passed an examination prescribed by an  
23 exchange established or operating in this state. The director may  
24 make arrangements, including contracting with an outside testing  
25 service, for administering examinations and collecting fees imposed  
26 pursuant to the Health Insurance Exchange Navigator Licensure  
27 Act. Each individual applying for an examination shall remit a

1 nonrefundable fee as prescribed by the director; and

2 (c) Has identified any entity navigator with which he or  
3 she is affiliated and supervised.

4 (2) An entity applying for an entity navigator license  
5 shall make application on a form developed by the director and  
6 which contains the information prescribed by the director and  
7 which, unless preempted by federal law, is accompanied by the  
8 initial entity license fee in an amount not to exceed one hundred  
9 dollars as established by the director.

10 (3) The director may require any documents deemed  
11 necessary to verify the information contained in an application  
12 submitted in accordance with subsections (1) and (2) of this  
13 section.

14 (4) Licensed entity navigators shall, in a manner  
15 prescribed by the director, periodically provide the director with  
16 a list of all individual navigators that it employs, supervises,  
17 or is affiliated with.

18 Sec. 6. (1) An individual navigator's license shall  
19 expire on the last day of the month of the navigator's birthday in  
20 the first year after issuance in which his or her age is divisible  
21 by two and an entity navigator's license shall expire on April 30  
22 of each year after the year of issuance which is divisible by two.

23 (2) An individual navigator may file an application for  
24 renewal of a license on a form developed by the director and,  
25 unless preempted by federal law, shall pay the renewal fee in an  
26 amount not to exceed fifty dollars as established by the director  
27 and an entity navigator may file an application for renewal of a

1 license on a form developed by the director and, unless preempted  
2 by federal law, shall pay the renewal fee in an amount not to  
3 exceed one hundred dollars as established by the director. An  
4 individual navigator who fails to file timely for license renewal,  
5 unless preempted by federal law, shall pay the late fee in an  
6 amount not to exceed seventy-five dollars as established by the  
7 director and an entity navigator that fails to file timely for  
8 license renewal, unless preempted by federal law, shall pay the  
9 late fee in an amount not to exceed one hundred twenty-five dollars  
10 as established by the director.

11 (3) Prior to the filing date for application for  
12 renewal of a license, a licensed individual navigator shall comply  
13 with ongoing training and continuing education requirements. Such  
14 navigator shall file with the director, by a method prescribed  
15 by the director, satisfactory certification of completion of the  
16 continuing education requirements. Any failure to fulfill the  
17 ongoing training and continuing education requirements shall result  
18 in the expiration of the license.

19 Sec. 7. On contact with an individual who acknowledges  
20 having existing health insurance coverage obtained through  
21 a licensed insurance producer, a navigator shall inform the  
22 individual that he or she may, but is not required to, seek further  
23 assistance from that producer or another licensed producer for  
24 information, assistance, and any other services.

25 Sec. 8. (1) The director may place on probation, suspend,  
26 revoke, or refuse to issue, renew, or reinstate a navigator  
27 license, or may levy a fine not to exceed one thousand dollars for

1 each violation, or any combination of actions, for violation of the  
2 Health Insurance Exchange Navigator Licensure Act.

3 (2) Except as otherwise provided by law, the director  
4 may examine and investigate the business affairs and records of  
5 any navigator to determine whether the navigator has engaged or is  
6 engaging in any violation of the act.

7 (3) An entity navigator license may be suspended or  
8 revoked, or renewal or reinstatement thereof may be refused, or  
9 a fine may be levied, with or without a suspension, revocation,  
10 or refusal to renew a license, if the director finds that an  
11 individual navigator's violation was known by the employing or  
12 supervising entity and the violation was not reported to the  
13 director and no corrective action was undertaken on a timely basis.

14 Sec. 9. The Health Insurance Exchange Navigator Licensure  
15 Act does not apply to any individual or entity licensed as an  
16 insurance producer in this state.

17 Sec. 10. The director may adopt and promulgate rules and  
18 regulations to carry out the Health Insurance Exchange Navigator  
19 Licensure Act.

20 Sec. 11. If any section in this act or any part of any  
21 section is declared invalid or unconstitutional, the declaration  
22 shall not affect the validity or constitutionality of the remaining  
23 portions.

24 Sec. 12. Since an emergency exists, this act takes effect  
25 when passed and approved according to law.