

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 568

Introduced by Harr, 8; Carlson, 38.

Read first time January 23, 2013

Committee: Banking, Commerce and Insurance

A BILL

- 1 FOR AN ACT relating to insurance; to provide for licensure of
- 2 insurance navigators.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. For purposes of sections 1 to 9 of this act:

2 (1) Exchange means any health benefit exchange
3 established or operating in this state, including any exchange
4 established or operated by the United States Department of Health and
5 Human Services; and

6 (2) Navigator means an individual or entity selected to
7 perform the activities and duties identified in 42 U.S.C. 18031(i),
8 as it exists on January 1, 2013, in this state. Navigator includes
9 any individual or entity who receives grant funds from the United
10 States Department of Health and Human Services to perform any of such
11 activities and duties.

12 Sec. 2. (1) No individual or entity shall perform, offer
13 to perform, or advertise any service as a navigator in this state, or
14 receive navigator funding from the state or an exchange, unless
15 licensed as a navigator by the Director of Insurance.

16 A navigator shall not:

17 (a) Engage in any activities that would require an
18 insurance producer license;

19 (b) Provide advice concerning the benefits, terms, and
20 features of a particular health plan or offer advice about which
21 health plan is better or worse for a particular individual or
22 employer;

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

25 (d) Provide any information or services related to health

1 benefit plans or other products not offered in the exchange.

2 (3) Only a person licensed as an insurance producer in
3 this state can:

4 (a) Sell, solicit, or negotiate health insurance;

5 (b) Provide advice concerning the benefits, terms, and
6 features of a particular health plan or offer advice about which
7 health plan is better or worse for a particular individual or
8 employer; or

9 (c) Recommend a particular health plan or advise
10 consumers about which health plan to choose.

11 Sec. 3. (1) An individual applying for a navigator
12 license shall make application to the Director of Insurance on a form
13 developed by the director and declare under penalty of refusal,
14 suspension, or revocation of the license that the statements made in
15 the application are true, correct, and complete to the best of the
16 individual's knowledge and belief. Before approving the application,
17 the director shall find that the individual:

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

19 (b) Resides in this state or maintains his or her
20 principal place of business in the state;

21 (c) Is not disqualified for having committed any act that
22 would be a ground for denial, suspension, or revocation of an
23 insurance producer license under the Insurance Producers Licensing
24 Act;

25 (d) Has completed the prelicensing training and course of

1 study prescribed by the director;

2 (e) Has successfully passed the written examination
3 prescribed by the director;

4 (f) Has submitted a full set of fingerprints to the
5 director and successfully completed a criminal history and regulatory
6 record check in a manner prescribed by the director;

7 (g) When applicable, has the written consent of the
8 director pursuant to 18 U.S.C. 1033, as it exists on January 1, 2013,
9 regulating crimes by or affecting persons engaged in the business of
10 insurance whose activities affect interstate commerce;

11 (h) Possesses the requisite character and integrity;

12 (i) Has identified the entity with which it is affiliated
13 and supervised; and

14 (j) Has paid the fees prescribed by the director.

15 (2) An entity that acts as a navigator, supervises the
16 activities of individual navigators, or receives funding to perform
17 such activities shall obtain a navigator entity license. An entity
18 applying for an entity navigator license shall make application on a
19 form and containing the information prescribed by the director.

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

23 (4) Entities licensed as navigators shall, in a manner
24 prescribed by the director, periodically provide the director with a
25 list of all individual navigators that it employs, supervises, or is

1 affiliated with.

2 (5) The director shall require that each navigator obtain
3 a surety bond in an amount acceptable to the director or otherwise
4 demonstrate a level financial responsibility capable of protecting
5 all persons against the wrongful acts, misrepresentations, errors,
6 omissions, or negligence of the navigator. The director may ask for a
7 copy of the bond or other evidence of financial responsibility at any
8 time.

9 (6) Prior to any exchange becoming operational in this
10 state, the director shall prescribe initial training, continuing
11 education, and written examination standards and requirements for
12 navigators.

13 Sec. 4. (1) A navigator license shall be valid for two
14 years.

15 (2) A navigator may file an application for renewal of a
16 license in a method prescribed by the Director of Insurance and pay
17 the renewal fee prescribed by the director. Any navigator who fails
18 to file timely for license renewal shall be charged a late fee in an
19 amount prescribed by the director.

20 (3) Prior to the filing date for application for renewal
21 of a license, an individual licensee shall comply with ongoing
22 training and continuing education requirements established by the
23 director. Such navigator shall file with the director, by a method
24 prescribed by the director, satisfactory certification of completion
25 of the continuing education requirements. Any failure to fulfill the

1 ongoing training and continuing education requirements shall result
2 in the expiration of the license.

3 Sec. 5. On contact with a person who acknowledges having
4 existing health insurance coverage obtained through an insurance
5 producer, a navigator shall refer the person back to that insurance
6 producer for information, assistance, and any other services.

7 Sec. 6. (1) The Director of Insurance may place on
8 probation, suspend, revoke, or refuse to issue, renew, or reinstate a
9 navigator license, or may levy a fine not to exceed five thousand
10 dollars for each violation, or any combination of actions, for
11 violation of sections 1 to 9 of this act or for other good cause.

12 (2) In addition to imposing the penalties authorized by
13 subsection (1) of this section, the director may require that
14 restitution be made to any person who has suffered financial injury
15 because of a violation of such sections.

16 (3) The director may examine and investigate the business
17 affairs and records of any navigator to determine whether the
18 individual or entity has engaged or is engaging in any violation of
19 such sections.

20 (4) The navigator license held by an entity may be
21 suspended or revoked, or renewal or reinstatement thereof may be
22 refused, or a fine may be levied, with or without a suspension,
23 revocation, or refusal to renew a license, if the director finds that
24 an individual licensee's violation was known or should have been
25 known by the employing or supervising entity and the violation was

1 not reported to the director and no corrective action was undertaken
2 on a timely basis.

3 Sec. 7. (1) Each licensed navigator shall report to the
4 Director of Insurance within thirty calendar days after the final
5 disposition of the matter any administrative action taken against him
6 or her in another jurisdiction or by another governmental agency.
7 This report shall include a copy of the order, consent to order, or
8 other relevant legal documents.

9 (2) Within thirty days after the initial pretrial hearing
10 date, a navigator shall report to the director any criminal
11 prosecution of the navigator taken in any jurisdiction. The report
12 shall include a copy of the initial complaint filed, the order
13 resulting from the hearing, and any other relevant legal documents.

14 (3) An entity that acts as a navigator that terminates
15 the employment, engagement, affiliation, or other relationship with
16 an individual navigator shall notify the director within thirty days
17 following the effective date of the termination, using a format
18 prescribed by the director, or the entity has knowledge the navigator
19 was found by a court or government body to have engaged in unlawful
20 activities. Upon the written request of the director, the entity
21 shall provide additional information, documents, records, or other
22 data pertaining to the termination or activity of the individual.

23 Sec. 8. (1) The requirements of Unfair Insurance Trade
24 Practices Act applies to navigators. The activities and duties of a
25 navigator shall be deemed to constitute transacting the business of

1 insurance.

2 (2) Sections 1 to 9 of this act do not apply to any
3 individual or entity licensed as an insurance producer in this state.

4 Sec. 9. The Director of Insurance may adopt and
5 promulgate rules and regulations to carry out sections 1 to 9 of this
6 act.