
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 293 Session of
2015

INTRODUCED BY EICHELBERGER, FOLMER, GORDNER, HUTCHINSON, WAGNER,
BARTOLOTTA, VULAKOVICH, WHITE, SCARNATI, ALLOWAY, RAFFERTY,
VOGEL, ARGALL, MCGARRIGLE, WARD, BROOKS AND BROWNE,
JANUARY 20, 2015

SENATOR WHITE, BANKING AND INSURANCE, AS AMENDED,
FEBRUARY 3, 2015

AN ACT

1 Regulating navigators and assisters in the education and
2 promotion of health insurance exchanges.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Navigator and
7 Exchange Assister Accessibility and Regulation Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Commissioner." The Insurance Commissioner of the
13 Commonwealth.

14 "Department." The Insurance Department of the Commonwealth.

15 "Exchange." A health insurance exchange established or
16 operating in this Commonwealth, including an exchange

1 established or operated by the United States Department of
2 Health and Human Services, under the ~~Patient Protection and~~ <--
3 ~~Affordable Care Act (Public Law 111-148, 124 Stat. 119)~~ FEDERAL <--
4 HEALTH CARE ACT.

5 "Exchange assister." An individual or organization,
6 including a navigator, navigator organization or certified
7 application counselor, who provides public education or assists
8 consumers for or on behalf of an exchange. This term does not
9 include a licensed insurance producer. This term ~~shall~~ DOES not <--
10 include an individual employed to provide insurance enrollment
11 or coverage assistance by a health care facility as defined in
12 section 103 of act of July 19, 1979 (P.L.130, No.48), known as
13 the Health Care Facilities Act.

14 "Federal health care act." The Patient Protection and
15 Affordable Care Act (Public Law 111-148, 124 Stat. 119), as
16 amended by the Health Care Education Reconciliation Act of 2010
17 (Public Law 111-152, 124 Stat. 1029), and regulations or
18 guidance issued under those acts.

19 ~~"Health insurance producer." An insurance producer with an~~ <--
20 ~~accident and health line of authority as defined in section 601-~~
21 ~~A of the act of May 17, 1921 (P.L.789, No.285), known as The~~
22 ~~Insurance Department Act of 1921.~~

23 "Insurance producer." Insurance producer has the meaning
24 given it in section 601-A of the act of May 17, 1921 (P.L.789,
25 No.285), known as The Insurance Department Act of 1921.

26 "Navigator." An organization or individual under the Federal
27 health care act that provides public education or consumer
28 assistance activities for or on behalf of an exchange to
29 uninsured individuals and groups seeking health insurance
30 coverage. The term shall include an individual performing

1 navigator duties for an organization, association or business
2 entity, if the organization, association or business entity is
3 serving as a navigator.

4 "Negotiate." The term has the same meaning given it in
5 section 601-A of the act of May 17, 1921 (P.L.789, No.285),
6 known as The Insurance Department Act of 1921.

7 "Registration." A registration certificate issued by the
8 department under section 3(c).

9 "Sell." The term has the same meaning given it in section
10 601-A of the act of May 17, 1921 (P.L.789, No.285), known as The
11 Insurance Department Act of 1921.

12 "SHOP Exchange." The term has the same meaning given it in
13 the Federal health care act.

14 "Solicit." The term has the same meaning given it in section
15 601-A of the act of May 17, 1921 (P.L.789, No.285), known as The
16 Insurance Department Act of 1921.

17 Section 3. Registration.

18 (a) Prohibition.--An individual or organization may not
19 advertise a service as a navigator or an exchange assister or
20 operate in this Commonwealth as a navigator or an exchange
21 assister without first registering with the department.

22 (b) Registration application.--An individual or organization
23 shall register with the department as a navigator or exchange
24 assister, on a form approved by the department. The department
25 shall review each application and may conduct an investigation
26 of each applicant who applies for a registration in accordance
27 with this act. The department shall issue a registration, as
28 appropriate, to an applicant when the department determines that
29 the applicant:

30 (1) Is at least 18 years of age.

1 (2) Resides in this Commonwealth or maintains a
2 registered place of business in this Commonwealth.

3 (3) Is not disqualified for having committed an act that
4 would be grounds for denial, suspension or revocation of a
5 license as an insurance producer.

6 (4) Has not had a license as an insurance producer
7 denied, suspended or revoked.

8 (5) Has submitted a completed application.

9 (6) Has submitted the applicant's fingerprints, for the
10 department to receive national criminal history records
11 information from the Criminal Justice Information Services
12 Division of the Federal Bureau of Investigation.

13 (7) Has paid the required registration fee and fees for
14 obtaining national criminal history records information
15 as prescribed by the department.

16 (c) Confirmation.--The department shall issue, in paper or
17 electronic form, a nontransferable registration certification to
18 each registered navigator or exchange assister, which shall
19 prominently list the expiration date of the registration and
20 which must be shown upon request to potential enrollees.

21 (d) Term.--The term of registration shall be two years from
22 the date of issue.

23 (e) Searchable list.--The department shall maintain and make
24 available to the public a searchable list of all registrants on
25 its publicly accessible Internet website.

26 Section 4. Scope of activity.

27 (a) Registration required.--An individual or organization
28 may not act or present itself to be a navigator or an exchange
29 assister unless the individual or organization is registered as
30 a navigator or an exchange assister under this act.

1 (b) Limitations.--A navigator or an exchange assister may
2 not engage in an activity for which licensure as a producer is
3 required, except as explicitly permitted by Federal law or
4 regulation, including any of the following:

5 (1) Sell, solicit or negotiate insurance.

6 (2) Urge or advise a prospective purchaser to buy a
7 particular policy or to insure with a particular company.

8 (3) Initiate sales over the telephone or otherwise.

9 (4) Collect premiums.

10 (5) Make or propose to make an insurance contract.

11 (6) Other than as necessary to inform a prospective
12 purchaser of the availability of health insurance off the
13 exchange, provide information or services related to health
14 benefit plans or other products other than those offered in
15 the health insurance marketplace, SHOP Exchange, the
16 Children's Health Insurance Program or product available
17 through the Social Security Act (49 Stat. 620, 42 U.S.C. §
18 301 et seq.).

19 (7) Initiate an inquiry as to the terms of existing
20 coverage.

21 (8) Recommend or initiate additions or deletions to an
22 insured's policy.

23 (9) Sign binders, endorsements and insurance policies.

24 (10) Authorize the issuance or delivery of certificates
25 of insurance, endorsements, binders or insurance policies on
26 insurance identification cards.

27 (11) Respond to a policyholder's request for advice or
28 counsel regarding policy provisions or coverage.

29 Section 5. Enforcement by department.

30 (a) Notice.--Upon evidence of a violation of this act or

1 Article VI-A of the act of May 17, 1921 (P.L.789, No.285), known
2 as The Insurance Department Act of 1921, the department shall
3 notify the person of the alleged violation. The notice shall
4 specify the nature of the alleged violation and fix a time and
5 place, at least 10 days thereafter, when a hearing on the matter
6 shall be held.

7 (b) Hearing.--The department shall conduct the hearing on
8 the violation in accordance with 2 Pa.C.S. Ch. 5 Subch. A
9 (relating to practice and procedure of Commonwealth agencies).

10 (c) Evidence.--A person ~~shall~~ MAY not be excused from <--
11 testifying or from producing any books, papers, contracts,
12 agreements or documents at any hearing held by the commissioner
13 on the ground that the testimony or evidence may tend to
14 incriminate that person.

15 (d) Penalties.--After the hearing or upon failure of the
16 person to appear at the hearing, if a violation is found, the
17 commissioner may, in addition to any penalty which may be
18 imposed by a court, do any combination of the following deemed
19 appropriate:

20 (1) Deny, suspend, refuse to renew or revoke the
21 registration, if any, of the person.

22 (2) Impose a civil penalty of up to \$5,000 for each
23 violation of this act.

24 (3) Impose an order to cease and desist.

25 (4) Report violations of this act to the United States
26 Department of Health and Human Services.

27 (5) Refer potential violations of any laws of this
28 Commonwealth relating to privacy of personal information to
29 the Office of Attorney General.

30 (6) Enforce other violations of The Insurance Department

1 Act of 1921, as applicable.

2 (7) Impose any other conditions the commissioner deems
3 appropriate.

4 (e) Regulations and form.--The department may promulgate
5 regulations and publish forms as necessary and appropriate to
6 carry out this act.

7 Section 6. Effective date.

8 This act shall take effect February 15, 2016, or the close of
9 the 2016 open enrollment period, whichever is later.