

1 **SENATE FLOOR VERSION**

2 February 19, 2015

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 236

By: Yen of the Senate

and

Cox of the House

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9 An Act relating to health insurance navigators;
10 amending Sections 1 and 2, Chapter 321, O.S.L. 2014
(36 O.S. Supp. 2014, Sections 1415.2 and 1415.3),
11 which relate to definitions and navigator
12 registration; defining term; modifying inspection
13 requirements; providing that reports not include
14 certain information; requiring verification of
15 certain information; and providing an effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY Section 1, Chapter 321, O.S.L.
18 2014 (36 O.S. Supp. 2014, Section 1415.2), is amended to read as
19 follows:

20 Section 1415.2. As used in this act, the term:

21 1. "Exchange" means a state, federal, or partnership exchange
22 or marketplace operating in Oklahoma pursuant to Section 1311 or
23 Section 1321 of the federal act;

24 2. "Federal act" means the federal Patient Protection and
Affordable Care Act (Public Law 111-148), as amended by the federal

1 Health Care and Education Reconciliation Act of 2010 (Public Law
2 111-152), and regulations or guidance issued under those acts;

3 3. "Navigator" means a person, including assistor, application
4 counselor or other person, certified or designated by an exchange to
5 facilitate enrollment in health benefit plans offered by an exchange
6 or to perform any of the other acts described in Section 1311(i) of
7 the federal act. Such term does not include a person licensed as a
8 health insurance producer under the Oklahoma Producer Licensing Act.
9 For the purposes of this act, if an organization or business entity
10 serves as a navigator, an individual performing navigator duties for
11 that organization or business entity shall be considered to be
12 acting in the capacity of a navigator;

13 4. "Navigator entity" means an organization or business entity
14 which employs or oversees the activities of a navigator or which has
15 received and possesses funding for the purpose of employing or
16 overseeing navigators; ~~and~~

17 5. "Personally identifiable information" means information
18 which can identify an individual including, but not limited to,
19 name, birth date, social security number, official state- or
20 government-issued driver license or identification number, alien
21 registration number, government passport number, employer or
22 taxpayer identification number; and

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1 understanding and intent to comply with all state statutes and
2 rules;

3 2. The applicant shall attest to an understanding of the
4 disclosure and recordkeeping requirements of the registry and the
5 ability to provide and maintain such documents;

6 3. An applicant shall be not less than eighteen (18) years of
7 age and of good moral character;

8 4. The applicant shall successfully complete a criminal history
9 and regulatory background investigation in the manner that the
10 Commissioner requires;

11 5. The applicant shall identify the entity with which he or she
12 is, or will be, affiliated and supervised; and

13 6. The applicant shall pay a registration fee prescribed by the
14 Commissioner not to exceed Fifty Dollars (\$50.00).

15 C. An entity applying for a navigator entity registration shall
16 make application on a form developed by the Commissioner and shall
17 declare under penalty of refusal, suspension or revocation of the
18 registration that the statements made in the application are true,
19 correct and complete to the best of the applicant's knowledge. The
20 Commissioner shall not issue a registration to any entity applicant
21 that does not meet or conform to the following qualifications or
22 requirements:

23 1. Establishes policies and procedures to ensure that acts that
24 may be performed only by a registered navigator or licensed producer

1 are performed by persons who are appropriately registered or
2 licensed;

3 2. Acknowledges and accepts legal responsibility for the acts
4 of the individual navigators that it employs, supervises, or is
5 affiliated with that are performed in this state and that are within
6 the scope of the navigator's apparent authority; and

7 3. Pays a registration fee prescribed by the Commissioner not
8 to exceed Fifty Dollars (\$50.00).

9 D. The registration of an individual navigator or navigator
10 entity shall expire one year after issuance. An individual
11 applicant for a renewal registration shall provide proof that he or
12 she has completed continuing education as required under the federal
13 act and shall establish to the satisfaction of the Commissioner that
14 he or she has read and will comply with written materials provided
15 by the Commissioner concerning ethics, consumer privacy, the
16 insurance laws of this state and any other topic or topics the
17 Commissioner deems necessary and attests to such understanding and
18 intent to comply with all state statutes and rules.

19 E. A registered individual navigator must:

20 1. Provide a disclaimer in a form prescribed by the
21 Commissioner to each individual or group whom the navigator assists,
22 which shall include the name of the navigator and the navigator
23 entity;

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1 2. Record the name and contact information for each individual
2 or group whom the navigator assists in enrolling on the exchange and
3 the date of contact and provide such information to the navigator
4 entity immediately;

5 3. Allow for an on-site inspection of operations and records
6 specifically related to the fulfillment of the enrollment or
7 assistance with enrollment duties as required by this act by the
8 navigator at any time, including providing summary reports as
9 requested by the Commissioner, which shall not include personally
10 identifiable information. Provided, however, a registered
11 individual navigator shall, upon inquiry by the Commissioner, verify
12 the name, contact information, and date of contact for an individual
13 or group assisted in enrolling on the exchange by the navigator;

14 4. Report to the Commissioner any administrative action taken
15 by a governmental agency against the navigator in this state or in
16 any other jurisdiction within thirty (30) calendar days of the final
17 disposition of the matter;

18 5. Report to the Commissioner any criminal prosecution of the
19 navigator taken in any jurisdiction within thirty (30) calendar days
20 of the initial pretrial hearing date; and

21 6. Notify the Commissioner within ten (10) calendar days of any
22 action by an exchange or related party that restricts or terminates
23 the navigator's authorization to act as a navigator.

24 F. A registered navigator entity must:

1 1. Maintain a record of all individuals employed or overseen as
2 a navigator for a period of three (3) years following the
3 termination of the employment or oversight of the individual as a
4 navigator;

5 2. Maintain all records required to be provided to the
6 navigator entity by registered navigators for a period of three (3)
7 years following the termination of the employment or oversight of
8 each individual as a navigator;

9 3. Allow for an on-site inspection of operations and records
10 specifically related to the fulfillment of the enrollment or
11 assistance with enrollment duties as required by this act by the
12 navigator at any time, including providing summary reports as
13 requested by the Commissioner, which shall not include personally
14 identifiable information. Provided, however, a registered navigator
15 entity shall, upon inquiry by the Commissioner, verify the name,
16 contact information, and date of contact for an individual or group
17 assisted in enrolling on the exchange by any navigator employed or
18 overseen by the navigator entity;

19 4. Provide the Commissioner with a list of all individual
20 navigators that it employs, supervises or is affiliated with, in a
21 manner prescribed by the Commissioner; and

22 5. Report to the Commissioner any termination of employment,
23 engagement, affiliation or other relationship with an individual
24 navigator within thirty (30) days, using a format prescribed by the

1 Commissioner, if the navigator is terminated for failing to comply
2 with any requirement of this title.

3 G. Any person who acts as a navigator without holding an active
4 registration at the time of the action shall be guilty of a
5 misdemeanor and shall be punished by the imposition of a fine of not
6 more than Two Hundred Fifty Dollars (\$250.00) or imprisonment in the
7 county jail for not less than three (3) months nor more than six (6)
8 months, or be punished by both such fine and imprisonment.

9 H. Any navigator who violates the provisions of this act shall
10 be subject to a civil fine of not less than Fifty Dollars (\$50.00)
11 nor more than Five Hundred Dollars (\$500.00) for each occurrence.

12 I. Any navigator entity that allows an individual who is
13 employed or overseen by the navigator entity to interact with
14 individuals or groups performing any of the functions of a navigator
15 without an active registration shall be subject to a civil fine of
16 not more than Five Hundred Dollars (\$500.00) for each individual or
17 group with whom the unregistered individual interacts as a navigator
18 and a civil fine of not more than Fifty Dollars (\$50.00) for each
19 day the unregistered individual performs acts as a navigator.

20 J. Any navigator entity that fails to retain the documentation
21 required by this act shall be subject to a civil fine of not less
22 than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars
23 (\$500.00) for each occurrence.

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SECTION 3. This act shall become effective November 1, 2015.

COMMITTEE REPORT BY: COMMITTEE ON INSURANCE
February 19, 2015 - DO PASS AS AMENDED

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