

Regular Session, 2014

HOUSE BILL NO. 976

BY REPRESENTATIVES STOKES AND SIMON

INSURANCE/HEALTH: Provides for licensure and regulation of individuals and entities as health insurance navigators for a health benefit exchange

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(11) and to enact R.S. 22:821(B)(38) and Subpart A-1
3 of Part I of Chapter 5 of Title 22 of the Louisiana Revised Statutes of 1950, to be
4 comprised of 1569.1 through 1569.8, relative to health insurance navigators; to
5 provide for definitions; to provide for authorizations and prohibitions for navigators
6 for health benefit exchanges; to provides for exemptions; to provide with respect to
7 licensing and regulation by the commissioner of insurance of individuals and entities
8 as navigators; to provide authority to the commissioner to assess fees and impose
9 penalties; to provide for an exemption from the Public Records Law; and to provide
10 for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 22:821(B)(38) and Subpart A-1 of Part I of Chapter 5 of Title 22 of
13 the Louisiana Revised Statutes of 1950, comprised of 1569.1 through 1569.8, are hereby
14 enacted to read as follows:

15 §821. Fees

16 * * *

17 B. The following fees and licenses shall be collected in advance by the
18 commissioner of insurance:

19 * * *

1 (2) The activities and duties of a navigator shall be deemed to constitute
2 transacting the business of insurance.

3 B. A navigator may:

4 (1) Provide fair and impartial information and services in connection with
5 eligibility, enrollment, and program specifications of any health benefit exchange
6 operating in this state, including information about the costs of coverage, advance
7 payments of premium tax credits, and cost-sharing reductions.

8 (2) Facilitate the selection of a qualified health plan.

9 (3) Initiate the enrollment process.

10 (4) Provide referrals to any applicable office of health insurance, consumer
11 advocacy or assistance, ombudsman, or other agency for any enrollee with a grievance,
12 complaint, or question regarding their health plan, coverage, or determination under
13 the plan.

14 (5) Use culturally and linguistically appropriate language to communicate the
15 information authorized in this Section.

16 C. Unless also properly licensed as an insurance producer in this state with
17 authority for health under R.S. 22:1543, a navigator shall not:

18 (1) Sell, solicit, or negotiate health insurance.

19 (2) Engage in any activity that would require an insurance producer license.

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

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

25 (5) Provide any information or services related to health benefit plans or other
26 products not offered in the exchange.

1 D. The following entities or persons shall be exempt from the requirement to
2 be licensed as a navigator:

3 (1) An entity or person licensed as an insurance producer in this state with
4 authority for health under R.S. 22:1543.

5 (2) A law firm or licensed attorney in this state.

6 (3)(a) A "health care provider" as defined in R.S. 22:2392 if both of the
7 following apply:

8 (I) The health care provider does not receive any funds from the United States
9 Department of Health and Human Services or a health exchange operating in this state
10 to act as a navigator.

11 (ii) The activities or functions performed are related to advising, assisting, or
12 counseling patients regarding private or public coverage or financial matters related
13 to medical treatments or government assistance programs.

14 (b) Nothing in this Section shall prohibit a health care provider from
15 voluntarily becoming licensed as a navigator.

16 §1569.3. Application procedure

17 A. An individual applying for a navigator license shall make application to the
18 department on a form developed by the commissioner of insurance and declare under
19 penalty of refusal, suspension, or revocation of the license that the statements made in
20 the application are true, correct, and complete to the best of the individual's knowledge
21 and belief. Before approving the application, the commissioner shall find that the
22 individual:

23 (1) Is eighteen years of age or older.

24 (2) Resides in this state or maintains his principal place of business in the
25 state.

26 (3) Is not disqualified for having committed any act that would be grounds for
27 refusal to issue, renew, suspend, or revoke an insurance producer license under R.S.
28 22:1554.

1 (4) Has successfully passed the written examination prescribed by the
2 commissioner.

3 (5) When applicable, has the written consent of the commissioner under 18
4 U.S.C. 1033 or any successor statute regulating crimes by or affecting persons engaged
5 in the business of insurance whose activities affect interstate commerce.

6 (6) Has identified the entity with which he is affiliated and supervised.

7 (7) Has paid the initial license application fee provided for in R.S.
8 22:821(B)(38).

9 B. An entity that acts as a navigator, supervises the activities of individual
10 navigators, or receives funding to perform such activities shall obtain a navigator entity
11 license. An entity applying for an entity navigator license shall make application on
12 a form containing the information prescribed by the commissioner and pay the initial
13 license application fee provided for in R.S. 22:821(B)(38).

14 C.(1) The commissioner may require any documents deemed necessary to
15 verify the information contained in an application submitted in accordance with
16 Subsections A and B of this Section.

17 (2) In order to make a determination of license eligibility, the commissioner
18 may require fingerprints of applicants and submit the fingerprints and the fees required
19 to perform the criminal history record checks to the Louisiana Bureau of Criminal
20 Identification and Information for state and national criminal history record checks.
21 The commissioner shall require a criminal history record check on each applicant in
22 accordance with this Subpart. The commissioner shall require each applicant to submit
23 a full set of fingerprints in order for the commissioner to obtain and receive National
24 Criminal History Records from the FBI Criminal Justice Information Services
25 Division.

26 (3) The commissioner may contract for the collection, transmission, and re-
27 submission of fingerprints required under this Section. If the commissioner does so,
28 the fee for collecting and transmitting fingerprints and the fee for the criminal history
29 record check shall be payable directly to the contractor by the applicant. The

1 commissioner may agree to a reasonable fingerprinting fee to be charged by the
2 contractor.

3 (4) The commissioner shall treat and maintain an applicant's fingerprints and
4 any criminal history record information obtained under this Section as confidential and
5 shall apply security measures consistent with the Criminal Justice Information Services
6 Division of the Federal Bureau of Investigation standards for the electronic storage of
7 fingerprints and necessary identifying information and limit the use of records solely
8 to the purposes authorized in this Section. The fingerprints and any criminal history
9 record information shall be exempt from the public records law, R.S. 44:1 et seq., shall
10 not be subject to subpoena, other than a subpoena issued in a criminal proceeding or
11 investigation, shall be confidential by law and privileged, and shall not be subject to
12 discovery or admissible in evidence in any private civil action.

13 D. Entities licensed as navigators shall, in a manner prescribed by the
14 commissioner, provide a list of all individual navigators that are employed by or in any
15 manner affiliated with the navigator entity and shall report any changes in employment
16 or affiliation within twenty days of such change.

17 E. The commissioner shall prescribe initial training, continuing education, and
18 written examination standards and requirements for navigators by rules adopted and
19 promulgated pursuant to the Administrative Procedure Act, R.S. 49:950 et seq.
20 §1569.4. Term of licensure; renewal; continuing education

21 A. A navigator license shall be valid for two years.

22 B. A navigator may file an application for renewal of a license and pay the
23 renewal fee provided for in R.S. 22:821(B)(38). Any navigator who fails to timely file
24 for license renewal shall be charged a late fee in an amount prescribed by the
25 commissioner.

26 C. Prior to the filing date for an application for renewal of a license, an
27 individual licensee shall comply with any ongoing training and continuing education
28 requirements established by the commissioner. Such navigator shall file with the
29 commissioner, by a method prescribed by the commissioner, proof of satisfactory
30 certification of completion of the continuing education requirements. Any failure to

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

3 §1569.5. Consultation with licensed insurance producer; navigator to advise

4 Upon contact with a person who acknowledges having existing health
5 insurance coverage obtained through an insurance producer, a navigator shall advise
6 the person to consult with a licensed insurance producer regarding coverage in the
7 private market.

8 §1569.6. Sanction of license; examination and investigation of records

9 A. The commissioner may place on probation, suspend, revoke, or refuse to
10 issue, renew, or reinstate a navigator license, or may levy a fine not to exceed not to
11 exceed five hundred dollars for each violation occurring, up to ten thousand dollars
12 aggregate for all violations in a calendar year per applicant or licensee, or any
13 combination of actions, for any one or more of the causes listed in R.S. 22:1554 or
14 1964.

15 B. If the commissioner denies any application for a license in accordance and
16 compliance with R.S. 49:961, the commissioner shall notify the applicant and advise
17 the applicant in writing of the reasons for the denial. An aggrieved party affected by
18 the commissioner's decision, act, or order may demand a hearing in accordance with
19 Chapter 12 of this Title, R.S. 22:2191 et seq.

20 C. In the event the commissioner suspends or revokes a license, or refuses the
21 renewal or reinstatement of a license, or levies a fine, with or without suspension,
22 revocation, or refusal to renew a license, the commissioner, in accordance and
23 compliance with R.S. 49:961, shall notify the licensee in writing of the determination.
24 An aggrieved party affected by the commissioner's decision, act, or order may demand
25 a hearing in accordance with Chapter 12 of this Title, R.S. 22:2191 et seq.

26 D. The navigator license held by an entity may be suspended or revoked,
27 renewal or reinstatement thereof may be refused, or a fine may be levied, with or
28 without a suspension, revocation, or refusal to renew a license, if the commissioner
29 finds, in accordance and compliance with R.S. 49:961, that an individual licensee's
30 violation was known or should have been known by the employing or supervising

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

3 E. The commissioner shall have the power to examine and investigate the
4 business affairs and records of any navigator or navigator entity to determine whether
5 the individual or entity has engaged or is engaging in any violation of this Section.

6 §1569.7. Navigators' duty to report

7 A. Each licensed navigator shall report to the commissioner within thirty
8 calendar days of the final disposition of the matter of any administrative action taken
9 against him in another jurisdiction or by another governmental agency in this state.
10 This report shall include a copy of the order, consent to order, or other relevant legal
11 documents.

12 B. Within thirty days of the initial pretrial hearing date, a navigator shall report
13 to the commissioner any criminal prosecution of the navigator in any jurisdiction. The
14 report shall include a copy of the initial complaint filed, the order resulting from the
15 hearing, and any other relevant legal documents.

16 C. An entity that acts as a navigator that terminates the employment,
17 engagement, affiliation, or other relationship with an individual navigator shall notify
18 the commissioner within twenty days following the effective date of the termination,
19 using a format prescribed by the commissioner if the reason for termination is one of
20 the reasons set forth in R.S. 22:1554 or 1964 or if the entity has knowledge that the
21 navigator was found by a court or governmental body to have engaged in any such
22 activities. Upon the written request of the commissioner, the entity shall provide
23 additional information, documents, records, or other data pertaining to the termination
24 or activity of the individual.

25 §1569.8. Rulemaking authority

26 The commissioner may promulgate and adopt rules and regulations to
27 implement and administer the provisions of this Subpart pursuant to the Administrative
28 Procedure Act, R.S. 49:950 et seq.

1 Section 2. R.S. 44:4.1(B)(11) is hereby amended and reenacted to read as follows:

2 §4.1. Exceptions

3 * * *

4 B. The legislature further recognizes that there exist exceptions, exemptions,
5 and limitations to the laws pertaining to public records throughout the revised statutes
6 and codes of this state. Therefore, the following exceptions, exemptions, and
7 limitations are hereby continued in effect by incorporation into this Chapter by
8 citation:

9 * * *

10 (11) R.S. 22:2, 14, 31(B), 42.1, 88, 244, 461, 572, 572.1, 574, 618, 732, 752,
11 753, 771, 1019.2(B)(5)(a), 1203, 1460, 1466, 1546, 1569.3, 1644, 1656, 1723, 1927,
12 1929, 1983, 1984, 2036, 2303

13 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Stokes

HB No. 976

Abstract: Provides with respect to licensing and regulation by the commissioner of insurance of individuals and entities as navigators for a health benefit exchange authorized under the federal Patient Protection and Affordable Care Act.

Proposed law provides for licensing and regulation by the commissioner of insurance of individuals and entities as navigators for a health benefit exchange authorized under the federal Patient Protection and Affordable Care Act (PPACA), as follows:

- (1) Defines a navigator as a person that, for compensation, provides information or services in connection with eligibility, enrollment, or program specifications of any health benefit exchange operating in this state, including any person that is selected to perform the activities and duties identified in PPACA in this state, any person who receives funds from the U. S. Department of Health and Human Services (HHS) to perform any of the activities and duties identified in PPACA, or any other person certified by the HHS, or a health benefit exchange operating in this state, to perform such defined or related duties irrespective of whether such person is identified as a navigator, certified application counselor, in-person assister, or other title. Excludes any not-for-profit entity disseminating public health information to a general audience.
- (2) Requires licensure by the commissioner of insurance in order to act as a navigator. Further provides that the activities and duties of a navigator shall be deemed to constitute transacting the business of insurance.

- (3) Authorizes navigators to:
- (a) Provide fair and impartial information and services in connection with eligibility, enrollment, and program specifications of any health benefit exchange operating in this state, including information about the costs of coverage, advance payments of premium tax credits, and cost-sharing reductions.
 - (b) Facilitate the selection of a qualified health plan.
 - (c) Initiate the enrollment process.
 - (d) Provide referrals to any applicable office of health insurance, consumer advocacy or assistance, ombudsman, or other agency for any enrollee with a grievance, complaint, or question regarding their health plan, coverage, or determination under the plan.
 - (e) Use culturally and linguistically appropriate language to communicate the information authorized in proposed law.
- (4) Unless licensed as an insurance producer in this state, prohibits a navigator from:
- (a) Selling, soliciting, or negotiating health insurance.
 - (b) Engaging in any activity that would require an insurance producer license.
 - (c) Providing advice concerning the benefits, terms, and features of a particular health plan or offering advice about which exchange health plan is better or worse for a particular individual or employer.
 - (d) Recommending or endorsing a particular health plan or advising consumers about which health plan to choose.
 - (e) Providing any information or services related to health benefit plans or other products not offered in the exchange.
- (5) Exempts certain entities or persons from the requirement for licensure:
- (a) An entity or person licensed as an insurance producer in this state with authority for health under present law.
 - (b) A law firm or licensed attorney in this state.
 - (c) A "health care provider" as defined in present law if he does not receive any funds from HHS or a health exchange operating in this state to act as a navigator and if the activities performed are related to advising, assisting, or counseling patients regarding private or public coverage or financial matters related to medical treatments or government assistance programs. However, provides that nothing in proposed law shall prohibit a health care provider from voluntarily becoming licensed as a navigator.
- (6) Requires navigators to:
- (a) Be at least 18 years of age.
 - (b) Reside in this state or maintain their principal place of business in this state.

- (c) Not be disqualified for having committing any act that would be grounds for refusal to issue, renew, suspend, or revoke an insurance producer license under R.S. 22:1554.
 - (d) Pass a written examination prescribed by the commissioner.
 - (e) When applicable, obtain the written consent of the commissioner as provided by 18 U.S.C. 103, regulating crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.
 - (f) Identify the entity with which he is affiliated with and supervised.
 - (g) Pay the initial application fee.
- (7) Requires entities that act as a navigator, supervise the activities of individual navigators, or receives funding to perform navigator activities obtain an entity navigator license.
 - (8) Requires the commissioner conduct a criminal history check on each applicant, and provides that the commissioner may require the applicant to submit his fingerprints. Further provides that the fingerprints and any information obtained as a result of the criminal history check is confidential and exempt from the public records law.
 - (9) Provides that a navigator's license is valid for two years and is renewable.
 - (10) Provides that a navigator must comply with any ongoing training and continuing education requirements that are established by the commissioner.
 - (11) Provides that the commissioner may place on probation, suspend, revoke, or refuse to reissue, renew or reinstate a navigator license, or may levy a maximum fine of \$500.00, and provides procedures to appeal the commissioner's sanctions or denial of a license or renewal.
 - (12) Provides that the commissioner may examine and investigate the business affairs and records of any navigator or navigator entity. Further requires that a navigator report any administrative action taken against him in another state or any criminal prosecution.
 - (13) Provides that the commissioner may issue rules and regulations to implement and administer the provisions of the bill.

(Amends R.S. 44:4.1(B)(11); Adds R.S. 22:821(B)(38) and 1569.1-1569.8)