

HEALTH SYSTEM REFORM AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions in the Insurance Code and in Governor's Programs related to health system reform.

Highlighted Provisions:

This bill:

- ▶ authorizes the insurance commissioner to regulate the state insurance market as it transitions to new rating practices and health plan requirements of federal law;
- ▶ gives insurance producers and agents the authority to sell, solicit, and negotiate health insurance on a federal health insurance exchange;
- ▶ permits an insurer to pass through commission payments from an insured to a producer;
- ▶ establishes the requirements for a navigator license;
- ▶ amends definitions in the Individual, Small Employer and Group Health Insurance Act;
- ▶ establishes separate risk pools for the individual health insurance market and the small group health insurance market;
- ▶ amends discontinuation and nonrenewal limitations and conditions;
- ▶ amends small employer participation and contribution requirements;
- ▶ amends provisions regarding actuarial review of rates;
- ▶ gives the commissioner administrative rulemaking authority to facilitate state



28 regulation of insurers, qualified health plans, and the health insurance market when federal
29 insurance exchanges begin operating in the state, including:

- 30 • rate review and approval; and
- 31 • creating uniform open enrollment periods for the individual health
32 insurance market;
- 33 ▶ removes the requirement that a carrier in Utah's defined contribution arrangement
34 market (Avenue H) must offer certain health benefit products on Avenue H;
- 35 ▶ authorizes free-standing dental and vision plans on Utah's Avenue H;
- 36 ▶ extends the sunset date for the Risk Adjuster Board for the defined contribution
37 arrangement market;
- 38 ▶ removes the rating parity requirement for plans offered on Avenue H;
- 39 ▶ makes technical amendments;
- 40 ▶ amends executive branch reporting requirements related to the Patient Protection
41 and Affordable Care Act (PPACA) implementation; and
- 42 ▶ reauthorizes the Health System Reform Task Force until December 30, 2015.

43 **Money Appropriated in this Bill:**

- 44 This bill appropriates in fiscal year 2013-14:
- 45 ▶ to the Legislature-Senate as a one-time appropriation:
 - 46 • from the General Fund, One-time, \$30,000
 - 47 ▶ to the Legislature-House as a one-time appropriation:
 - 48 • from the General Fund, One-time, \$52,000.

49 **Other Special Clauses:**

50 This bill provides an effective date.
51 This bill provides a repeal date.

52 **Utah Code Sections Affected:**

- 53 AMENDS:
- 54 **31A-2-212**, as last amended by Laws of Utah 2011, Chapters 284 and 400
 - 55 **31A-23a-501**, as last amended by Laws of Utah 2012, Chapter 279
 - 56 **31A-30-104**, as last amended by Laws of Utah 2011, Chapter 400
 - 57 **31A-30-105**, as last amended by Laws of Utah 2011, Chapter 284
 - 58 **31A-30-107.3**, as last amended by Laws of Utah 2011, Chapter 297

59 **31A-30-112**, as last amended by Laws of Utah 2012, Chapter 253
60 **31A-30-115**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 5
61 **31A-30-202.5**, as last amended by Laws of Utah 2011, Second Special Session, Chapter
62 5
63 **31A-30-205**, as last amended by Laws of Utah 2011, Chapter 400
64 **31A-30-208**, as last amended by Laws of Utah 2011, Chapter 400
65 **63I-2-231 (Superseded 07/01/13)**, as last amended by Laws of Utah 2012, Chapter 279
66 **63I-2-231 (Effective 07/01/13)**, as last amended by Laws of Utah 2012, Chapters 243
67 and 279
68 **63M-1-2505.5**, as enacted by Laws of Utah 2010, Chapter 51

69 ENACTS:

70 **31A-23a-208**, Utah Code Annotated 1953
71 **31A-23b-101**, Utah Code Annotated 1953
72 **31A-23b-102**, Utah Code Annotated 1953
73 **31A-23b-201**, Utah Code Annotated 1953
74 **31A-23b-202**, Utah Code Annotated 1953
75 **31A-23b-203**, Utah Code Annotated 1953
76 **31A-23b-204**, Utah Code Annotated 1953
77 **31A-23b-205**, Utah Code Annotated 1953
78 **31A-23b-206**, Utah Code Annotated 1953
79 **31A-23b-207**, Utah Code Annotated 1953
80 **31A-23b-208**, Utah Code Annotated 1953
81 **31A-23b-209**, Utah Code Annotated 1953
82 **31A-23b-210**, Utah Code Annotated 1953
83 **31A-23b-211**, Utah Code Annotated 1953
84 **31A-23b-301**, Utah Code Annotated 1953
85 **31A-23b-401**, Utah Code Annotated 1953
86 **31A-23b-402**, Utah Code Annotated 1953
87 **31A-23b-403**, Utah Code Annotated 1953
88 **31A-23b-404**, Utah Code Annotated 1953
89 **31A-30-117**, Utah Code Annotated 1953

90 **Uncodified Material Affected:**
91 ENACTS UNCODIFIED MATERIAL



92 *Be it enacted by the Legislature of the state of Utah:*

93 Section 1. Section **31A-2-212** is amended to read:

94 **31A-2-212. Miscellaneous duties.**

95 (1) Upon issuance of an order limiting, suspending, or revoking a person's authority to
96 do business in Utah, and when the commissioner begins a proceeding against an insurer under
97 Chapter 27a, Insurer Receivership Act, the commissioner:

98 (a) shall notify by mail the producers of the person or insurer of whom the
99 commissioner has record; and

100 (b) may publish notice of the order or proceeding in any manner the commissioner
101 considers necessary to protect the rights of the public.

102 (2) When required for evidence in a legal proceeding, the commissioner shall furnish a
103 certificate of authority of a licensee to transact the business of insurance in Utah on any
104 particular date. The court or other officer shall receive the certificate of authority in lieu of the
105 commissioner's testimony.

106 (3) (a) On the request of an insurer authorized to do a surety business, the
107 commissioner shall furnish a copy of the insurer's certificate of authority to a designated public
108 officer in this state who requires that certificate of authority before accepting a bond.

109 (b) The public officer described in Subsection (3)(a) shall file the certificate of
110 authority furnished under Subsection (3)(a).

111 (c) After a certified copy of a certificate of authority is furnished to a public officer, it
112 is not necessary, while the certificate of authority remains effective, to attach a copy of it to any
113 instrument of suretyship filed with that public officer.

114 (d) Whenever the commissioner revokes the certificate of authority or begins a
115 proceeding under Chapter 27a, Insurer Receivership Act, against an insurer authorized to do a
116 surety business, the commissioner shall immediately give notice of that action to each public
117 officer who is sent a certified copy under this Subsection (3).

118 (4) (a) The commissioner shall immediately notify every judge and clerk of the courts
119 of record in the state when:
120

- 121 (i) an authorized insurer doing a surety business:
- 122 (A) files a petition for receivership; or
- 123 (B) is in receivership; or
- 124 (ii) the commissioner has reason to believe that the authorized insurer doing surety
- 125 business:
- 126 (A) is in financial difficulty; or
- 127 (B) has unreasonably failed to carry out any of its contracts.
- 128 (b) Upon the receipt of the notice required by this Subsection (4), it is the duty of the
- 129 judges and clerks to notify and require a person that files with the court a bond on which the
- 130 authorized insurer doing surety business is surety to immediately file a new bond with a new
- 131 surety.
- 132 (5) (a) The commissioner shall report to the Legislature in accordance with Section
- 133 63M-1-2505.5 prior to adopting a rule authorized by Subsection (5)(b).
- 134 (b) The commissioner shall require an insurer that issues, sells, renews, or offers health
- 135 insurance coverage in this state to comply with~~[(a) the Health Insurance Portability and~~
- 136 ~~Accountability Act, Pub. L. No. 104-191, and(b) subject to Section 63M-1-2505.5, and to the~~
- 137 ~~extent required or applicable under the provisions of the Patient Protection and Affordable~~
- 138 ~~Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub.~~
- 139 ~~L. No. 111-152,] the provisions of PPACA and administrative rules adopted by the~~
- 140 commissioner related to regulation of health benefit plans, including:
- 141 (i) lifetime and annual limits;
- 142 (ii) prohibition of rescissions;
- 143 (iii) coverage of preventive health services;
- 144 (iv) coverage for a child or dependent;
- 145 (v) pre-existing condition coverage for children;
- 146 (vi) insurer transparency of consumer information including plan disclosures, uniform
- 147 coverage documents, and standard definitions;
- 148 (vii) premium rate reviews;
- 149 (viii) essential health benefits;
- 150 (ix) provider choice;
- 151 (x) waiting periods; ~~[and]~~

- 152 (xi) appeals processes[-];
- 153 (xii) rating restrictions;
- 154 (xiii) uniform applications and notice provisions; and
- 155 (xiv) certification and regulation of qualified health plans.
- 156 (c) The commissioner shall preserve state control over:
- 157 (i) the health insurance market in the state;
- 158 (ii) qualified health plans offered in the state; and
- 159 (iii) the conduct of navigators, producers, and in-person assisters operating in the state.

160 Section 2. Section **31A-23a-208** is enacted to read:

161 **31A-23a-208. Producer and agency authority in health insurance exchange.**

162 A producer or agency licensed under this chapter, with a line of authority that permits
163 the producer or agency to sell, negotiate, or solicit accident and health insurance, is authorized
164 to sell, negotiate, or solicit qualified health plans offered on an exchange that is:

165 (1) operated in the state; and

166 (2) (a) certified by the United States Department of Health and Human Services as a
167 state-based exchange under PPACA; or

168 (b) a federally facilitated exchange under PPACA.

169 Section 3. Section **31A-23a-501** is amended to read:

170 **31A-23a-501. Licensee compensation.**

171 (1) As used in this section:

172 (a) "Commission compensation" includes funds paid to or credited for the benefit of a
173 licensee from:

174 (i) commission amounts deducted from insurance premiums on insurance sold by or
175 placed through the licensee; or

176 (ii) commission amounts received from an insurer or another licensee as a result of the
177 sale or placement of insurance.

178 (b) (i) "Compensation from an insurer or third party administrator" means
179 commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options,
180 gifts, prizes, or any other form of valuable consideration:

181 (A) whether or not payable pursuant to a written agreement; and

182 (B) received from:

- 183 (I) an insurer; or
- 184 (II) a third party to the transaction for the sale or placement of insurance.
- 185 (ii) "Compensation from an insurer or third party administrator" does not mean
- 186 compensation from a customer that is:
 - 187 (A) a fee or pass-through costs as provided in Subsection (1)(e); or
 - 188 (B) a fee or amount collected by or paid to the producer that does not exceed an
 - 189 amount established by the commissioner by administrative rule.
- 190 (c) (i) "Customer" means:
 - 191 (A) the person signing the application or submission for insurance; or
 - 192 (B) the authorized representative of the insured actually negotiating the placement of
 - 193 insurance with the producer.
- 194 (ii) "Customer" does not mean a person who is a participant or beneficiary of:
 - 195 (A) an employee benefit plan; or
 - 196 (B) a group or blanket insurance policy or group annuity contract sold, solicited, or
 - 197 negotiated by the producer or affiliate.
- 198 (d) (i) "Noncommission compensation" includes all funds paid to or credited for the
- 199 benefit of a licensee other than commission compensation.
- 200 (ii) "Noncommission compensation" does not include charges for pass-through costs
- 201 incurred by the licensee in connection with obtaining, placing, or servicing an insurance policy.
- 202 (e) "Pass-through costs" include:
 - 203 (i) costs for copying documents to be submitted to the insurer; and
 - 204 (ii) bank costs for processing cash or credit card payments.
- 205 (2) A licensee may receive from an insured or from a person purchasing an insurance
- 206 policy, noncommission compensation if the noncommission compensation is stated on a
- 207 separate, written disclosure.
 - 208 (a) The disclosure required by this Subsection (2) shall:
 - 209 (i) include the signature of the insured or prospective insured acknowledging the
 - 210 noncommission compensation;
 - 211 (ii) clearly specify the amount or extent of the noncommission compensation; and
 - 212 (iii) be provided to the insured or prospective insured before the performance of the
 - 213 service.

214 (b) Noncommission compensation shall be:

215 (i) limited to actual or reasonable expenses incurred for services; and

216 (ii) uniformly applied to all insureds or prospective insureds in a class or classes of
217 business or for a specific service or services.

218 (c) A copy of the signed disclosure required by this Subsection (2) shall be maintained
219 by any licensee who collects or receives the noncommission compensation or any portion of
220 the noncommission compensation.

221 (d) All accounting records relating to noncommission compensation shall be
222 maintained by the person described in Subsection (2)(c) in a manner that facilitates an audit.

223 (3) (a) A licensee may receive noncommission compensation when acting as a
224 producer for the insured in connection with the actual sale or placement of insurance if:

225 (i) the producer and the insured have agreed on the producer's noncommission
226 compensation; and

227 (ii) the producer has disclosed to the insured the existence and source of any other
228 compensation that accrues to the producer as a result of the transaction.

229 (b) The disclosure required by this Subsection (3) shall:

230 (i) include the signature of the insured or prospective insured acknowledging the
231 noncommission compensation;

232 (ii) clearly specify the amount or extent of the noncommission compensation and the
233 existence and source of any other compensation; and

234 (iii) be provided to the insured or prospective insured before the performance of the
235 service.

236 (c) The following additional noncommission compensation is authorized:

237 (i) compensation received by a producer of a compensated corporate surety who under
238 procedures approved by a rule or order of the commissioner is paid by surety bond principal
239 debtors for extra services;

240 (ii) compensation received by an insurance producer who is also licensed as a public
241 adjuster under Section 31A-26-203, for services performed for an insured in connection with a
242 claim adjustment, so long as the producer does not receive or is not promised compensation for
243 aiding in the claim adjustment prior to the occurrence of the claim;

244 (iii) compensation received by a consultant as a consulting fee, provided the consultant

245 complies with the requirements of Section 31A-23a-401; or

246 (iv) other compensation arrangements approved by the commissioner after a finding
247 that they do not violate Section 31A-23a-401 and are not harmful to the public.

248 (d) Subject to Section 31A-23a-402.5, a producer for the insured may receive
249 compensation from an insured through an insurer, for the negotiation and sale of a health
250 benefit plan, if there is a separate written agreement between the insured and the licensee for
251 the compensation. An insurer who passes through the compensation from the insured to the
252 licensee under this Subsection (3)(d) is not providing direct or indirect compensation or
253 commission compensation to the licensee.

254 (4) (a) For purposes of this Subsection (4), "producer" includes:

255 (i) a producer;

256 (ii) an affiliate of a producer; or

257 (iii) a consultant.

258 (b) A producer may not accept or receive any compensation from an insurer or third
259 party administrator for the initial placement of a health benefit plan, other than a hospital
260 confinement indemnity policy, unless prior to the customer's initial purchase of the health
261 benefit plan the producer discloses in writing to the customer that the producer will receive
262 compensation from the insurer or third party administrator for the placement of insurance,
263 including the amount or type of compensation known to the producer at the time of the
264 disclosure.

265 (c) A producer shall:

266 (i) obtain the customer's signed acknowledgment that the disclosure under Subsection
267 (4)(b) was made to the customer; or

268 (ii) (A) sign a statement that the disclosure required by Subsection (4)(b) was made to
269 the customer; and

270 (B) keep the signed statement on file in the producer's office while the health benefit
271 plan placed with the customer is in force.

272 (d) (i) A licensee who collects or receives any part of the compensation from an insurer
273 or third party administrator in a manner that facilitates an audit shall, while the health benefit
274 plan placed with the customer is in force, maintain a copy of:

275 (A) the signed acknowledgment described in Subsection (4)(c)(i); or

276 (B) the signed statement described in Subsection (4)(c)(ii).

277 (ii) The standard application developed in accordance with Section 31A-22-635 shall
278 include a place for a producer to provide the disclosure required by this Subsection (4), and if
279 completed, shall satisfy the requirement of Subsection (4)(d)(i).

280 (e) Subsection (4)(c) does not apply to:

281 (i) a person licensed as a producer who acts only as an intermediary between an insurer
282 and the customer's producer, including a managing general agent; or

283 (ii) the placement of insurance in a secondary or residual market.

284 (5) This section does not alter the right of any licensee to recover from an insured the
285 amount of any premium due for insurance effected by or through that licensee or to charge a
286 reasonable rate of interest upon past-due accounts.

287 (6) This section does not apply to bail bond producers or bail enforcement agents as
288 defined in Section 31A-35-102.

289 (7) A licensee may not receive noncommission compensation from an insured or
290 enrollee for providing a service or engaging in an act that is required to be provided or
291 performed in order to receive commission compensation, except for the surplus lines
292 transactions that do not receive commissions.

293 Section 4. Section **31A-23b-101** is enacted to read:

294 **CHAPTER 23b. NAVIGATOR LICENSE ACT**

295 **Part 1. General Provisions**

296 **31A-23b-101. Title.**

297 This chapter is known as the "Navigator License Act."

298 Section 5. Section **31A-23b-102** is enacted to read:

299 **31A-23b-102. Definitions.**

300 As used in this chapter:

301 (1) "Compensation" is as defined in:

302 (a) Subsections 31A-23a-501(1)(a), (b), and (d); and

303 (b) PPACA.

304 (2) "Enroll" and "enrollment" mean to:

305 (a) (i) obtain personally identifiable information about an individual; and

306 (ii) inform an individual about accident and health insurance plans or public programs

307 offered on an exchange;
308 (b) solicit insurance; or
309 (c) submit to the exchange;
310 (i) personally identifiable information about an individual; and
311 (ii) an individual's selection of a particular accident and health insurance plan or public
312 program offered on the exchange.
313 (3) (a) "Exchange" means an online marketplace:
314 (i) for an individual to purchase a qualified health plan; and
315 (ii) that is certified by the United States Department of Health and Human Services as
316 either a state-based exchange or a federally facilitated exchange under PPACA.
317 (b) (i) "Exchange" does not include:
318 (A) an online marketplace for the purchase of health insurance if the online
319 marketplace is not a certified exchange under PPACA; or
320 (B) except as provided in Subsection (3)(b)(ii), an online marketplace for small
321 employers that is certified as a PPACA compliant SHOP exchange.
322 (ii) For purposes of this chapter, exchange does include a small employer SHOP
323 exchange described under Subsection (3)(b)(i)(B) if:
324 (A) federal regulations under PPACA require a small employer exchange to allow
325 navigators to assist small employers and their employees with selection of qualified health
326 plans on a small employer exchange; and
327 (B) the state has not entered into an agreement with the United States Department of
328 Health and Human Services that permits the state to limit the scope of practice of navigators to
329 only the individual PPACA exchange.
330 (4) "Navigator":
331 (a) means a person who facilitates enrollment in an exchange by offering to assist, or
332 who advertises any services to assist, with:
333 (i) the selection of and enrollment in a qualified health plan or a public program
334 offered on an exchange; or
335 (ii) applying for premium subsidies through an exchange; and
336 (b) includes a person who is an in-person assister or an application assister as described
337 in:

338 (i) federal regulations or guidance issued under PPACA; and
 339 (ii) the state exchange blueprint published by the Center for Consumer Information and
 340 Insurance Oversight within the Centers for Medicare and Medicaid Services in the United
 341 States Department of Health and Human Services.

342 (5) "Personally identifiable information" is as defined in 45 C.F.R. Sec. 155.260.

343 (6) "Public programs" means the state Medicaid program in Title 26, Chapter 18,
 344 Medical Assistance Act, and Chapter 40, Utah Children's Health Insurance Act.

345 (7) "Solicit" is as defined in Section 31A-23a-102.

346 Section 6. Section **31A-23b-201** is enacted to read:

347 **Part 2. Licensing**

348 **31A-23b-201. Requirement of license.**

349 (1) (a) Except as provided in Section 31A-23b-211, a person may not perform, offer to
 350 perform, or advertise any service as a navigator in the state, without:

351 (i) a valid navigator license issued under this chapter; or

352 (ii) a valid producer license under Subsection 31A-23a-106(2)(a) with a line of
 353 authority that permits the person to sell, negotiate, or solicit accident and health insurance.

354 (b) A person may not utilize the services of another as a navigator if that person knows
 355 or should know that the other person does not have a license as required by law.

356 (2) An insurance contract is not invalid as a result of a violation of this section.

357 Section 7. Section **31A-23b-202** is enacted to read:

358 **31A-23b-202. Qualifications for a license.**

359 (1) (a) The commissioner shall issue or renew a license to a person to act as a navigator
 360 if the person:

361 (i) satisfies the:

362 (A) application requirements under Section 31A-23b-203;

363 (B) character requirements under Section 31A-23b-204;

364 (C) examination and training requirements under Section 31A-23b-205; and

365 (D) continuing education requirements under Section 31A-23b-206;

366 (ii) certifies that, to the extent applicable, the applicant:

367 (A) is in compliance with the surety bond requirements of Section 31A-23b-207; and

368 (B) will maintain compliance with Section 31A-23b-207 during the period for which

369 the license is issued or renewed; and
370 (iii) has not committed an act that is a ground for denial, suspension, or revocation as
371 provided in Section 31A-23b-401.
372 (b) A license issued under this chapter is valid for two years.
373 (2) (a) A person shall report to the commissioner:
374 (i) an administrative action taken against the person, including a denial of a new or
375 renewal license application:
376 (A) in another jurisdiction; or
377 (B) by another regulatory agency in this state; and
378 (ii) a criminal prosecution taken against the person in any jurisdiction.
379 (b) The report required by Subsection (2)(a) shall be filed:
380 (i) at the time the person files the application for an individual or agency license; and
381 (ii) for an action or prosecution that occurs on or after the day on which the person files
382 the application:
383 (A) for an administrative action, within 30 days of the final disposition of the
384 administrative action; or
385 (B) for a criminal prosecution, within 30 days of the initial appearance before a court.
386 (c) The report required by Subsection (2)(a) shall include a copy of the complaint or
387 other relevant legal documents related to the action or prosecution described in Subsection
388 (2)(a).
389 (3) (a) The department may require a person applying for a license to submit to a
390 criminal background check as a condition of receiving a license.
391 (b) A person, if required to submit to a criminal background check under Subsection
392 (3)(a), shall:
393 (i) submit a fingerprint card in a form acceptable to the department; and
394 (ii) consent to a fingerprint background check by:
395 (A) the Utah Bureau of Criminal Identification; and
396 (B) the Federal Bureau of Investigation.
397 (c) For a person who submits a fingerprint card and consents to a fingerprint
398 background check under Subsection (3)(b), the department may request:
399 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part

400 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and
401 (ii) complete Federal Bureau of Investigation criminal background checks through the
402 national criminal history system.
403 (d) Information obtained by the department from the review of criminal history records
404 received under this Subsection (3) shall be used by the department for the purposes of:
405 (i) determining if a person satisfies the character requirements under Section
406 31A-23b-204 for issuance or renewal of a license;
407 (ii) determining if a person failed to maintain the character requirements under Section
408 31A-23b-204; and
409 (iii) preventing a person who violates the federal Violent Crime Control and Law
410 Enforcement Act of 1994, 18 U.S.C. Sec. 1033, from engaging in the business of a navigator or
411 in-person assistor in the state.
412 (e) If the department requests the criminal background information, the department
413 shall:
414 (i) pay to the Department of Public Safety the costs incurred by the Department of
415 Public Safety in providing the department criminal background information under Subsection
416 (3)(c)(i);
417 (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau
418 of Investigation in providing the department criminal background information under
419 Subsection (3)(c)(ii); and
420 (iii) charge the person applying for a license a fee equal to the aggregate of Subsections
421 (3)(e)(i) and (ii).
422 (4) The commissioner may deny an application for a license under this chapter if the
423 person applying for the license:
424 (a) fails to satisfy the requirements of this section; or
425 (b) commits an act that is grounds for denial, suspension, or revocation as set forth in
426 Section 31A-23b-401.
427 Section 8. Section **31A-23b-203** is enacted to read:
428 **31A-23b-203. Application for individual license -- Application for agency license.**
429 (1) This section applies to an initial or renewal license as a navigator.
430 (2) (a) Subject to Subsection (2)(b), to obtain or renew an individual license, an

431 individual shall:

432 (i) file an application for an initial or renewal individual license with the commissioner
433 on forms and in a manner the commissioner prescribes; and

434 (ii) pay a license fee that is not refunded if the application:

435 (A) is denied; or

436 (B) is incomplete when filed and is never completed by the applicant.

437 (b) An application described in this Subsection (2) shall provide:

438 (i) information about the applicant's identity;

439 (ii) the applicant's Social Security number;

440 (iii) the applicant's personal history, experience, education, and business record;

441 (iv) whether the applicant is 18 years of age or older;

442 (v) whether the applicant has committed an act that is a ground for denial, suspension,

443 or revocation as set forth in Section 31A-23b-401 or 31A-23b-402;

444 (vi) that the applicant complies with the surety bond requirements of Section

445 31A-23b-207;

446 (vii) that the applicant completed the training requirements in Section 31A-23b-205;

447 and

448 (viii) any other information the commissioner reasonably requires.

449 (3) The commissioner may require a document reasonably necessary to verify the
450 information contained in an application filed under this section.

451 (4) An applicant's Social Security number contained in an application filed under this
452 section is a private record under Section 63G-2-302.

453 (5) (a) Subject to Subsection (5)(b), to obtain or renew a navigator agency license, a
454 person shall:

455 (i) file an application for an initial or renewal navigator agency license with the
456 commissioner on forms and in a manner the commissioner prescribes; and

457 (ii) pay a license fee that is not refunded if the application:

458 (A) is denied; or

459 (B) is incomplete when filed and is never completed by the applicant.

460 (b) An application described in Subsection (5)(a) shall provide:

461 (i) information about the applicant's identity;

462 (ii) the applicant's federal employer identification number;
463 (iii) the designated responsible licensed individual;
464 (iv) the identity of the owners, partners, officers, and directors;
465 (v) whether the applicant, or individual identified in Subsections (5)(b)(iii) and (iv),
466 has committed an act that is a ground for denial, suspension, or revocation as set forth in
467 Section 31A-23b-401; and

468 (vi) any other information the commissioner reasonably requires.

469 Section 9. Section **31A-23b-204** is enacted to read:

470 **31A-23b-204. Character requirements.**

471 An applicant for a license under this chapter shall demonstrate to the commissioner
472 that:

473 (1) the applicant has the intent, in good faith, to engage in the practice of a navigator as
474 the license would permit;

475 (2) (a) if a natural person, the applicant is competent and trustworthy; or

476 (b) if the applicant is an agency:

477 (i) the partners, directors, or principal officers or persons having comparable powers
478 are trustworthy; and

479 (ii) that it will transact business in a way that the acts that may only be performed by a
480 licensed navigator are performed only by a natural person who is licensed under this chapter, or
481 Chapter 23a, Insurance Marketing-Licensing Producers, Consultants, and Reinsurance
482 Intermediaries;

483 (3) the applicant intends to comply with the surety bond requirements of Section
484 31A-23b-207;

485 (4) if a natural person, the applicant is at least 18 years of age; and

486 (5) the applicant does not have a conflict of interest as defined by regulations issued
487 under PPACA.

488 Section 10. Section **31A-23b-205** is enacted to read:

489 **31A-23b-205. Examination and training requirements.**

490 (1) The commissioner may require applicants for a license to pass an examination and
491 complete a training program as a requirement for a license.

492 (2) The examination described in Subsection (1) shall reasonably relate to:

493 (a) the duties and functions of a navigator;
494 (b) requirements for navigators as established by federal regulation under PPACA; and
495 (c) other requirements that may be established by the commissioner by administrative
496 rule.

497 (3) The examination may be administered by the commissioner or as otherwise
498 specified by administrative rule.

499 (4) The training required by Subsection (1) shall be approved by the commissioner and
500 shall include:

- 501 (a) accident and health insurance plans;
- 502 (b) qualifications for and enrollment in public programs;
- 503 (c) qualifications for and enrollment in premium subsidies;
- 504 (d) cultural and linguistic competence;
- 505 (e) conflict of interest standards;
- 506 (f) exchange functions; and
- 507 (g) other requirements that may be adopted by the commissioner by administrative
508 rule.

509 (5) This section applies only to applicants who are natural persons.

510 Section 11. Section **31A-23b-206** is enacted to read:

511 **31A-23b-206. Continuing education requirements.**

512 (1) The commissioner shall, by rule, prescribe continuing education requirements for a
513 navigator.

514 (2) (a) The commissioner may not require a degree from an institution of higher
515 education as part of continuing education.

516 (b) The commissioner may state a continuing education requirement in terms of hours
517 of instruction received in:

- 518 (i) accident and health insurance;
- 519 (ii) qualification for and enrollment in public programs;
- 520 (iii) qualification for and enrollment in premium subsidies;
- 521 (iv) cultural competency;
- 522 (v) conflict of interest standards; and
- 523 (vi) other exchange functions.

524 (3) (a) Continuing education requirements shall require:
525 (i) that a licensee complete 24 credit hours of continuing education for every two-year
526 licensing period;
527 (ii) that 3 of the 24 credit hours described in Subsection (3)(a)(i) be ethics courses; and
528 (iii) that the licensee complete at least half of the required hours through classroom
529 hours of insurance and exchange related instruction.
530 (b) An hour of continuing education in accordance with Subsection (3)(a)(i) may be
531 obtained through:
532 (i) classroom attendance;
533 (ii) home study;
534 (iii) watching a video recording;
535 (iv) experience credit; or
536 (v) another method approved by rule.
537 (c) A licensee may obtain continuing education hours at any time during the two-year
538 license period.
539 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
540 commissioner shall, by rule:
541 (i) publish a list of insurance professional designations whose continuing education
542 requirements can be used to meet the requirements for continuing education under Subsection
543 (3)(b); and
544 (ii) authorize one or more continuing education providers, including a state or national
545 professional producer or consultant associations, to:
546 (A) offer a qualified program on a geographically accessible basis; and
547 (B) collect a reasonable fee for funding and administration of a continuing education
548 program, subject to the review and approval of the commissioner.
549 (4) The commissioner shall approve a continuing education provider or a continuing
550 education course that satisfies the requirements of this section.
551 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
552 commissioner shall by rule establish the procedures for continuing education provider
553 registration and course approval.
554 (6) This section applies only to a navigator who is a natural person.

555 (7) A navigator shall keep documentation of completing the continuing education
556 requirements of this section for two years after the end of the two-year licensing period to
557 which the continuing education applies.

558 Section 12. Section **31A-23b-207** is enacted to read:

559 **31A-23b-207. Requirement to obtain surety bond.**

560 (1) (a) Except as provided in Subsection (2), a navigator shall obtain a surety bond in
561 an amount designated by the commissioner by administrative rule to cover the legal liability of
562 the navigator as the result of an erroneous act or failure to act in the navigator's capacity as a
563 navigator.

564 (b) The navigator shall maintain the surety bond at all times during the term of the
565 navigator's license.

566 (2) A navigator is not required to obtain and maintain a surety bond during a period in
567 which the navigator's scope of practice is limited to assisting individuals with:

568 (a) enrollment in public programs; and

569 (b) qualification for premium and cost sharing subsidies.

570 Section 13. Section **31A-23b-208** is enacted to read:

571 **31A-23b-208. Form and contents of license.**

572 (1) A license issued under this chapter shall be in the form the commissioner prescribes
573 and shall set forth:

574 (a) the name and address of the licensee;

575 (b) the date of license issuance; and

576 (c) any other information the commissioner considers necessary.

577 (2) A licensee under this chapter doing business under a name other than the licensee's
578 legal name shall notify the commissioner before using the assumed name in this state.

579 Section 14. Section **31A-23b-209** is enacted to read:

580 **31A-23b-209. Agency designations.**

581 (1) An organization shall be licensed as a navigator agency if the organization acts as a
582 navigator.

583 (2) A navigator agency that does business in the state shall designate an individual who
584 is licensed under this chapter to act on the agency's behalf.

585 (3) A navigator agency shall report to the commissioner, at intervals and in the form

586 the commissioner establishes by rule:

587 (a) a new designation under Subsection (2); and

588 (b) a terminated designation under Subsection (2).

589 (4) (a) A navigator agency licensed under this chapter shall report to the commissioner

590 the cause of termination of a designation if:

591 (i) the reason for termination is a reason described in Subsection 31A-23b-401(4)(b);

592 or

593 (ii) the navigator agency has knowledge that the individual licensee engaged in an

594 activity described in Subsection 31A-23b-401(4)(b) by:

595 (A) a court;

596 (B) a government body; or

597 (C) a self-regulatory organization, which the commissioner may define by rule made in

598 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

599 (b) The information provided to the commissioner under Subsection (4)(a) is a private

600 record under Title 63G, Chapter 2, Government Records Access and Management Act.

601 (c) A navigator agency is immune from civil action, civil penalty, or damages if the

602 agency complies in good faith with this Subsection (4) by reporting to the commissioner the

603 cause of termination of a designation.

604 (d) A navigator agency is not immune from an action or resulting penalty imposed on

605 the reporting agency as a result of proceedings brought by or on behalf of the department if the

606 action is based on evidence other than the report submitted in compliance with this Subsection

607 (4).

608 (5) A navigator agency licensed under this chapter may act in a capacity for which it is

609 licensed only through an individual who is licensed under this chapter to act in the same

610 capacity.

611 (6) A navigator agency licensed under this chapter shall designate and report to the

612 commissioner, in accordance with any rule made by the commissioner, the name of the

613 designated responsible licensed individual who has authority to act on behalf of the navigator

614 agency in the matters pertaining to compliance with this title and orders of the commissioner.

615 (7) If a navigator agency designates a licensee in reports submitted under Subsection

616 (3) or (6), there is a rebuttable presumption that the designated licensee acts on behalf of the

617 navigator agency.

618 (8) (a) When a license is held by a navigator agency, both the navigator agency itself
619 and any individual designated under the navigator agency license are considered the holders of
620 the navigator agency license for purposes of this section.

621 (b) If an individual designated under the navigator agency license commits an act or
622 fails to perform a duty that is a ground for suspending, revoking, or limiting the navigator
623 agency license, the commissioner may suspend, revoke, or limit the license of:

624 (i) the individual;

625 (ii) the navigator agency, if the navigator agency:

626 (A) is reckless or negligent in its supervision of the individual; or

627 (B) knowingly participates in the act or failure to act that is the ground for suspending,
628 revoking, or limiting the license; or

629 (iii) (A) the individual; and

630 (B) the navigator agency, if the agency meets the requirements of Subsection (8)(b)(ii).

631 Section 15. Section **31A-23b-210** is enacted to read:

632 **31A-23b-210. Place of business and residence address -- Records.**

633 (1) (a) A licensee under this chapter shall register and maintain with the commissioner:

634 (i) the address and telephone numbers of the licensee's principal place of business; and

635 (ii) a valid business email address at which the commissioner may contact the licensee.

636 (b) If a licensee is an individual, in addition to complying with Subsection (1)(a), the
637 individual shall register and maintain with the commissioner the individual's residence address
638 and telephone number.

639 (c) A licensee shall notify the commissioner within 30 days of a change of any of the
640 following required to be registered with the commissioner under this section:

641 (i) an address;

642 (ii) a telephone number; or

643 (iii) a business email address.

644 (2) Except as provided under Subsection (3), a licensee under this chapter shall keep at
645 the principal place of business address registered under Subsection (1), separate and distinct
646 books and records of the transactions consummated under the Utah license.

647 (3) Subsection (2) is satisfied if the books and records specified in Subsection (2) can

648 be obtained immediately from a central storage place or elsewhere by online computer
649 terminals located at the registered address.

650 (4) (a) The books and records maintained under Subsection (2) shall be available for
651 the inspection by the commissioner during the business hours for a period of time after the date
652 of the transaction as specified by the commissioner by rule, but in no case for less than the
653 current calendar year plus three years.

654 (b) Discarding books and records after the applicable record retention period has
655 expired does not place the licensee in violation of a later-adopted longer record retention
656 period.

657 Section 16. Section **31A-23b-211** is enacted to read:

658 **31A-23b-211. Exceptions to navigator licensing.**

659 (1) For purposes of this section:

660 (a) "Negotiate" is as defined in Section 31A-23a-102.

661 (b) "Sell" is as defined in Section 31A-23a-102.

662 (c) "Solicit" is as defined in Section 31A-23a-102.

663 (2) The commissioner may not require a license as a navigator of:

664 (a) a person who is employed by or contracts with:

665 (i) a health care facility that is licensed under Title 26, Chapter 21, Health Care Facility

666 Licensing and Inspection Act, to assist an individual with enrollment in a public program; or

667 (ii) the state, a political subdivision of the state, an entity of a political subdivision of

668 the state, or a public school district to assist an individual with enrollment in a public program;

669 (b) a federally qualified health center as defined by Section 1905(1)(2)(B) of the Social

670 Security Act which assists an individual with enrollment in a public program;

671 (c) a person licensed under Chapter 23a, Insurance Marketing-Licensing, Consultants,

672 and Reinsurance Intermediaries, if the person is licensed in the appropriate line of authority to
673 sell, solicit, or negotiate accident and health insurance plans;

674 (d) an officer, director, or employee of a navigator:

675 (i) who does not receive compensation or commission from an insurer issuing an

676 insurance contract, an agency administering a public program, an individual who enrolled in a
677 public program or insurance product, or an exchange; and

678 (ii) whose activities:

679 (A) are executive, administrative, managerial, clerical, or a combination thereof;

680 (B) only indirectly relate to the sale, solicitation, or negotiation of insurance, or the

681 enrollment in a public program offered through the exchange;

682 (C) are in the capacity of a special agent or agency supervisor assisting an insurance

683 producer or navigator;

684 (D) are limited to providing technical advice and assistance to a licensed insurance

685 producer or navigator; or

686 (E) do not include the sale, solicitation, or negotiation of insurance, or the enrollment

687 in a public program; and

688 (e) a person who does not sell, solicit, or negotiate insurance and is not directly or

689 indirectly compensated by an insurer issuing an insurance contract, an agency administering a

690 public program, an individual who enrolled in a public program or insurance product, or an

691 exchange, including:

692 (i) an employer, association, officer, director, employee, or trustee of an employee trust

693 plan who is engaged in the administration or operation of a program:

694 (A) of employee benefits for the employer's or association's own employees or the

695 employees of a subsidiary or affiliate of an employer or association; and

696 (B) that involves the use of insurance issued by an insurer or enrollment in a public

697 health plan on an exchange;

698 (ii) an employee of an insurer or organization employed by an insurer who is engaging

699 in the inspection, rating, or classification of risk, or the supervision of training of insurance

700 producers; or

701 (iii) an employee who counsels or advises the employee's employer with regard to the

702 insurance interests of the employer, or a subsidiary or business affiliate of the employer.

703 (3) The commissioner may by rule exempt a class of persons from the license

704 requirement of Subsection 31A-23b-201(1) if:

705 (a) the functions performed by the class of persons do not require:

706 (i) special competence;

707 (ii) special trustworthiness; or

708 (iii) regulatory surveillance made possible by licensing; or

709 (b) other existing safeguards make regulation unnecessary.

710 Section 17. Section **31A-23b-301** is enacted to read:

711 **Part 3. Unlawful Conduct and Limitation of Scope of Practice**

712 **31A-23b-301. Unfair practices -- Compensation -- Limit of scope of practice.**

713 (1) As used in this section, "false or misleading information" includes, with intent to
714 deceive a person examining it:

715 (a) filing a report;

716 (b) making a false entry in a record; or

717 (c) willfully refraining from making a proper entry in a record.

718 (2) (a) Communication that contains false or misleading information relating to
719 enrollment in an insurance plan or a public program, including information that is false or
720 misleading because it is incomplete, may not be made by:

721 (i) a person who is or should be licensed under this title;

722 (ii) an employee of a person described in Subsection (2)(a)(i);

723 (iii) a person whose primary interest is as a competitor of a person licensed under this
724 title; and

725 (iv) a person on behalf of any of the persons listed in this Subsection (2)(a).

726 (b) A licensee under this chapter may not:

727 (i) use any business name, slogan, emblem, or related device that is misleading or
728 likely to cause the exchange, insurer, or other licensee to be mistaken for another governmental
729 agency, a PPACA exchange, insurer, or other licensee already in business; or

730 (ii) use any advertisement or other insurance promotional material that would cause a
731 reasonable person to mistakenly believe that a state or federal government agency, public
732 program, or insurer:

733 (A) is responsible for the insurance or public program enrollment assistance activities
734 of the person;

735 (B) stands behind the credit of the person; or

736 (C) is a source of payment of any insurance obligation of or sold by the person.

737 (c) A person who is not an insurer may not assume or use any name that deceptively
738 implies or suggests that person is an insurer.

739 (3) A person may not engage in an unfair method of competition or any other unfair or
740 deceptive act or practice in the business of insurance, as defined by the commissioner by rule,

741 after a finding that the method of competition, the act, or the practice:

742 (a) is misleading;

743 (b) is deceptive;

744 (c) is unfairly discriminatory;

745 (d) provides an unfair inducement; or

746 (e) unreasonably restrains competition.

747 (4) A navigator licensed under this chapter is subject to the inducement provisions of
748 Section 31A-23a-402.5.

749 (5) A navigator licensed under this chapter or who should be licensed under this
750 chapter:

751 (a) may not receive direct or indirect compensation from an accident or health insurer
752 or from an individual who receives services from a navigator in accordance with:

753 (i) federal conflict of interest regulations established pursuant to PPACA; and

754 (ii) administrative rule adopted by the department;

755 (b) may be compensated by the exchange for performing the duties of a navigator;

756 (c) (i) may perform, offer to perform, or advertise a service as a navigator only for a
757 person selecting a qualified health plan or public program offered on an exchange; and

758 (ii) may not perform, offer to perform, or advertise any services as a navigator for
759 individuals or small employer groups selecting accident and health insurance plans, qualified
760 health plans, public programs, business, or services that are not offered on an exchange; and

761 (d) may not recommend a particular accident and health insurance plan or qualified
762 health plan.

763 Section 18. Section **31A-23b-401** is enacted to read:

764 **Part 4. License Denial and Discipline**

765 **31A-23b-401. Revocation, suspension, surrender, lapsing, limiting, or otherwise**
766 **terminating a license -- Rulemaking for renewal or reinstatement.**

767 (1) A license as a navigator under this chapter remains in force until:

768 (a) revoked or suspended under Subsection (4);

769 (b) surrendered to the commissioner and accepted by the commissioner in lieu of
770 administrative action;

771 (c) the licensee dies or is adjudicated incompetent as defined under:

772 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
773 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and
774 Minors;
775 (d) lapsed under this section; or
776 (e) voluntarily surrendered.
777 (2) The following may be reinstated within one year after the day on which the license
778 is no longer in force:
779 (a) a lapsed license; or
780 (b) a voluntarily surrendered license, except that a voluntarily surrendered license may
781 not be reinstated after the license period in which the license is voluntarily surrendered.
782 (3) Unless otherwise stated in a written agreement for the voluntary surrender of a
783 license, submission and acceptance of a voluntary surrender of a license does not prevent the
784 department from pursuing additional disciplinary or other action authorized under:
785 (a) this title; or
786 (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah
787 Administrative Rulemaking Act.
788 (4) (a) If the commissioner makes a finding under Subsection (4)(b), as part of an
789 adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the
790 commissioner may:
791 (i) revoke a license;
792 (ii) suspend a license for a specified period of 12 months or less;
793 (iii) limit a license in whole or in part; or
794 (iv) deny a license application.
795 (b) The commissioner may take an action described in Subsection (4)(a) if the
796 commissioner finds that the licensee:
797 (i) is unqualified for a license under Section 31A-23b-204, 31A-23b-205, or
798 31A-23b-206;
799 (ii) violated:
800 (A) an insurance statute;
801 (B) a rule that is valid under Subsection 31A-2-201(3); or
802 (C) an order that is valid under Subsection 31A-2-201(4);

- 803 (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other
804 delinquency proceedings in any state;
- 805 (iv) failed to pay a final judgment rendered against the person in this state within 60
806 days after the day on which the judgment became final;
- 807 (v) refused:
- 808 (A) to be examined; or
- 809 (B) to produce its accounts, records, and files for examination;
- 810 (vi) had an officer who refused to:
- 811 (A) give information with respect to the navigator's affairs; or
- 812 (B) perform any other legal obligation as to an examination;
- 813 (vii) provided information in the license application that is:
- 814 (A) incorrect;
- 815 (B) misleading;
- 816 (C) incomplete; or
- 817 (D) materially untrue;
- 818 (viii) violated an insurance law, valid rule, or valid order of another state's insurance
819 department;
- 820 (ix) obtained or attempted to obtain a license through misrepresentation or fraud;
- 821 (x) improperly withheld, misappropriated, or converted money or properties received
822 in the course of doing insurance business;
- 823 (xi) intentionally misrepresented the terms of an actual or proposed:
- 824 (A) insurance contract;
- 825 (B) application for insurance; or
- 826 (C) application for public program;
- 827 (xii) is convicted of a felony;
- 828 (xiii) admitted or is found to have committed an insurance unfair trade practice or
829 fraud;
- 830 (xiv) in the conduct of business in this state or elsewhere:
- 831 (A) used fraudulent, coercive, or dishonest practices; or
- 832 (B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;
- 833 (xv) had an insurance license, navigator license, or its equivalent, denied, suspended,

834 or revoked in another state, province, district, or territory;
835 (xvi) forged another's name to:
836 (A) an application for insurance;
837 (B) a document related to an insurance transaction;
838 (C) a document related to an application for a public program; or
839 (D) a document related to an application for premium subsidies;
840 (xvii) improperly used notes or another reference material to complete an examination
841 for a license;
842 (xviii) knowingly accepted insurance business from an individual who is not licensed;
843 (xix) failed to comply with an administrative or court order imposing a child support
844 obligation;
845 (xx) failed to:
846 (A) pay state income tax; or
847 (B) comply with an administrative or court order directing payment of state income
848 tax;
849 (xxi) violated or permitted others to violate the federal Violent Crime Control and Law
850 Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and therefore under 18 U.S.C. Sec. 1033 is
851 prohibited from engaging in the business of insurance; or
852 (xxii) engaged in a method or practice in the conduct of business that endangered the
853 legitimate interests of customers and the public.
854 (c) For purposes of this section, if a license is held by an agency, both the agency itself
855 and any individual designated under the license are considered to be the holders of the license.
856 (d) If an individual designated under the agency license commits an act or fails to
857 perform a duty that is a ground for suspending, revoking, or limiting the individual's license,
858 the commissioner may suspend, revoke, or limit the license of:
859 (i) the individual;
860 (ii) the agency, if the agency:
861 (A) is reckless or negligent in its supervision of the individual; or
862 (B) knowingly participates in the act or failure to act that is the ground for suspending,
863 revoking, or limiting the license; or
864 (iii) (A) the individual; and

- 865 (B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).
- 866 (5) A licensee under this chapter is subject to the penalties for acting as a licensee
867 without a license if:
- 868 (a) the licensee's license is:
- 869 (i) revoked;
- 870 (ii) suspended;
- 871 (iii) surrendered in lieu of administrative action;
- 872 (iv) lapsed; or
- 873 (v) voluntarily surrendered; and
- 874 (b) the licensee:
- 875 (i) continues to act as a licensee; or
- 876 (ii) violates the terms of the license limitation.
- 877 (6) A licensee under this chapter shall immediately report to the commissioner:
- 878 (a) a revocation, suspension, or limitation of the person's license in another state, the
879 District of Columbia, or a territory of the United States;
- 880 (b) the imposition of a disciplinary sanction imposed on that person by another state,
881 the District of Columbia, or a territory of the United States; or
- 882 (c) a judgment or injunction entered against that person on the basis of conduct
883 involving:
- 884 (i) fraud;
- 885 (ii) deceit;
- 886 (iii) misrepresentation; or
- 887 (iv) a violation of an insurance law or rule.
- 888 (7) (a) An order revoking a license under Subsection (4) or an agreement to surrender a
889 license in lieu of administrative action may specify a time, not to exceed five years, within
890 which the former licensee may not apply for a new license.
- 891 (b) If no time is specified in an order or agreement described in Subsection (7)(a), the
892 former licensee may not apply for a new license for five years from the day on which the order
893 or agreement is made without the express approval of the commissioner.
- 894 (8) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of
895 a license issued under this chapter if so ordered by a court.

896 (9) The commissioner shall by rule prescribe the license renewal and reinstatement
897 procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

898 Section 19. Section **31A-23b-402** is enacted to read:

899 **31A-23b-402. Probation -- Grounds for revocation.**

900 (1) The commissioner may place a licensee on probation for a period not to exceed 24
901 months as follows:

902 (a) after an adjudicative proceeding under Title 63G, Chapter 4, Administrative
903 Procedures Act, for any circumstances that would justify a suspension under this section; or

904 (b) at the issuance of a new license:

905 (i) with an admitted violation under 18 U.S.C. Secs. 1033 and 1034; or

906 (ii) with a response to background information questions on a new license application
907 indicating that:

908 (A) the person has been convicted of a crime that is listed by rule made in accordance
909 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is a ground for
910 probation;

911 (B) the person is currently charged with a crime that is listed by rule made in
912 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is
913 a ground for probation regardless of whether adjudication is withheld;

914 (C) the person has been involved in an administrative proceeding regarding any
915 professional or occupational license; or

916 (D) any business in which the person is or was an owner, partner, officer, or director
917 has been involved in an administrative proceeding regarding any professional or occupational
918 license.

919 (2) The commissioner may place a licensee on probation for a specified period no
920 longer than 24 months if the licensee has admitted to a violation under 18 U.S.C. Secs. 1033
921 and 1034.

922 (3) The probation order shall state the conditions for revocation or retention of the
923 license, which shall be reasonable.

924 (4) Any violation of the probation is a ground for revocation pursuant to any
925 proceeding authorized under Title 63G, Chapter 4, Administrative Procedures Act.

926 Section 20. Section **31A-23b-403** is enacted to read:

927 **31A-23b-403. License lapse and voluntary surrender.**

928 (1) (a) A license issued under this chapter shall lapse if the licensee fails to:

929 (i) pay when due a fee under Section 31A-3-103;

930 (ii) complete continuing education requirements under Section 31A-23b-206 before

931 submitting the license renewal application;

932 (iii) submit a completed renewal application as required by Section 31A-23b-203;

933 (iv) submit additional documentation required to complete the licensing process; or

934 (v) maintain an active license in a resident state if the licensee is a nonresident

935 licensee.

936 (b) (i) A licensee whose license lapses due to the following may request an action

937 described in Subsection (1)(b)(ii):

938 (A) military service;

939 (B) voluntary service for a period of time designated by the person for whom the

940 licensee provides voluntary service; or

941 (C) other extenuating circumstances, including long-term medical disability.

942 (ii) A licensee described in Subsection (1)(b)(i) may request:

943 (A) reinstatement of the license no later than one year after the day on which the

944 license lapses; and

945 (B) waiver of any of the following imposed for failure to comply with renewal

946 procedures:

947 (I) an examination requirement;

948 (II) reinstatement fees set under Section 31A-3-103;

949 (III) continuing education requirements; or

950 (IV) other sanctions imposed for failure to comply with renewal procedures.

951 (2) If a license issued under this chapter is voluntarily surrendered, the license may be

952 reinstated:

953 (a) during the license period in which the license is voluntarily surrendered; and

954 (b) no later than one year after the day on which the license is voluntarily surrendered.

955 (3) A voluntarily surrendered license that is reinstated during the license period set

956 forth in Subsection (2) may not be reinstated until the person who voluntarily surrendered the

957 license complies with any applicable continuing education requirements for the period during

958 which the license was voluntarily surrendered.

959 Section 21. Section **31A-23b-404** is enacted to read:

960 **31A-23b-404. Penalties.**

961 (1) (a) If, after notice and opportunity to be heard, the commissioner finds that the
962 navigator or any other person has not materially complied with this part, or any rule made or
963 order issued under this chapter, the commissioner may order the navigator or other person to
964 cease doing business in the state.

965 (b) If the commissioner finds that because of the material noncompliance an insurer,
966 any policyholder of an insurer, or a recipient of a public program who used the services of the
967 navigator or other person has suffered any loss or damage due to the material noncompliance,
968 the commissioner may:

969 (i) maintain a civil action or may intervene in an action brought by or on behalf of the
970 insurer, policyholder, or the recipient of the public program, for recovery of compensatory
971 damages for the benefit of the insurer, policyholder, or recipient of a public program; or

972 (ii) seek other appropriate relief.

973 (2) Nothing in this section affects the right of the commissioner to impose any other
974 penalties provided for in this title.

975 (3) Nothing contained in this section is intended to or shall in any manner alter or
976 affect the rights of policyholders, claimants, creditors, or other third parties.

977 Section 22. Section **31A-30-104** is amended to read:

978 **31A-30-104. Applicability and scope.**

979 (1) This chapter applies to any:

980 (a) health benefit plan that provides coverage to:

981 (i) individuals;

982 (ii) small employers; or

983 (iii) both Subsections (1)(a)(i) and (ii); or

984 (b) individual conversion policy for purposes of Sections 31A-30-106.5 and
985 31A-30-107.5.

986 (2) This chapter applies to a health benefit plan that provides coverage to small
987 employers or individuals regardless of:

988 (a) whether the contract is issued to:

- 989 (i) an association;
- 990 (ii) a trust;
- 991 (iii) a discretionary group; or
- 992 (iv) other similar grouping; or
- 993 (b) the situs of delivery of the policy or contract.
- 994 (3) This chapter does not apply to:
- 995 (a) short-term limited duration health insurance; or
- 996 (b) federally funded or partially funded programs.
- 997 (4) (a) Except as provided in Subsection (4)(b), for the purposes of this chapter:
- 998 (i) carriers that are affiliated companies or that are eligible to file a consolidated tax
- 999 return shall be treated as one carrier; and
- 1000 (ii) any restrictions or limitations imposed by this chapter shall apply as if all health
- 1001 benefit plans delivered or issued for delivery to covered insureds in this state by the affiliated
- 1002 carriers were issued by one carrier.
- 1003 (b) Upon a finding of the commissioner, an affiliated carrier that is a health
- 1004 maintenance organization having a certificate of authority under this title may be considered to
- 1005 be a separate carrier for the purposes of this chapter.
- 1006 (c) Unless otherwise authorized by the commissioner or by Chapter 42, Defined
- 1007 Contribution Risk Adjuster Act, a covered carrier may not enter into one or more ceding
- 1008 arrangements with respect to health benefit plans delivered or issued for delivery to covered
- 1009 insureds in this state if the ceding arrangements would result in less than 50% of the insurance
- 1010 obligation or risk for the health benefit plans being retained by the ceding carrier.
- 1011 (d) Section 31A-22-1201 applies if a covered carrier cedes or assumes all of the
- 1012 insurance obligation or risk with respect to one or more health benefit plans delivered or issued
- 1013 for delivery to covered insureds in this state.
- 1014 (5) (a) A Taft Hartley trust created in accordance with Section 302(c)(5) of the Federal
- 1015 Labor Management Relations Act, or a carrier with the written authorization of such a trust,
- 1016 may make a written request to the commissioner for a waiver from the application of any of the
- 1017 provisions of Subsection 31A-30-106(1) with respect to a health benefit plan provided to the
- 1018 trust.
- 1019 (b) The commissioner may grant a trust or carrier described in Subsection (5)(a) a

1020 waiver if the commissioner finds that application with respect to the trust would:

1021 (i) have a substantial adverse effect on the participants and beneficiaries of the trust;

1022 and

1023 (ii) require significant modifications to one or more collective bargaining arrangements

1024 under which the trust is established or maintained.

1025 (c) A waiver granted under this Subsection (5) may not apply to an individual if the

1026 person participates in a Taft Hartley trust as an associate member of any employee

1027 organization.

1028 (6) Sections 31A-30-106, 31A-30-106.5, 31A-30-106.7, 31A-30-107, 31A-30-108, and

1029 31A-30-111 apply to:

1030 (a) any insurer engaging in the business of insurance related to the risk of a small

1031 employer for medical, surgical, hospital, or ancillary health care expenses of the small

1032 employer's employees provided as an employee benefit; and

1033 (b) any contract of an insurer, other than a workers' compensation policy, related to the

1034 risk of a small employer for medical, surgical, hospital, or ancillary health care expenses of the

1035 small employer's employees provided as an employee benefit.

1036 (7) The commissioner may make rules requiring that the marketing practices be

1037 consistent with this chapter for:

1038 (a) a small employer carrier;

1039 (b) a small employer carrier's agent;

1040 (c) an insurance producer; ~~and~~

1041 (d) an insurance consultant; and

1042 (e) a navigator.

1043 Section 23. Section **31A-30-105** is amended to read:

1044 **31A-30-105. Establishment of classes of business.**

1045 ~~[(1) For a policy that takes effect on or after January 1, 2011]~~ Effective January 1,

1046 2014, a covered carrier may ~~[not]~~ establish ~~[a separate class]~~ up to four separate classes of

1047 business ~~[unless]~~:

1048 ~~[(a) the covered carrier submits an application to the commissioner to establish a~~

1049 ~~separate class of business;]~~

1050 ~~[(b) the covered carrier demonstrates to the satisfaction of the commissioner that a~~

1051 ~~separate class of business is justified under the provisions of this section; and]~~

1052 ~~[(c) the commissioner approves the carrier's application for the use of a separate class~~
1053 ~~of business.]]~~

1054 ~~[(2) (a) The commissioner shall have a presumption against the use of a separate class~~
1055 ~~of business by a covered insured, except when the covered carrier demonstrates that this~~
1056 ~~Subsection (2) applies.]]~~

1057 ~~[(b) The commissioner may approve the use of a separate class of business only if the~~
1058 ~~covered carrier can demonstrate that the use of a separate class of business is necessary due to~~
1059 ~~substantial differences in either expected claims experience or administrative costs related to~~
1060 ~~the following reasons:]]~~

1061 ~~[(i) the covered carrier uses more than one type of system for the marketing and sale of~~
1062 ~~health benefit plans to covered insureds;]]~~

1063 ~~[(ii) the covered carrier has acquired a class of business from another covered carrier;~~
1064 ~~or]]~~

1065 ~~[(iii) the covered carrier provides coverage to one or more association groups.]]~~

1066 ~~[(3) The commissioner may establish regulations to provide for a period of transition in~~
1067 ~~order for a covered carrier to come into compliance with Subsection (2) in the instance of~~
1068 ~~acquisition of an additional class of business from another covered carrier.]]~~

1069 ~~[(4) The commissioner may approve the establishment of up to five classes of business~~
1070 ~~per covered carrier upon application to the commissioner and a finding by the commissioner~~
1071 ~~that such action would substantially enhance the efficiency and fairness of the health insurance~~
1072 ~~marketplace subject to this chapter.]]~~

1073 ~~[(5) A covered carrier may not establish a class of business based solely on the~~
1074 ~~marketing or sale of a health benefit plan as a defined contribution arrangement health benefit~~
1075 ~~plan, or through the Health Insurance Exchange.]]~~

1076 ~~(1) one class of business for individual health benefit plans that are not grandfathered~~
1077 ~~under PPACA;~~

1078 ~~(2) one class of business for small employer health benefit plans that are not~~
1079 ~~grandfathered under PPACA;~~

1080 ~~(3) one class of business for individual health benefit plans that are grandfathered~~
1081 ~~under PPACA; and~~

1082 (4) one class of business for small employer health benefit plans that are grandfathered
1083 under PPACA.

1084 Section 24. Section **31A-30-107.3** is amended to read:

1085 **31A-30-107.3. Discontinuance and nonrenewal limitations and conditions.**

1086 (1) ~~[(a)]~~ A carrier that elects to discontinue offering [a] all individual health benefit
1087 ~~[plan] plans~~ under Subsection ~~[31A-30-107(3)(e) or]~~ 31A-30-107.1(3)(e) is prohibited from
1088 writing new business~~[(i) in the small employer and]~~ in the individual market in this state~~[- and~~
1089 ~~(ii)]~~ for a period of five years beginning on the date of discontinuation of the last individual
1090 health benefit plan coverage that is discontinued.

1091 ~~[(b) The prohibition described in Subsection (1)(a) may be waived if the commissioner~~
1092 ~~finds that waiver is in the public interest.]~~

1093 ~~[(i) to promote competition; or]~~

1094 ~~[(ii) to resolve inequity in the marketplace.]~~

1095 (2) A carrier that elects to discontinue offering all small employer health benefit plans
1096 under Subsection 31A-30-107(3)(e) is prohibited from writing new business in the small group
1097 market in this state for a period of five years beginning on the date of discontinuation of the
1098 last small employer coverage that is discontinued.

1099 ~~[(2)]~~ (3) (a) If the Comprehensive Health Insurance Pool as set forth under Title 31A,
1100 Chapter 29, Comprehensive Health Insurance Pool Act, is dissolved or discontinued, or if
1101 enrollment is capped or suspended, an individual carrier:

1102 (i) may elect to discontinue offering new individual health benefit plans, except to
1103 HIPAA eligibles, but shall keep existing individual health benefit plans in effect, except those
1104 individual plans that are not renewed under the provisions of Subsection 31A-30-107(2) or
1105 31A-30-107.1(2);

1106 (ii) may elect to continue to offer new individual and small employer health benefit
1107 plans; or

1108 (iii) may elect to discontinue all of the covered carrier's health benefit plans in the
1109 individual or small group market under the provisions of Subsection 31A-30-107(3)(e) or
1110 31A-30-107.1(3)(e).

1111 (b) A carrier that makes an election under Subsection ~~[(2)]~~ (3)(a)(i):

1112 (i) is prohibited from writing new business:

1113 (A) in the individual market in this state; and
 1114 (B) for a period of five years beginning on the date of discontinuation;
 1115 (ii) may continue to write new business in the small employer market; and
 1116 (iii) shall provide written notice of the election under Subsection [~~(2)~~] (3)(a)(i) within
 1117 two calendar days of the election to the Utah Insurance Department.

1118 (c) The prohibition described in Subsection [~~(2)~~] (3)(b)(i) may be waived if the
 1119 commissioner finds that waiver is in the public interest:

1120 (i) to promote competition; or
 1121 (ii) to resolve inequity in the marketplace.

1122 (d) A carrier that makes an election under Subsection [~~(2)~~] (3)(a)(iii) is subject to the
 1123 provisions of Subsection (1).

1124 [~~(3)~~] (4) If a carrier is doing business in one established geographic service area of the
 1125 state, Sections 31A-30-107 and 31A-30-107.1 apply only to the carrier's operations in that
 1126 geographic service area.

1127 [~~(4)~~] (5) If a small employer employs less than two eligible employees, a carrier may
 1128 not discontinue or not renew the health benefit plan until the first renewal date following the
 1129 beginning of a new plan year, even if the carrier knows as of the beginning of the plan year that
 1130 the employer no longer has at least two current employees.

1131 Section 25. Section **31A-30-112** is amended to read:

1132 **31A-30-112. Employee participation levels.**

1133 (1) (a) For purposes of this section, "participation" is as defined in Section 31A-1-301.

1134 [~~(1)~~-(a)] (b) Except as provided in Subsection (2) and Section 31A-30-206, a
 1135 requirement used by a covered carrier in determining whether to provide coverage to a small
 1136 employer, including a participation requirement [~~for minimum participation of eligible~~
 1137 ~~employees]~~ and a minimum employer [~~contributions]~~ contribution requirement, shall be
 1138 applied uniformly among all small employers with the same number of eligible employees
 1139 applying for coverage or receiving coverage from the covered carrier.

1140 [~~(b) In addition to applying Subsection 31A-1-301(124), a covered carrier may require~~
 1141 ~~that a small employer have a minimum of two eligible employees to meet participation~~
 1142 ~~requirements.]~~

1143 (2) A covered carrier may not increase a [~~requirement for minimum employee]~~

1144 participation requirement or a requirement for minimum employer contribution, applicable to a
 1145 small employer, at any time after the small employer is accepted for coverage.

1146 Section 26. Section **31A-30-115** is amended to read:

1147 **31A-30-115. Actuarial review of health benefit plans.**

1148 (1) (a) The department shall conduct an actuarial review of rates submitted by [~~small~~
 1149 ~~employer carriers~~] a carrier that offers a small employer plan and a carrier that offers an
 1150 individual plan under this chapter:

1151 [~~(i) prior to the publication of the premium rates on the Health Insurance Exchange;~~]

1152 [~~(ii) except as permitted by Subsection 31A-30-207(2), to determine if the carrier is~~
 1153 ~~using the same rating and underwriting practices in both the defined contribution arrangement~~
 1154 ~~market in the Health Insurance Exchange and the defined benefit market offered outside the~~
 1155 ~~Health Insurance Exchange, in compliance with Subsection 31A-30-202.5(1)(b);]~~

1156 [~~(iii) to verify the validity of the rates, underwriting and risk factors, and premiums of~~
 1157 ~~plans both in and outside of the Health Insurance Exchange;]~~

1158 [~~(iv) to verify that insurers are pricing similar health benefit plans and groups the same~~
 1159 ~~in and out of the exchange, except as permitted by Subsection 31A-30-207(2); and]~~

1160 (i) to verify the validity of the rates, risk factors, and premiums of the plans; and

1161 [~~(v)~~] (ii) as the department determines is necessary to oversee market conduct.

1162 (b) The actuarial review by the department shall be funded from a fee:

1163 (i) established by the department in accordance with Section 63J-1-504; and

1164 (ii) paid by [~~all small employer carriers participating in the defined contribution~~
 1165 ~~arrangement market and small employer carriers offering health benefit plans under Part 1,~~
 1166 ~~Individual and Small Employer Group] a carrier offering a health benefit plan subject to this
 1167 chapter.~~

1168 (c) The department shall:

1169 (i) report aggregate data from the actuarial review to the risk adjuster board created in
 1170 Section 31A-42-201; and

1171 (ii) contact carriers, if the department determines it is appropriate, to:

1172 (A) inform a carrier of the department's findings regarding the rates of a particular
 1173 carrier; and

1174 (B) request a carrier to recalculate or verify base rates, rating factors, and premiums.

1175 (d) A carrier shall comply with the department's request under Subsection (1)(c)(ii).

1176 (2) (a) There is created in the General Fund a restricted account known as the "Health
1177 Insurance Actuarial Review Restricted Account."

1178 (b) The Health Insurance Actuarial Review Restricted Account shall consist of money
1179 received by the commissioner under this section.

1180 (c) The commissioner shall administer the Health Insurance Actuarial Review
1181 Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use
1182 money deposited into the Health Insurance Actuarial Review Restricted Account to pay for the
1183 actuarial review conducted by the department under this section.

1184 Section 27. Section **31A-30-117** is enacted to read:

1185 **31A-30-117. Patient Protection and Affordable Care Act -- Market transition.**

1186 (1) (a) After complying with the reporting requirements of Section 63M-1-2505.5, the
1187 commissioner may adopt administrative rules that change the rating and underwriting
1188 requirements of this chapter as necessary to transition the insurance market to meet federal
1189 qualified health plan standards and rating practices under PPACA.

1190 (b) Administrative rules adopted by the commissioner under this section may include:

1191 (i) the regulation of health benefit plans as described in Subsections 31A-2-212(5)(a)
1192 and (b); and

1193 (ii) disclosure of records and information required by PPACA and state law.

1194 (c) (i) The commissioner shall establish by administrative rule one statewide open
1195 enrollment period that applies to the individual insurance market that is not on the PPACA
1196 certified individual exchange.

1197 (ii) The statewide open enrollment period:

1198 (A) may be shorter, but no longer than the open enrollment period established for the
1199 individual insurance market offered in the PPACA certified exchange; and

1200 (B) may not be extended beyond the dates of the open enrollment period established
1201 for the individual insurance market offered in the PPACA certified exchange.

1202 (2) A carrier that offers health benefit plans in the individual market that is not part of
1203 the individual PPACA certified exchange:

1204 (a) shall open enrollment:

1205 (i) during the statewide open enrollment period established in Subsection (1)(c); and

1206 (ii) at other times, for qualifying events, as determined by administrative rule adopted
1207 by the commissioner; and

1208 (b) may open enrollment at any time.

1209 Section 28. Section **31A-30-202.5** is amended to read:

1210 **31A-30-202.5. Dental and vision plans on the defined contribution arrangement**
1211 **market.**

1212 ~~[(1) A small employer carrier who chooses to participate in the defined contribution~~
1213 ~~arrangement market:]~~

1214 ~~[(a) shall offer the defined contribution arrangement health benefit plans required by~~
1215 ~~Section 31A-30-205;]~~

1216 ~~[(b) may:]~~

1217 ~~[(i) offer additional defined contribution arrangement health benefit plans in the Health~~
1218 ~~Insurance Exchange as permitted by Section 31A-30-205;]~~

1219 ~~[(ii) offer a defined benefit plan in the Health Insurance Exchange if the small~~
1220 ~~employer carrier offers a defined contribution arrangement health benefit plan that is actuarially~~
1221 ~~equivalent to the defined benefit plan that is offered in the Health Insurance Exchange; and]~~

1222 ~~[(iii) continue to offer defined benefit plans outside of the Health Insurance Exchange~~
1223 ~~and the defined contribution arrangement market, if, except as provided in Subsection~~
1224 ~~31A-30-207(2), the carrier uses the same rating and underwriting practices in both the defined~~
1225 ~~contribution arrangement market in the Health Insurance Exchange and the defined benefit~~
1226 ~~market outside the Health Insurance Exchange.]~~

1227 ~~[(2) A carrier that does not elect to participate in the defined contribution arrangement~~
1228 ~~market by January 1, 2011, may not participate in the defined contribution arrangement market~~
1229 ~~in the Health Insurance Exchange until January 1, 2013.]~~

1230 (1) Beginning July 1, 2013, a carrier may offer dental and vision plans in the defined
1231 contribution arrangement market.

1232 (2) (a) A carrier that offers a dental or vision plan in the defined contribution
1233 arrangement market is not required to offer the same dental or vision plans outside the defined
1234 contribution arrangement market and does not have to use the same rating and underwriting
1235 practices in and out of the defined contribution arrangement market.

1236 (b) If a carrier offers a dental or vision plan in the defined contribution arrangement

1237 market, the carrier shall allow an employee of a small employer group to enroll in a dental and
1238 vision plan in accordance with Subsection (3).

1239 (3) (a) A small employer group shall participate in a defined contribution arrangement
1240 and meet participation requirements for the defined contribution arrangement before the
1241 employer may elect to offer its employees dental or vision plans under Subsection (3)(b).

1242 (b) A small employer who meets the requirements of Subsection (3)(a) may elect to
1243 offer its employees:

1244 (i) a dental plan offered in the defined contribution arrangement market;

1245 (ii) a vision plan offered in the defined contribution arrangement market; or

1246 (iii) both a vision plan and a dental plan offered in the defined contribution

1247 arrangement market.

1248 (4) An employee whose employer has offered a dental or vision plan under Subsection
1249 (3)(b) may elect to enroll, or not enroll, in the dental and vision plan selected by the employer.

1250 (5) An employer's small group must meet participation requirements established by the
1251 commissioner by administrative rule for each dental or vision plan selected by an employer
1252 under Subsection (3).

1253 Section 29. Section **31A-30-205** is amended to read:

1254 **31A-30-205. Continuation of coverage in the defined contribution market.**

1255 ~~[(1) An insurer who offers a defined contribution arrangement health benefit plan in~~
1256 ~~the small group market shall offer the following health benefit plans as defined contribution~~
1257 ~~arrangements:]~~

1258 ~~[(a) one health benefit plan that:]~~

1259 ~~[(i) is a federally qualified high deductible health plan;]~~

1260 ~~[(ii) has a deductible that is within \$250 of the lowest deductible that qualifies as a~~
1261 ~~federally qualified high deductible health plan as adjusted by federal law; and]~~

1262 ~~[(iii) has an annual out-of-pocket maximum that does not exceed three times the~~
1263 ~~amount of the deductible;]~~

1264 ~~[(b) one health benefit plan that:]~~

1265 ~~[(i) is a federally qualified high deductible health plan that is within \$250 of an~~
1266 ~~individual deductible of \$2,500 and a deductible of \$5,000 for coverage including two or more~~
1267 ~~individuals; and]~~

1268 ~~[(ii) does not exceed an annual out-of-pocket maximum equal to three times the~~
1269 ~~amount of the annual deductible;]~~

1270 ~~[(c) one health benefit plan that:]~~

1271 ~~[(i) is a federally qualified high deductible health plan;]~~

1272 ~~[(ii) has a deductible that is within \$1,000 of the highest deductible that qualifies as a~~
1273 ~~federally qualified high deductible health plan, as adjusted by federal law; and]~~

1274 ~~[(iii) has an out-of-pocket maximum that qualifies as a federally qualified high~~
1275 ~~deductible health plan;]~~

1276 ~~[(d) the insurer's four most commonly selected small group health benefit plans that:]~~

1277 ~~[(i) include:]~~

1278 ~~[(A) the provider panel;]~~

1279 ~~[(B) the deductible;]~~

1280 ~~[(C) co-payments;]~~

1281 ~~[(D) co-insurance; and]~~

1282 ~~[(E) pharmacy benefits;]~~

1283 ~~[(ii) are currently being marketed by the carrier to new groups for enrollment; and]~~

1284 ~~[(iii) meet the standard for most commonly selected plan as determined by~~
1285 ~~administrative rule adopted by the commissioner; and]~~

1286 ~~[(e) alternative coverage required by Section 31A-22-724.]~~

1287 ~~[(2) (a) The provisions of Subsection (1) do not limit the number of defined~~
1288 ~~contribution arrangement health benefit plans an insurer may offer in the defined contribution~~
1289 ~~arrangement market.]~~

1290 ~~[(b) An insurer who offers the health benefit plans required by Subsection (1) may also~~
1291 ~~offer any other health benefit plan as a defined contribution arrangement if the health benefit~~
1292 ~~plan provides benefits with an aggregate actuarial value that is no lower than the actuarial value~~
1293 ~~of the plan required in Subsection (1)(c).]~~

1294 ~~[(3)]~~ An employee in the defined contribution arrangement market who has the right to
1295 extend employer coverage under Subsection 31A-22-722(1) or federal COBRA, may~~[-(a)]~~
1296 continue coverage under the employee's current plan under state mini-COBRA or federal
1297 COBRA~~[-or]~~.

1298 ~~[(b) enroll in alternative coverage under Section 31A-22-724.]~~

1299 Section 30. Section **31A-30-208** is amended to read:

1300 **31A-30-208. Enrollment for defined contribution arrangements.**

1301 (1) An insurer offering a health benefit plan in the defined contribution arrangement
1302 market:

1303 (a) shall allow an employer to enroll in a small employer defined contribution
1304 arrangement plan; and

1305 ~~[(b) may not impose a surcharge under Section 31A-30-106.7 for a small employer~~
1306 ~~group selecting a defined contribution arrangement health benefit plan on or before January 1,~~
1307 ~~2012; and]~~

1308 ~~[(c)]~~ (b) shall otherwise comply with the requirements of this part, Chapter 42, Defined
1309 Contribution Risk Adjuster Act, and Title 63M, Chapter 1, Part 25, Health System Reform Act.

1310 (2) (a) ~~[Except as provided in Subsection 31A-30-202.5(2), in accordance with~~
1311 ~~Subsection (2)(b), on January 1 of each year, an]~~ An insurer may enter or exit the defined
1312 contribution arrangement market on January 1 of each year.

1313 (b) An insurer may offer new or modify existing products in the defined contribution
1314 arrangement market:

1315 (i) on January 1 of each year;

1316 (ii) when required by changes in other law; and

1317 (iii) at other times as established by the risk adjuster board created in Section
1318 31A-42-201.

1319 (c) ~~[(f)]~~ An insurer shall give the department, the Health Insurance Exchange, and the
1320 risk adjuster board 90 days' advance written notice of any event described in Subsection (2)(a)
1321 or (b).

1322 ~~[(ii) When an insurer elects to participate in the defined contribution arrangement~~
1323 ~~market, the insurer shall participate in the defined contribution arrangement market for no less~~
1324 ~~than two years.]~~

1325 Section 31. Section **63I-2-231 (Superseded 07/01/13)** is amended to read:

1326 **63I-2-231 (Superseded 07/01/13). Repeal dates, Title 31A.**

1327 Title 31A, Chapter 42, Defined Contribution Risk Adjuster Act, is repealed July 1,
1328 ~~[2013]~~ 2015.

1329 Section 32. Section **63I-2-231 (Effective 07/01/13)** is amended to read:

1330 **63I-2-231 (Effective 07/01/13). Repeal dates, Title 31A.**

1331 (1) Section 31A-22-315.5 is repealed July 1, 2016.

1332 (2) Title 31A, Chapter 42, Defined Contribution Risk Adjuster Act, is repealed July 1,
1333 [~~2013~~] 2015.

1334 Section 33. Section **63M-1-2505.5** is amended to read:

1335 **63M-1-2505.5. Reporting on federal health reform -- Prohibition of individual**
1336 **mandate.**

1337 (1) The Legislature finds that:

1338 (a) the state has embarked on a rigorous process of implementing a strategic plan for
1339 health system reform pursuant to Section 63M-1-2505;

1340 (b) the health system reform efforts for the state were developed to address the unique
1341 circumstances within Utah and to provide solutions that work for Utah;

1342 (c) Utah is a leader in the nation for health system reform which includes:

1343 (i) developing and using health data to control costs and quality; and

1344 (ii) creating a defined contribution insurance market to increase options for employers
1345 and employees; and

1346 (d) the federal government proposals for health system reform:

1347 (i) infringe on state powers;

1348 (ii) impose a uniform solution to a problem that requires different responses in
1349 different states;

1350 (iii) threaten the progress Utah has made towards health system reform; and

1351 (iv) infringe on the rights of citizens of this state to provide for their own health care

1352 by:

1353 (A) requiring a person to enroll in a third party payment system;

1354 (B) imposing fines on a person who chooses to pay directly for health care rather than
1355 use a third party payer;

1356 (C) imposing fines on an employer that does not meet federal standards for providing
1357 health care benefits for employees; and

1358 (D) threatening private health care systems with competing government supported
1359 health care systems.

1360 (2) (a) For purposes of this section:

1361 (i) "Implementation" includes adopting or changing an administrative rule; applying for
 1362 or spending federal grant money; issuing a request for proposal to carry out a requirement of
 1363 PPACA, entering into a memorandum of understanding with the federal government regarding
 1364 a provision of PPACA, or amending the state Medicaid plan.

1365 (ii) "PPACA" is as defined in Section 31A-1-301.

1366 ~~[(2)(a)] (b)~~ A department or agency of the state may not implement any part of ~~[federal~~
 1367 ~~health care reform, as defined in Subsection (3), that is passed by the United States Congress~~
 1368 ~~after March 1, 2010;]~~ PPACA unless, prior to implementation, the department or agency
 1369 reports in writing, and in person if requested, to the Legislature's Business and Labor Interim
 1370 Committee ~~[and if authorized]~~, the Health Reform Task Force, and the legislative Executive
 1371 Appropriations Committee in accordance with Subsection (2)~~[(c)]~~(d).

1372 ~~[(b)]~~ (c) The Legislature may pass legislation specifically authorizing or prohibiting the
 1373 state's compliance with, or participation in~~[- federal health care reform]~~ provisions of PPACA.

1374 ~~[(c)]~~ (d) The report required under Subsection (2)~~[(a)]~~(b) shall include:

1375 (i) the specific federal statute or regulation that requires the state to implement a
 1376 ~~[federal reform]~~ provision of PPACA;

1377 (ii) whether ~~[the reform provision]~~ PPACA has any state waiver or options;

1378 (iii) exactly what ~~[the reform provision]~~ PPACA requires the state to do, and how it
 1379 would be implemented;

1380 (iv) who in the state will be impacted by adopting the federal reform provision, or not
 1381 adopting the federal reform provision;

1382 (v) what is the cost to the state or citizens of the state to implement the federal reform
 1383 provision; and

1384 (vi) the consequences to the state if the state does not comply with ~~[the federal reform~~
 1385 ~~provision]~~ PPACA.

1386 ~~[(3) For purposes of this section, "federal health care reform" means federal legislation~~
 1387 ~~or federal regulation that:]~~

1388 ~~[(a) mandates an individual to purchase health insurance;]~~

1389 ~~[(b) mandates a small employer to provide health insurance coverage for employees;]~~

1390 ~~[(c) imposes penalties on small employers who do not provide health insurance for~~
 1391 ~~their employees;]~~

1392 ~~[(d) expands the eligibility for the Medicaid program or the Children's Health~~
 1393 ~~Insurance Program, and passes the cost of that expansion to the state;]~~
 1394 ~~[(e) creates new insurance coverage mandates; or]~~
 1395 ~~[(f) creates a new government run, public insurance program;]~~
 1396 ~~[(4)]~~ (3) (a) ~~[An individual in this state may not be required]~~ The state shall not require
 1397 an individual in the state to obtain or maintain health insurance as defined in ~~[Section~~
 1398 ~~31A-1-301]~~ PPACA, regardless of whether the individual has or is eligible for health insurance
 1399 coverage under any policy or program provided by or through the individual's employer or a
 1400 plan sponsored by the state or federal government.

1401 (b) The provisions of this title may not be used to facilitate the federal PPACA
 1402 individual mandate or to hold an individual in this state liable for any penalty, assessment, fee,
 1403 or fine as a result of the individual's failure to procure or obtain health insurance coverage.

1404 (c) This section does not apply to an individual who voluntarily applies for coverage
 1405 under a state administered program pursuant to Title XIX or Title XXI of the Social Security
 1406 Act.

1407 **Section 34. Health Reform Task Force -- Creation -- Membership -- Interim rules**
 1408 **followed -- Compensation -- Staff.**

1409 (1) There is created the Health Reform Task Force consisting of the following 11
 1410 members:

1411 (a) four members of the Senate appointed by the president of the Senate, no more than
 1412 three of whom may be from the same political party; and

1413 (b) seven members of the House of Representatives appointed by the speaker of the
 1414 House of Representatives, no more than five of whom may be from the same political party.

1415 (2) (a) The president of the Senate shall designate a member of the Senate appointed
 1416 under Subsection (1)(a) as a cochair of the task force.

1417 (b) The speaker of the House of Representatives shall designate a member of the House
 1418 of Representatives appointed under Subsection (1)(b) as a cochair of the task force.

1419 (3) In conducting its business, the task force shall comply with the rules of legislative
 1420 interim committees.

1421 (4) Salaries and expenses of the members of the task force shall be paid in accordance
 1422 with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Expense and Mileage

1423 Reimbursement for Authorized Legislative Meetings, Special Sessions, and Veto Override
1424 Sessions.

1425 (5) The Office of Legislative Research and General Counsel shall provide staff support
1426 to the task force.

1427 Section 35. **Duties -- Interim report.**

1428 (1) The task force shall review and make recommendations on the following issues:

1429 (a) the impact of implementation of the federal health reform law and federal
1430 regulations on the state;

1431 (b) options for the state regarding Medicaid expansion and reform;

1432 (c) health care cost containment strategies;

1433 (d) the role of the state defined contribution arrangement market and online health
1434 insurance market places established under PPACA;

1435 (e) governing structure for the state's defined contribution arrangement market; and

1436 (f) Medicaid behavioral health delivery and payment reform models within Medicaid
1437 accountable care organizations and other county provided delivery settings, including:

1438 (i) the development of a system to encourage, track, evaluate, share, and disseminate
1439 results from existing pilot projects; and

1440 (ii) payment reform models that promote performance based reimbursement.

1441 (2) A final report, including any proposed legislation, shall be presented to the
1442 Business and Labor Interim Committee before November 30, 2013, and before November 30,
1443 2014.

1444 Section 36. **Appropriation.**

1445 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for
1446 the fiscal year beginning July 1, 2013, and ending June 30, 2014, the following sums of money
1447 are appropriated from resources not otherwise appropriated, or reduced from amounts
1448 previously appropriated, out of the funds or accounts indicated. These sums of money are in
1449 addition to any amounts previously appropriated for fiscal year 2014.

1450 To Legislature - Senate

1451 From General Fund, One-time \$30,000

1452 Schedule of Programs:

1453 Administration \$30,000

1454 To Legislature - House of Representatives \$52,000

1455 From General Fund, One-time

1456 Schedule of Programs:

1457 Administration \$52,000

1458 Section 37. **Effective date.**

1459 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members
1460 elected to each house, this bill takes effect upon approval by the governor, or the day following
1461 the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's
1462 signature, or in the case of a veto, the date of veto override.

1463 (2) The actions affecting Section 63I-2-231 (Effective 07/01/13) take effect on July 1,
1464 2013.

1465 Section 38. **Repeal date.**

1466 The Health Reform Task Force is repealed December 30, 2015.

Legislative Review Note
as of 2-20-13 7:06 PM

Office of Legislative Research and General Counsel