

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Bill No. 262, Page 39,
2 Section 376.1900, Line 56, by inserting after all of said section and line the following:

3 "376.2000. 1. Sections 376.2000 to 376.2014 shall be known and may be cited as the
4 "Health Insurance Marketplace Innovation Act of 2013".

5 2. As used in sections 376.2000 to 376.2014, the following terms mean:

6 (1) "Department", the department of insurance, financial institutions and professional
7 registration;

8 (2) "Director", the director of the department of insurance, financial institutions and
9 professional registration;

10 (3) "Exchange", any health benefit exchange established or operating in this state, including
11 any exchange established or operated by the United States Department of Health and Human
12 Services.

13 (4) "Navigator", a person that, for compensation, provides information or services in
14 connection with eligibility, enrollment, or program specifications of any health benefit exchange
15 operating in this state, including any person that is selected to perform the activities and duties
16 identified in 42 U.S.C. 18031(i) in this state, any person who receives funds from the United States
17 Department of Health and Human Services to perform any of the activities and duties identified in 42
18 U.S.C. 18031(i), or any other person certified by the United states Department of Health and Human
19 Services, or a health benefit exchange operating in this state, to perform such defined or related
20 duties irrespective of whether such person is identified as a navigator, certified application counselor,
21 in-person assister, or other title.

22 376.2002. 1. No individual or entity shall perform, offer to perform, or advertise any service
23 as a navigator in this state, or receive navigator funding from the state or an exchange unless licensed
24 as a navigator by the department under sections 376.2000 to 376.2014.

25 2. A navigator may:

26 (1) Provide fair and impartial information and services in connection with eligibility,
27 enrollment, and program specifications of any health benefit exchange operating in this state,
28 including information about the costs of coverage, advance payments of premium tax credits, and
29 cost sharing reductions;

30 (2) Facilitate the selection of a qualified health plan;

31 (3) Initiate the enrollment process;

32 (4) Provide referrals to any applicable office of health insurance consumer assistance,
33 ombudsman, or other agency for any enrollee with a grievance, complaint, or question regarding
34 their health plan, coverage, or determination under the plan; and

35 (5) Use culturally and linguistically appropriate language to communicate the information
36 authorized in this subsection.

37 3. Unless also properly licensed as an insurance producer in this state with authority for

Action Taken _____ Date _____

1 health under section 375.014, a navigator shall not:

- 2 (1) Sell, solicit, or negotiate health insurance;
- 3 (2) Engage in any activity that would require an insurance producer license;
- 4 (3) Provide advice concerning the benefits, terms, and features of a particular health plan or
5 offer advice about which exchange health plan is better or worse for a particular individual or
6 employer;
- 7 (4) Recommend or endorse a particular health plan or advise consumers about which health
8 plan to choose; or
- 9 (5) Provide any information or services related to health benefit plans or other products not
10 offered in the exchange.

11 4. The following entities or persons are exempt from the requirement to be licensed as a
12 navigator:

- 13 (1) An entity or person licensed as an insurance producer in this state with authority for
14 health under section 375.014;
- 15 (2) A law firm or licensed attorney in this state; and
- 16 (3) A "health care provider" as defined in section 376.1350 provided that:
17 (a) The health care provider does not receive any funds from the United States Department
18 of Health and Human Services or a health exchange operating in this state to act as a navigator; and
19 (b) The activities or functions performed are related to advising, assisting, or counseling
20 patients regarding private or public coverage or financial matters related to medical treatments or
21 government assistance programs.

22 However, nothing in this section shall prohibit a health care provider from voluntarily becoming
23 licensed as a navigator.

24 376.2004. 1. An individual applying for a navigator license shall make application to the
25 department on a form developed by the director and declare under penalty of refusal, suspension, or
26 revocation of the license that the statements made in the application are true, correct, and complete to
27 the best of the individual's knowledge and belief. Before approving the application, the director shall
28 find that the individual:

- 29 (1) Is eighteen years of age or older;
- 30 (2) Resides in this state or maintains his or her principal place of business in the state;
- 31 (3) Is not disqualified for having committed any act that would be grounds for refusal to
32 issue, renew, suspend, or revoke an insurance producer license under section 375.141;
- 33 (4) Has successfully passed the written examination prescribed by the director;
- 34 (5) When applicable, has the written consent of the director under 18 U.S.C. 1033 or any
35 successor statute regulating crimes by or affecting persons engaged in the business of insurance
36 whose activities affect interstate commerce;
- 37 (6) Has identified the entity with which he or she is affiliated and supervised; and
- 38 (7) Has paid the fees prescribed by the director.

39 2. An entity that acts as a navigator, supervises the activities of individual navigators, or
40 receives funding to perform such activities shall obtain a navigator entity license. An entity applying
41 for an entity navigator license shall make application on a form containing the information
42 prescribed by the director.

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

45 4. Entities licensed as navigators shall, in a manner prescribed by the director, provide a list
46 of all individual navigators that are employed by or in any manner affiliated with the navigator entity
47 and shall report any changes in employment or affiliation within twenty days of such change.

48 5. The director shall require that each navigator obtain a surety bond in an amount

1 acceptable to the director or otherwise demonstrate a level of financial responsibility capable of
2 protecting all persons against the wrongful acts, misrepresentations, errors, omissions, or negligence
3 of the navigator. The director may ask for a copy of the bond or other evidence of financial
4 responsibility at any time.

5 6. Prior to any exchange becoming operational in this state, the director shall prescribe initial
6 training, continuing education, and written examination standards and requirements for navigators.

7 376.2006. 1. A navigator license shall be valid for two years.

8 2. A navigator may file an application for renewal of a license and pay the renewal fee as
9 prescribed by the director. Any navigator who fails to timely file for license renewal shall be
10 charged a late fee in an amount prescribed by the director.

11 3. Prior to the filing date for an application for renewal of a license, an individual licensee
12 shall comply with any ongoing training and continuing education requirements established by the
13 director. Such navigator shall file with the director, by a method prescribed by the director, proof of
14 satisfactory certification of completion of the continuing education requirements. Any failure to
15 fulfill the ongoing training and continuing education requirements shall result in the expiration of the
16 license.

17 376.2008. Upon contact with a person who acknowledges having existing health insurance
18 coverage obtained through an insurance producer, a navigator shall advise the person to consult with
19 a licensed insurance producer regarding coverage in the private market.

20 376.2010. 1. The director may place on probation, suspend, revoke, or refuse to issue,
21 renew, or reinstate a navigator license or may levy a fine not to exceed one thousand dollars for each
22 violation, or any combination of actions, for any one or more of the causes listed in section 375.141,
23 375.936 or for other good cause. In the event that the action by the director is not to renew or to
24 deny an application for a license, the director shall notify the applicant or licensee in writing and
25 shall advise the applicant or licensee of the reason for the denial or nonrenewal. Appeal of the
26 nonrenewal or denial of the application for a navigator license shall be made under the provisions of
27 chapter 621.

28 2. In addition to imposing the penalties authorized by subsection 1 of this section, the
29 director may require that restitution be made to any person who has suffered financial injury because
30 of a violation of this section.

31 3. The director shall have the power to examine and investigate the business affairs and
32 records of any navigator to determine whether the individual or entity has engaged or is engaging in
33 any violation of this section.

34 4. The navigator license held by an entity may be suspended or revoked, renewal or
35 reinstatement thereof may be refused, or a fine may be levied, with or without a suspension,
36 revocation, or refusal to renew a license, if the director finds that an individual licensee's violation
37 was known or should have been known by the employing or supervising entity and the violation was
38 not reported to the director and no corrective action was undertaken on a timely basis.

39 376.2011. 1. If the director determines that a person has engaged, is engaging, or has taken a
40 substantial step toward engaging in an act, practice, omission, or course of business constituting a
41 violation of sections 376.2000 to 376.2014 or a rule adopted or order issued pursuant thereto, or a
42 person has materially aided or is materially aiding an act, practice, omission, or course of business
43 constituting a violation in sections 376.2000 to 376.2014 or a rule adopted or order issued pursuant
44 thereto, the director may issue such administrative orders as authorized under section 374.046.

45 2. If the director believes that a person has engaged, is engaging, or has taken a substantial
46 step toward engaging in an act, practice, omission, or course of business constituting a violation of
47 sections 376.2000 to 376.2014 or a rule adopted or order issued pursuant thereto, or that a person has
48 materially aided or is materially aiding an act, practice, omission, or course of business constituting a

1 violation in sections 376.2000 to 376.2014 or a rule adopted or order issued pursuant thereto, the
 2 director may maintain a civil action for relief authorized under section 374.048.

3 3. A violation of sections 376.2000 to 376.2014 is a level two violation under section
 4 374.049.

5 376.2012. 1. Each licensed navigator shall report to the director within thirty calendar days
 6 of the final disposition of the matter of any administrative action taken against him or her in another
 7 jurisdiction or by another governmental agency in this state. This report shall include a copy of the
 8 order, consent to order, or other relevant legal documents.

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

13 3. An entity that acts as a navigator that terminates the employment, engagement, affiliation,
 14 or other relationship with an individual navigator shall notify the director within twenty days
 15 following the effective date of the termination, using a format prescribed by the director if the reason
 16 for termination is one of the reasons set forth in section 375.141 or 375.936 or if the entity has
 17 knowledge that the navigator was found by a court or governmental body to have engaged in any
 18 such activities. Upon the written request of the director, the entity shall provide additional
 19 information, documents, records, or other data pertaining to the termination or activity of the
 20 individual.

21 376.2014. 1. The requirements of sections 379.930 to 379.952 and chapters 375, 376, 407
 22 and any related rules shall apply to navigators. The activities and duties of a navigator shall be
 23 deemed to constitute transacting the business of insurance.

24 2. If any provision of sections 376.2000 to 376.2014 or its application to any person or
 25 circumstance is held invalid by a court of competent jurisdiction or by federal law, the invalidity
 26 does not affect other provisions or applications of sections 376.2000 to 376.2014 that can be given
 27 effect without the invalid provision or application. The provisions of sections 376.2000 to 376.2014
 28 are severable, and the valid provisions or applications shall remain in full force and effect.

29 3. The director may promulgate rules and regulations to implement and administer the
 30 provisions of sections 376.2000 to 376.2014. Any rule or portion of a rule, as that term is defined in
 31 section 536.010, that is created under the authority delegated in sections 376.2000 to 376.2014 shall
 32 become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
 33 applicable, section 536.028. Sections 376.2000 to 376.2014 and chapter 536 are nonseverable and if
 34 any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
 35 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
 36 grant of rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be
 37 invalid and void.

38 Section 1. Notwithstanding any other provision of law to the contrary, the department of
 39 insurance, financial institutions and professional registration shall exercise its authority and
 40 responsibility over health insurance product form filings, consumer complaints, and investigations
 41 into compliance with state law, regardless as to how a health insurance product may be sold or
 42 marketed in this state or to residents of this state."; and

43
 44 Further amend said bill and page, Section B, Line 1, by inserting after all of said section the
 45 following:

46 "Section C. Because of the need to ensure that navigators are adequately trained to provide
 47 essential health insurance information to the public, Sections 376.2000, 376.2002, 376.2004,
 48 376.2006, 376.2008, 376.2010, 376.2011, 376.2012, and 376.2014 of Section A of this act is deemed

1 necessary for the immediate preservation of the public health, welfare, peace and safety, and is
2 hereby declared to be an emergency act within the meaning of the constitution, and Sections
3 376.2000, 376.2002, 376.2004, 376.2006, 376.2008, 376.2010, 376.2011, 376.2012, and 376.2014
4 of Section A of this act shall be in full force and effect upon its passage and approval."; and
5
6 Further amend said bill by amending the title, enacting clause, and intersectional references
7 accordingly.