

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Bill No. 262, Page 38,
2 Section 376.1900, Line 3, by deleting the word "website" and inserting in lieu thereof the phrase
3 "web-based or similar electronic-based communications network"; and
4

5 Further amend said bill and section, Page 39, Line 56, by inserting after all of said section and line
6 the following:

7 "376.2000. 1. Sections 376.2000 to 376.2014 shall be known and may be cited as the
8 "Health Insurance Marketplace Innovation Act of 2013".

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

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

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

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

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

26 376.2002. 1. No individual or entity shall perform, offer to perform, or advertise any service
27 as a navigator in this state, or receive navigator funding from the state or an exchange unless licensed
28 as a navigator by the department under sections 376.2000 to 376.2014.

29 2. A navigator may:

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

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

35 (3) Initiate the enrollment process;

36 (4) Provide referrals to any applicable office of health insurance consumer assistance,
37 ombudsman, or other agency for any enrollee with a grievance, complaint, or question regarding

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1 their health plan, coverage, or determination under the plan; and

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

4 3. Unless also properly licensed as an insurance producer in this state with authority for
5 health under section 375.014, a navigator shall not:

6 (1) Sell, solicit, or negotiate health insurance;

7 (2) Engage in any activity that would require an insurance producer license;

8 (3) Provide advice concerning the benefits, terms, and features of a particular health plan or
9 offer advice about which exchange health plan is better or worse for a particular individual or
10 employer;

11 (4) Recommend or endorse a particular health plan or advise consumers about which health
12 plan to choose; or

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

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

17 (1) An entity or person licensed as an insurance producer in this state with authority for
18 health under section 375.014;

19 (2) A law firm or licensed attorney in this state; and

20 (3) A "health care provider" as defined in section 376.1350 provided that:

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

23 (b) The activities or functions performed are related to advising, assisting, or counseling
24 patients regarding private or public coverage or financial matters related to medical treatments or
25 government assistance programs.

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

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

33 (1) Is eighteen years of age or older;

34 (2) Resides in this state or maintains his or her principal place of business in the state;

35 (3) Is not disqualified for having committed any act that would be grounds for refusal to
36 issue, renew, suspend, or revoke an insurance producer license under section 375.141;

37 (4) Has successfully passed the written examination prescribed by the director;

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

41 (6) Has identified the entity with which he or she is affiliated and supervised; and

42 (7) Has paid the fees prescribed by the director.

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

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

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

4 5. The director shall require that each navigator obtain a surety bond in an amount
5 acceptable to the director or otherwise demonstrate a level of financial responsibility capable of
6 protecting all persons against the wrongful acts, misrepresentations, errors, omissions, or negligence
7 of the navigator. The director may ask for a copy of the bond or other evidence of financial
8 responsibility at any time.

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

11 376.2006. 1. A navigator license shall be valid for two years.

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

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

21 376.2008. Upon contact with a person who acknowledges having existing health insurance
22 coverage obtained through an insurance producer, a navigator shall advise the person to consult with
23 a licensed insurance producer regarding coverage in the private market.

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

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

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

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

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

2. If the director believes that a person has engaged, is engaging, or has taken a substantial step toward engaging in an act, practice, omission, or course of business constituting a violation of sections 376.2000 to 376.2014 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation in sections 376.2000 to 376.2014 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048.

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

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

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

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

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

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

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

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

Further amend said bill and page, Section B, Line 1, by inserting after all of said section the

1 following:

2 "Section C. Because of the need to ensure that navigators are adequately trained to provide
3 essential health insurance information to the public, Sections 376.2000, 376.2002, 376.2004,
4 376.2006, 376.2008, 376.2010, 376.2011, 376.2012, and 376.2014 of Section A of this act is deemed
5 necessary for the immediate preservation of the public health, welfare, peace and safety, and is
6 hereby declared to be an emergency act within the meaning of the constitution, and Sections
7 376.2000, 376.2002, 376.2004, 376.2006, 376.2008, 376.2010, 376.2011, 376.2012, and 376.2014
8 of Section A of this act shall be in full force and effect upon its passage and approval."; and
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10 Further amend said bill by amending the title, enacting clause, and intersectional references
11 accordingly.
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