

Regular Session, 2013

HOUSE BILL NO. 614

BY REPRESENTATIVE HUVAL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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

1 AN ACT

2 To enact R.S. 22:1566, relative to health insurance navigators; to provide for definitions; to  
3 provide with respect to licensing and regulation by the commissioner of insurance  
4 of individuals and entities as navigators for health benefit exchanges, including the  
5 authority of the commissioner to assess fees and impose penalties; and to provide for  
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 22:1566 is hereby enacted to read as follows:

9 §1566. Health insurance navigators

10 A. As used in this Section:

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

14 (2) "Navigator" means any individual or entity, other than an insurance  
15 producer, who does at least one of the following:

16 (a) Receives any funding, directly or indirectly, from an exchange, the state,  
17 or the federal government to perform any of the activities and duties identified in 42  
18 U.S.C. 18031(i).

19 (b) Facilitates enrollment of individuals or employers in health benefit plans  
20 or public insurance programs offered through an exchange.

1           (c) Conducts public education or consumer assistance activities for or on  
2           behalf of an exchange.

3           (d) Is described or designated by an exchange, the state, or the United States  
4           Department of Health and Human Services, or could reasonably be described or  
5           designated as a navigator, in-person assister, enrollment assister, application assister,  
6           or application counselor.

7           B.(1) The Louisiana legislature finds that licensing and regulating navigators  
8           and navigator entities authorized under the federal Patient Protection and Affordable  
9           Care Act to ensure that they are properly trained and knowledgeable in the subject  
10          matter of individual and group health insurance benefit plans and insurance  
11          coverages is necessary to avoid substantial risk to the health, safety, and welfare of  
12          this state.

13          (2) No individual or entity shall act as, offer to act as, or advertise any  
14          service as a navigator in this state unless licensed as a navigator by the commissioner  
15          of insurance under this Section.

16          (3) Any individual or entity that is a navigator shall be subject to regulation  
17          by the commissioner of insurance as provided in this Section.

18          C.(1) An individual applying for a navigator license shall make application  
19          to the commissioner of insurance on a form developed by the commissioner and  
20          declare under penalty of refusal, suspension, or revocation of the license that the  
21          statements made in the application are true, correct, and complete to the best of the  
22          individual's knowledge and belief. Before approving the application, the  
23          commissioner shall find that the individual meets each of the following  
24          requirements:

25                 (a) Is at least eighteen years of age.

26                 (b) Resides in this state or maintains his principal place of business in the  
27                 state.

1           (c) Is not disqualified for having committed any act that would be grounds  
2           for denial, suspension, or revocation of an insurance producer license under R.S.  
3           22:1554.

4           (d) Has not had an insurance producer license, a navigator license, or an  
5           equivalent license or certification denied, suspended, or revoked in any state,  
6           province, district, or territory.

7           (e) Has completed at least sixteen hours of pre-licensing training prescribed  
8           by the commissioner.

9           (f) Has successfully passed the written examination prescribed by the  
10           commissioner.

11           (g) Has submitted a full set of fingerprints to the commissioner and  
12           successfully completed a criminal history and regulatory record check in a manner  
13           prescribed by the commissioner.

14           (h) When applicable, has the written consent of the commissioner pursuant  
15           to 18 U.S.C. 1033, or any successor statute regulating crimes by or affecting persons  
16           engaged in the business of insurance whose activities affect interstate commerce.

17           (i) Possesses the requisite character and integrity.

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

19           (k) Has paid the fees prescribed by the commissioner.

20           (2) An entity that acts as a navigator, supervises or is responsible for the  
21           activities of individual navigators, or receives funding to perform such activities  
22           shall obtain a navigator entity license from the commissioner. An entity applying  
23           for a navigator entity license shall:

24           (a) Make application for licensure on a form containing information  
25           prescribed by the commissioner.

26           (b) Designate an individual licensed as a navigator to be responsible for the  
27           entity's compliance with this Section.

1           (3) The commissioner may require any documents deemed necessary to  
2           verify the information contained in an application submitted in accordance with this  
3           Subsection.

4           (4) Entities licensed as navigators shall, in a manner prescribed by the  
5           commissioner, periodically provide the commissioner with a list of all individual  
6           navigators that it employs, supervises, or is affiliated with.

7           (5) Prior to any exchange becoming operational in this state, the  
8           commissioner shall prescribe pre-licensing training, continuing education, and  
9           written examination standards and requirements for navigators.

10           D.(1) A navigator license shall be valid for two years.

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

15           (3) Prior to the filing date for application for renewal of a license, an  
16           individual licensee shall comply with at least sixteen hours of ongoing training and  
17           continuing education requirements, including three hours of ethics training  
18           prescribed by the commissioner. Such navigator shall file with the commissioner,  
19           by a method prescribed by the commissioner, satisfactory certification of completion  
20           of the continuing education requirements. Any failure to fulfill the ongoing training  
21           and continuing education requirements shall result in the expiration of the license.

22           E.(1) A navigator shall not do any of the following:

23           (a) Engage in any activities that would require an insurance producer license.

24           (b) Provide advice concerning the benefits, terms, and features of a particular  
25           health benefit plan or offer advice about which health benefit plan is better or worse  
26           or suitable for a particular individual or employer.

27           (c) Recommend or endorse a particular health benefit plan or advise  
28           consumers about which health benefit plan to choose.

1           (d) Provide any information or services related to health benefit plans or  
2           other products not offered in the exchange.

3           (e) Accept any compensation or consideration that is dependent on whether  
4           a person enrolls in or purchases a health benefit plan.

5           (2) Only a person licensed as an insurance producer in this state may do any  
6           of the following:

7           (a) Sell, solicit, or negotiate health insurance.

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

11          (c) Recommend a particular health benefit plan or advise consumers about  
12          which health benefit plan to choose.

13          (3) Upon contact with a person who acknowledges having existing health  
14          insurance coverage obtained through an insurance producer, a navigator shall refer  
15          the person back to that insurance producer for information, assistance, and any other  
16          services.

17          F.(1) The commissioner may place on probation, suspend, revoke, or refuse  
18          to issue, renew, or reinstate a navigator license, or may levy a fine not to exceed five  
19          hundred dollars for each violation, or any combination of actions, for any one or  
20          more of the causes set forth in Paragraph (E)(1) of this Section or R.S. 22:1554, or  
21          for other good cause.

22          (2) In addition to imposing the penalties authorized by this Subsection, the  
23          commissioner may require that restitution be made to any person who has suffered  
24          financial injury because of a violation of this Section.

25          (3) The commissioner shall have power to examine and investigate the  
26          business affairs and records of any navigator to determine whether the individual or  
27          entity has engaged or is engaging in any violation of this Section.

28          (4) A navigator entity license may be suspended or revoked, or renewal or  
29          reinstatement thereof may be refused, or a fine may be levied, with or without a

1 suspension, revocation, or refusal to renew a license, if the commissioner finds that  
2 an individual navigator licensee's violation was known or should have been known  
3 by the employing or supervising entity and the violation was not reported to the  
4 commissioner on a timely basis.

5 (5) In the event that the commissioner suspends or revokes a license, refuses  
6 the renewal or reinstatement of a license, or levies a fine, with or without suspension,  
7 revocation, or refusal to renew a license, the commissioner, in accordance and  
8 compliance with R.S. 49:961, shall notify the licensee in writing of the  
9 determination. An aggrieved party affected by the commissioner's decision, act, or  
10 order may demand a hearing in accordance with Chapter 12 of this Title, R.S.  
11 22:2191 et seq.

12 G.(1) Each licensed navigator shall report to the commissioner any  
13 administrative action taken by a governmental agency against him in any jurisdiction  
14 within thirty calendar days of the final disposition of the matter. This report shall  
15 include a copy of the order or other relevant legal documents.

16 (2) Within thirty days of the initial pretrial hearing date, a navigator shall  
17 report to the commissioner of insurance any criminal prosecution of the navigator  
18 taken in any jurisdiction. The report shall include a copy of the initial complaint  
19 filed, the order resulting from the hearing, and any other relevant legal documents.

20 (3) An entity that acts as a navigator that terminates the employment,  
21 engagement, affiliation, or other relationship with an individual navigator shall  
22 notify the commissioner of insurance within thirty days following the effective date  
23 of the termination, using a format prescribed by the commissioner, if the reason for  
24 termination is one of the reasons set forth in R.S. 22:1554 or the entity has  
25 knowledge that the navigator was found by a court or governmental agency to have  
26 engaged in any of the activities set forth in R.S. 22:1554. Upon the written request  
27 of the commissioner, the entity shall provide additional information, documents,  
28 records, or other data pertaining to the termination or activity of the individual.

1           H. The requirements of R.S. 22:1964, and any related rules, shall apply to  
2           navigators. The activities and duties of a navigator shall be deemed to constitute  
3           transacting the business of insurance.

4           I. The requirements of this Section shall not apply to any individual or entity  
5           licensed as an insurance producer in this state.

6           J. The commissioner may, pursuant to the Administrative Procedure Act,  
7           R.S. 49:950, adopt and promulgate such rules and regulations as may be necessary  
8           or appropriate for the administration and enforcement of this Section.

9           Section 2. This Act shall become effective upon signature by the governor or, if not  
10          signed by the governor, upon expiration of the time for bills to become law without signature  
11          by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
12          vetoed by the governor and subsequently approved by the legislature, this Act shall become  
13          effective on the day following such approval.

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#### DIGEST

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

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Huval

HB No. 614

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

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

- (1) Requires that an individual navigator affiliated with such an exchange meet certain qualifications, including completion of 16 hours of pre-licensing training, passage of an examination, licensure by the commissioner of insurance, and payment of fees prescribed by the commissioner.
- (2) Requires that an entity that acts as a navigator, supervises or is responsible for the activities of individual navigators, or receives funding to perform such activities shall obtain a navigator entity license. Further requires that such an entity make application for licensure and designate an individual licensed as a navigator to be responsible for its compliance with proposed law.
- (3) Provides that a navigator license shall be valid for two years. Further provides relative to the application for license renewal as well as renewal fees and late fees. Requires individual licensees to comply with certain ongoing training and continuing education requirements.

- (4) Prohibits certain acts by navigators and specifies that only an insurance producer (agent) may: (a) sell, solicit, or negotiate health insurance; (b) provide advice concerning the terms, of a particular health benefit plan or offer advice about which health benefit plan is better or worse for a particular individual or employer; or (c) recommend a particular health benefit plan or advise consumers about which health benefit plan to choose. Further requires that a navigator, upon contact with a person who acknowledges having existing health insurance coverage obtained through an insurance producer, refer the person back to that insurance producer for information, assistance, and any other services.
- (5) Authorizes the commissioner to place on probation, suspend, revoke, or refuse to issue, renew, or reinstate a navigator license, or to levy a fine not to exceed \$500 for each violation, or any combination of actions, for any cause set forth in present law relative to grounds for denial, nonrenewal, or revocation of a producer license, or for other good cause. Also authorizes the commissioner to require that restitution be made to any person who has suffered financial injury because of a violation of proposed law. Additionally, gives the commissioner the authority to examine and investigate the business affairs and records of any navigator to determine whether the individual or entity has engaged or is engaging in any violation of proposed law. Specifies that a navigator entity license may be suspended or revoked, renewal or reinstatement thereof may be refused, or a fine may be levied if the commissioner finds that an individual navigator licensee's violation was known or should have been known by such entity and that the violation was not reported to the commissioner on a timely basis. Provides for notice to an applicant or licensee of any such action by the commissioner and provides for an opportunity to be heard pursuant to present law.
- (6) Requires that each navigator report to the commissioner any administrative action taken by a governmental agency against him or any criminal prosecution of him taken in any jurisdiction. Specifies that an entity acting as a navigator that terminates its relationship with an individual navigator shall notify the commissioner if the reason for termination is one of the reasons set forth in present law relative to grounds for denial, nonrenewal, or revocation of a producer license or if the entity has knowledge that the navigator was found by a court or governmental agency to have engaged in any activities that constitute such grounds.
- (7) Provides that present law relative to unfair trade practices in the business of insurance shall apply to navigators. Further provides that the activities of a navigator shall be deemed to constitute transacting the business of insurance.
- (8) Provides that proposed law shall not apply to any individual or entity licensed as an insurance producer in this state.
- (9) Authorizes the commissioner to adopt and promulgate rules necessary for the administration and enforcement of proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 22:1566)