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## DIGEST

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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) Defines a navigator as any individual or entity, except for a licensed health insurance producer, unless the licensed health insurance producer has been certified or approved by an exchange or the U. S. Department of Health and Human Services (HHS) as a navigator, who does at least one of the following:
  - (a) Receives any funding, directly or indirectly, from an exchange, the state, or the federal government to perform any of the activities and duties identified in PPACA.
  - (b) Facilitates enrollment of individuals or employers in health benefit plans or public insurance programs offered through an exchange.
  - (c) Conducts public education or consumer assistance activities for or on behalf of an exchange.
  - (d) Is described or designated by an exchange, the state, or HHS, or could reasonably be described or designated as a navigator, in-person assister, enrollment assister, application assister, or application counselor.
- (2) Requires that an applicant for an individual navigator license meet certain qualifications, including passage of an examination, completion of three hours of ethics continuing education, and payment of an initial license application fee of \$75.
- (3) 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, pay a \$75 initial license application fee, and designate an individual licensed as a navigator to be responsible for its compliance with proposed law.

- (4) Prior to any exchange becoming operational in this state, requires the commissioner to prescribe pre-licensing training, continuing education, and written examination standards and requirements for navigators. Further authorizes the commissioner to adopt any education, training, or examinations approved or administered by the exchange or HHS.
- (5) Authorizes the commissioner, in order to make a determination of license eligibility, to require fingerprints and a criminal history record check on each applicant. Specifies that such fingerprints and information shall be exempt from the public records law, shall not be subject to subpoena, other than a subpoena issued in a criminal proceeding or investigation, shall be confidential by law and privileged, and shall not be subject to discovery or admissible in evidence in any private civil action.
- (6) Provides that a navigator license shall be valid for one year. Further provides relative to the application for license renewal and sets the renewal fee at \$50. Requires individual licensees to comply with certain ongoing training and continuing education requirements prior to renewal.
- (7) 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.
- (8) 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. 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.
- (9) 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.

- (10) 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.
- (11) 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.

(Amends R.S. 44:4.1(B)(11); Adds R.S. 22:821(B)(36) and 1566)

### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Insurance to the original bill.

1. Changed definition of "navigator" to include a licensed health insurance producer who has been certified or approved by an exchange or HHS as a navigator. Also deleted provisions making proposed law inapplicable to licensed insurance producers.
2. Changed training requirements for individuals applying for a navigator license from at least 16 hours of pre-licensing training to all required training and education prescribed by HHS or other appropriate entity or prescribed by the commissioner, in addition to three hours of ethics continuing education.
3. Added authorization for the commissioner to adopt any education, training, or examinations approved or administered by the exchange or HHS.
4. Set license application and renewal fees for navigators at \$75 and \$50, respectively, rather than allowing the commissioner to set them. Also shortened term of the license from two years to one year.
5. Added more detailed provisions relative to the commissioner requiring fingerprints and criminal background checks of navigators, including a public records exemption for such information.
6. Deleted authorization for the commissioner to require that restitution be made to any person who has suffered financial injury because of a violation of proposed law.