

1 ENGROSSED SENATE  
2 BILL NO. 236

By: Yen of the Senate

3 and

4 Cox of the House

5  
6 An Act relating to health insurance navigators;  
7 amending Sections 1 and 2, Chapter 321, O.S.L. 2014  
8 (36 O.S. Supp. 2014, Sections 1415.2 and 1415.3),  
9 which relate to definitions and navigator  
10 registration; defining term; modifying inspection  
11 requirements; providing that reports not include  
12 certain information; requiring verification of  
13 certain information; and providing an effective date.

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12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY Section 1, Chapter 321, O.S.L.  
14 2014 (36 O.S. Supp. 2014, Section 1415.2), is amended to read as  
15 follows:

16 Section 1415.2. As used in this act, the term:

17 1. "Exchange" means a state, federal, or partnership exchange  
18 or marketplace operating in Oklahoma pursuant to Section 1311 or  
19 Section 1321 of the federal act;

20 2. "Federal act" means the federal Patient Protection and  
21 Affordable Care Act (Public Law 111-148), as amended by the federal  
22 Health Care and Education Reconciliation Act of 2010 (Public Law  
23 111-152), and regulations or guidance issued under those acts;

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1           3. "Navigator" means a person, including assistor, application  
2 counselor or other person, certified or designated by an exchange to  
3 facilitate enrollment in health benefit plans offered by an exchange  
4 or to perform any of the other acts described in Section 1311(i) of  
5 the federal act. Such term does not include a person licensed as a  
6 health insurance producer under the Oklahoma Producer Licensing Act.  
7 For the purposes of this act, if an organization or business entity  
8 serves as a navigator, an individual performing navigator duties for  
9 that organization or business entity shall be considered to be  
10 acting in the capacity of a navigator;

11           4. "Navigator entity" means an organization or business entity  
12 which employs or oversees the activities of a navigator or which has  
13 received and possesses funding for the purpose of employing or  
14 overseeing navigators; ~~and~~

15           5. "Personally identifiable information" means information  
16 which can identify an individual including, but not limited to,  
17 name, birth date, social security number, official state- or  
18 government-issued driver license or identification number, alien  
19 registration number, government passport number, employer or  
20 taxpayer identification number; and

21           6. "Registered navigator" means a navigator who has applied,  
22 been approved, and maintains approval under the requirements of this  
23 act.

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1 SECTION 2. AMENDATORY Section 2, Chapter 321, O.S.L.  
2 2014 (36 O.S. Supp. 2014, Section 1415.3), is amended to read as  
3 follows:

4 Section 1415.3. A. No navigator shall provide assistance with  
5 regard to health benefit plans as a navigator in this state under  
6 the provisions of the federal act unless registered in accordance  
7 with this act. The Insurance Commissioner must maintain a registry  
8 of navigators.

9 B. An individual applying for a navigator registration shall  
10 make application on a form developed by the Commissioner and shall  
11 declare under penalty of refusal, suspension, or revocation of the  
12 registration that the statements made in the application are true,  
13 correct, and complete to the best of the applicant's knowledge. The  
14 Commissioner may not allow any applicant to register who does not  
15 meet or conform to the following qualifications or requirements:

16 1. The applicant shall establish to the satisfaction of the  
17 Commissioner that he or she has read and will comply with written  
18 materials provided by the Commissioner concerning ethics, consumer  
19 privacy, the insurance laws of this state, and any other topic or  
20 topics the Commissioner deems necessary and attests to such  
21 understanding and intent to comply with all state statutes and  
22 rules;

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1           2. The applicant shall attest to an understanding of the  
2 disclosure and recordkeeping requirements of the registry and the  
3 ability to provide and maintain such documents;

4           3. An applicant shall be not less than eighteen (18) years of  
5 age and of good moral character;

6           4. The applicant shall successfully complete a criminal history  
7 and regulatory background investigation in the manner that the  
8 Commissioner requires;

9           5. The applicant shall identify the entity with which he or she  
10 is, or will be, affiliated and supervised; and

11           6. The applicant shall pay a registration fee prescribed by the  
12 Commissioner not to exceed Fifty Dollars (\$50.00).

13           C. An entity applying for a navigator entity registration shall  
14 make application on a form developed by the Commissioner and shall  
15 declare under penalty of refusal, suspension or revocation of the  
16 registration that the statements made in the application are true,  
17 correct and complete to the best of the applicant's knowledge. The  
18 Commissioner shall not issue a registration to any entity applicant  
19 that does not meet or conform to the following qualifications or  
20 requirements:

21           1. Establishes policies and procedures to ensure that acts that  
22 may be performed only by a registered navigator or licensed producer  
23 are performed by persons who are appropriately registered or  
24 licensed;

1           2. Acknowledges and accepts legal responsibility for the acts  
2 of the individual navigators that it employs, supervises, or is  
3 affiliated with that are performed in this state and that are within  
4 the scope of the navigator's apparent authority; and

5           3. Pays a registration fee prescribed by the Commissioner not  
6 to exceed Fifty Dollars (\$50.00).

7           D. The registration of an individual navigator or navigator  
8 entity shall expire one year after issuance. An individual  
9 applicant for a renewal registration shall provide proof that he or  
10 she has completed continuing education as required under the federal  
11 act and shall establish to the satisfaction of the Commissioner that  
12 he or she has read and will comply with written materials provided  
13 by the Commissioner concerning ethics, consumer privacy, the  
14 insurance laws of this state and any other topic or topics the  
15 Commissioner deems necessary and attests to such understanding and  
16 intent to comply with all state statutes and rules.

17           E. A registered individual navigator must:

18           1. Provide a disclaimer in a form prescribed by the  
19 Commissioner to each individual or group whom the navigator assists,  
20 which shall include the name of the navigator and the navigator  
21 entity;

22           2. Record the name and contact information for each individual  
23 or group whom the navigator assists in enrolling on the exchange and  
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1 the date of contact and provide such information to the navigator  
2 entity immediately;

3 3. Allow for an on-site inspection of operations and records  
4 specifically related to the fulfillment of the enrollment or  
5 assistance with enrollment duties as required by this act by the  
6 navigator at any time, including providing summary reports as  
7 requested by the Commissioner, which shall not include personally  
8 identifiable information. Provided, however, a registered  
9 individual navigator shall, upon inquiry by the Commissioner, verify  
10 the name, contact information, and date of contact for an individual  
11 or group assisted in enrolling on the exchange by the navigator;

12 4. Report to the Commissioner any administrative action taken  
13 by a governmental agency against the navigator in this state or in  
14 any other jurisdiction within thirty (30) calendar days of the final  
15 disposition of the matter;

16 5. Report to the Commissioner any criminal prosecution of the  
17 navigator taken in any jurisdiction within thirty (30) calendar days  
18 of the initial pretrial hearing date; and

19 6. Notify the Commissioner within ten (10) calendar days of any  
20 action by an exchange or related party that restricts or terminates  
21 the navigator's authorization to act as a navigator.

22 F. A registered navigator entity must:

23 1. Maintain a record of all individuals employed or overseen as  
24 a navigator for a period of three (3) years following the

1 termination of the employment or oversight of the individual as a  
2 navigator;

3 2. Maintain all records required to be provided to the  
4 navigator entity by registered navigators for a period of three (3)  
5 years following the termination of the employment or oversight of  
6 each individual as a navigator;

7 3. Allow for an on-site inspection of operations and records  
8 specifically related to the fulfillment of the enrollment or  
9 assistance with enrollment duties as required by this act by the  
10 navigator at any time, including providing summary reports as  
11 requested by the Commissioner, which shall not include personally  
12 identifiable information. Provided, however, a registered navigator  
13 entity shall, upon inquiry by the Commissioner, verify the name,  
14 contact information, and date of contact for an individual or group  
15 assisted in enrolling on the exchange by any navigator employed or  
16 overseen by the navigator entity;

17 4. Provide the Commissioner with a list of all individual  
18 navigators that it employs, supervises or is affiliated with, in a  
19 manner prescribed by the Commissioner; and

20 5. Report to the Commissioner any termination of employment,  
21 engagement, affiliation or other relationship with an individual  
22 navigator within thirty (30) days, using a format prescribed by the  
23 Commissioner, if the navigator is terminated for failing to comply  
24 with any requirement of this title.

1 G. Any person who acts as a navigator without holding an active  
2 registration at the time of the action shall be guilty of a  
3 misdemeanor and shall be punished by the imposition of a fine of not  
4 more than Two Hundred Fifty Dollars (\$250.00) or imprisonment in the  
5 county jail for not less than three (3) months nor more than six (6)  
6 months, or be punished by both such fine and imprisonment.

7 H. Any navigator who violates the provisions of this act shall  
8 be subject to a civil fine of not less than Fifty Dollars (\$50.00)  
9 nor more than Five Hundred Dollars (\$500.00) for each occurrence.

10 I. Any navigator entity that allows an individual who is  
11 employed or overseen by the navigator entity to interact with  
12 individuals or groups performing any of the functions of a navigator  
13 without an active registration shall be subject to a civil fine of  
14 not more than Five Hundred Dollars (\$500.00) for each individual or  
15 group with whom the unregistered individual interacts as a navigator  
16 and a civil fine of not more than Fifty Dollars (\$50.00) for each  
17 day the unregistered individual performs acts as a navigator.

18 J. Any navigator entity that fails to retain the documentation  
19 required by this act shall be subject to a civil fine of not less  
20 than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars  
21 (\$500.00) for each occurrence.

22 SECTION 3. This act shall become effective November 1, 2015.  
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1 Passed the Senate the 5th day of March, 2015.

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4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2015.

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9 Presiding Officer of the House  
10 of Representatives