

BILL ANALYSIS

Senate Research Center

S.B. 1795
By: Watson et al.
State Affairs
7/24/2013
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Health care exchanges are new nationwide and navigator procedures have yet to be defined in Texas. The purpose of this bill is to provide consumer protection by requiring that navigators, as established by the Patient Protection and Affordable Care Act (Act), have the training necessary to advise and guide the public through the process of finding the most appropriate health insurance options available to them.

The bill requires the Texas Department of Insurance (TDI) to establish a navigator program as described by the Act. The bill also requires TDI to adopt rules governing the registration and training of navigators.

S.B. 1795 amends current law relating to the regulation of navigators for health benefit exchanges.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Sections 4154.005, 4154.051, and 4154.054, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle D, Title 13, Insurance Code, by adding Chapter 4154, as follows:

CHAPTER 4154. NAVIGATORS FOR HEALTH BENEFIT EXCHANGES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 4154.001. PURPOSE. Provides that since the State of Texas opted out of implementing a state exchange, pursuant to the Patient Protection and Affordable Care Act (Pub. L. No. 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152), the purpose of this chapter is to provide a state solution to ensure that Texans are able to find and apply for affordable health coverage under any federally run health benefit exchange, while helping consumers in this state.

Sec. 4154.002. DEFINITIONS. Defines "health benefit exchange," "health benefit plan issuer," and "navigator" in this chapter.

Sec. 4154.003. APPLICABILITY OF OTHER LAW. Authorizes a navigator that satisfies the requirements of this chapter, notwithstanding Section 101.051 (Conduct That Constitutes the Business of Insurance), 101.102 (Unauthorized Insurance Prohibited), 4001.051 (Acts Constituting Acting as Agent), or 4001.101 (License or Certificate of Authority Required; Designated Product Certificate) or any other law, to perform any duty or function authorized or required by this chapter or any applicable federal law or regulation without obtaining a license from the Texas Department of Insurance (TDI) or any other agency of this state.

Sec. 4154.004. EXEMPTIONS. Provides that this chapter does not apply to a licensed life, accident, and health insurance agent, a licensed life and health insurance counselor, or a licensed life and health insurance company.

Sec. 4154.005. RULES. Requires the commissioner of insurance (commissioner) to adopt rules necessary to implement this chapter and to meet the minimum requirements of 42 U.S.C. Section 18031, including regulations.

Sec. 4154.006. EXPIRATION OF CHAPTER. Provides that this chapter expires September 1, 2017.

SUBCHAPTER B. STANDARDS AND QUALIFICATIONS FOR NAVIGATORS

Sec. 4154.051. SUFFICIENCY OF FEDERAL QUALIFICATIONS. (a) Requires the commissioner to determine whether the standards and qualifications for navigators provided by 42 U.S.C. Section 18031 and any regulations enacted under that section are sufficient to ensure that navigators can perform the required duties, including:

- (1) assisting consumers in completing the uniform application for health coverage affordability programs available through a health benefit exchange;
- (2) explaining how health coverage affordability programs work and interact, including Medicaid, the children's health insurance program, and advance premium tax credits and cost-sharing assistance;
- (3) explaining health insurance concepts related to qualified health plans, including premiums, cost-sharing, networks, and essential health benefits;
- (4) providing culturally and linguistically appropriate information;
- (5) avoiding conflicts of interest; and
- (6) establishing standards and processes relating to privacy and data security.

(b) Requires the commissioner to make a good faith effort to work in cooperation with the United States Department of Health and Human Services and to propose improvements to those standards if the commissioner determines that the standards provided by regulations enacted under 42 U.S.C. Section 18031 are insufficient to ensure that navigators can perform the required duties. Requires the commissioner by rule to establish standards and qualifications to ensure that navigators in this state can perform the required duties if after a reasonable interval the commissioner determines that the standards remain insufficient.

(c) Requires that rules adopted under this section, at a minimum, provide that a navigator in this state has not had a professional license suspended or revoked, been the subject of any other disciplinary action by a financial or insurance regulator of this state, another state, or the United States, or been convicted of a felony.

(d) Requires the commissioner to, at regular intervals, obtain from the health benefit exchange a list of all navigators providing assistance in this state and, with respect to an individual, the name of the individual's employer or organization.

(e) Authorizes the commissioner by rule to establish a state registration for navigators sufficient to allow TDI to ensure that navigators satisfy the standards provided by Subsection (c) and collect the information described by Subsection (d).

Sec. 4154.052. LIMITS ON ADVERTISING. Prohibits a navigator, in any advertisement or other materials that are published or distributed in any manner by or on behalf of the navigator, from:

- (1) indicating or suggesting the professional superiority of the navigator;
- (2) indicating or suggesting the performance of professional service by the navigator in a superior manner;
- (3) including one or more of the following phrases in the navigator's name or materials:
 - (A) " insurance advisor" or " insurance advisory";
 - (B) " insurance agent" or " insurance agency"; or
 - (C) " insurance consultant" or " insurance counselor."

Sec. 4154.053. CERTAIN COMPENSATION PROHIBITED. Prohibits a navigator from receiving compensation for services or duties as a navigator that are prohibited by federal law, including compensation from a health benefit plan issuer.

Sec. 4154.054. ADDITIONAL TRAINING REQUIREMENTS. Requires the commissioner to adopt rules authorizing additional training for navigators as the commissioner considers necessary to ensure compliance with changes in state or federal law.

SUBCHAPTER C. PROHIBITED ACTS

Sec. 4154.101. NAVIGATORS NOT LICENSED AS AGENTS. (a) Prohibits a navigator, unless the navigator is licensed to act as an agent under Chapter 4054 (Life, Accident, and Health Agents), from:

- (1) selling, soliciting, or negotiating coverage under a health benefit plan;
- (2) endorsing a health benefit plan or group of health benefit plans;
- (3) providing, or offering to provide, information or services related to insurance products not offered through a health benefit exchange;
- (4) offering advice or advising consumers on which qualified health plan available through a health benefit exchange is preferable;
- (5) accepting any compensation that is wholly or partly dependent on whether a person enrolls in or purchases a health benefit plan; or
- (6) in the course of acting as a navigator, engaging in any electioneering activities or finance or otherwise support the candidacy of a person for an office in the legislative, executive, or judicial branch of state government, or of the government of the United States, or any political subdivision of this state.

(b) Provides that this section does not prohibit a navigator from providing information on public benefits and health coverage, or other information and services consistent with the mission of a navigator.

SECTION 2. Effective date: September 1, 2013.