

By: Guillen

H.B. No. 459

Substitute the following for H.B. No. 459:

By: Smithee

C.S.H.B. No. 459

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of navigators for health benefit exchanges.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle D, Title 13, Insurance Code, is amended by adding Chapter 4154 to read as follows:

CHAPTER 4154. NAVIGATORS FOR HEALTH BENEFIT EXCHANGES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 4154.001. DEFINITIONS. In this chapter:

(1) "Health benefit exchange" means a health benefit exchange established or operating in this state, including a health benefit exchange established or operated by the secretary of the United States Department of Health and Human Services under 42 U.S.C. Section 18041.

(2) "Health benefit plan issuer" means an insurance company or health maintenance organization regulated by the department and authorized to issue a health insurance policy or other health benefit plan. The term includes:

(A) a stock life, health, or accident insurance company;

(B) a mutual life, health, or accident insurance company;

(C) a stock casualty insurance company;

(D) a mutual casualty insurance company;

1           (E) a Lloyd's plan;

2           (F) a reciprocal or interinsurance exchange;

3           (G) a fraternal benefit society;

4           (H) a stipulated premium company;

5           (I) a nonprofit hospital, medical, or dental  
6 service corporation, including a company subject to Chapter 842;  
7 and

8           (J) a health maintenance organization.

9           (3) "Navigator" means an individual or entity  
10 performing the activities and duties of a navigator as described by  
11 42 U.S.C. Section 18031 or any regulation enacted under that  
12 section.

13           Sec. 4154.002. APPLICABILITY OF OTHER LAW. Notwithstanding  
14 Section 101.051, 101.102, 4001.051, or 4001.101 or any other law, a  
15 navigator that satisfies the requirements of this chapter may  
16 perform any duty or function authorized or required by this chapter  
17 or any applicable federal law or regulation without obtaining a  
18 license from the department or any other agency of this state.

19           Sec. 4154.003. EXEMPTIONS. This chapter does not apply to:

20           (1) a licensed life, accident, and health insurance  
21 agent;

22           (2) a licensed life and health insurance counselor; or

23           (3) a licensed life and health insurance company.

24           Sec. 4154.004. RULES. The commissioner shall adopt rules  
25 necessary to implement this chapter and to meet the minimum  
26 requirements of federal law, including regulations.

27           Sec. 4154.005. EXPIRATION OF CHAPTER. This chapter expires

1 September 1, 2017.

2 SUBCHAPTER B. STANDARDS AND QUALIFICATIONS FOR NAVIGATORS

3 Sec. 4154.051. SUFFICIENCY OF FEDERAL QUALIFICATIONS. (a)

4 The commissioner shall determine whether the standards and  
5 qualifications for navigators provided by 42 U.S.C. Section 18031  
6 and any regulations enacted under that section are sufficient to  
7 ensure that navigators can perform the duties required under state  
8 law, including:

9 (1) assisting consumers in completing the uniform  
10 application for health coverage affordability programs available  
11 through a health benefit exchange;

12 (2) explaining how health coverage affordability  
13 programs work and interact, including Medicaid, the children's  
14 health insurance program, and advance premium tax credits and  
15 cost-sharing assistance;

16 (3) explaining health insurance concepts related to  
17 qualified health plans, including premiums, cost-sharing, network,  
18 and essential health benefits;

19 (4) providing culturally and linguistically  
20 appropriate information;

21 (5) avoiding conflicts of interest; and

22 (6) establishing standards and processes relating to  
23 privacy and data security.

24 (b) If the commissioner determines that the standards  
25 provided by regulations enacted under 42 U.S.C. Section 18031 are  
26 insufficient to ensure that navigators can perform the duties  
27 required under state law, the commissioner shall make a good faith

1 effort to work in cooperation with the United States Department of  
2 Health and Human Services and to propose improvements to those  
3 standards. If after a reasonable interval the commissioner  
4 determines that the standards remain insufficient, the  
5 commissioner by rule shall establish standards and qualifications  
6 to ensure that navigators in this state can perform the duties  
7 required under state law.

8 (c) At a minimum, rules adopted under this section must  
9 provide that a navigator in this state has not:

10 (1) had a professional license suspended or revoked;  
11 (2) been the subject of any other disciplinary action  
12 by a financial or insurance regulator of this state, another state,  
13 or the United States; or

14 (3) been convicted of a felony.

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

19 (e) The commissioner may by rule establish a state  
20 registration for navigators sufficient to allow the department to  
21 ensure that navigators satisfy the standards provided by Subsection  
22 (c) and collect the information described by Subsection (d).

23 Sec. 4154.052. LIMITS ON ADVERTISING. A navigator may not,  
24 in any advertisement or other materials that are published or  
25 distributed in any manner by or on behalf of the navigator:

26 (1) indicate or suggest the professional superiority  
27 of the navigator;

1           (2) indicate or suggest the performance of  
2 professional service by the navigator in a superior manner;

3           (3) include one or more of the following words or  
4 phrases in the navigator's name or materials in a deceptive or  
5 misleading manner:

6                   (A) "advisor" or "advisory";

7                   (B) "agent" or "agency"; or

8                   (C) "consultant" or "counselor"; or

9           (4) include other words or phrases that describe a  
10 navigator's services and duties in a deceptive or misleading manner  
11 to the public.

12           Sec. 4154.053. CERTAIN COMPENSATION PROHIBITED. A  
13 navigator may not receive compensation for services or duties as a  
14 navigator that are prohibited by law, including compensation from a  
15 health benefit plan issuer.

16           Sec. 4154.054. ADDITIONAL TRAINING REQUIREMENTS. The  
17 commission shall adopt rules authorizing additional training for  
18 navigators as the commissioner considers necessary to ensure  
19 compliance with changes in state law.

20                   SUBCHAPTER C. PROHIBITED ACTS

21           Sec. 4154.101. NAVIGATORS NOT LICENSED AS AGENTS. (a)  
22 Unless the navigator is licensed to act as an agent under Chapter  
23 4054, a navigator may not:

24                   (1) sell, solicit, or negotiate coverage under a  
25 health benefit plan;

26                   (2) endorse a health benefit plan or group of health  
27 benefit plans;

1           (3) provide, or offer to provide, information or  
2 services related to insurance products not offered through a health  
3 benefit exchange;

4           (4) offer advice or advise consumers on which  
5 qualified health plan available through a health benefit exchange  
6 is preferable; or

7           (5) accept any compensation that is wholly or partly  
8 dependent on whether a person enrolls in or purchases a health  
9 benefit plan.

10          (b) A navigator may not engage in any unfair method of  
11 competition or any deceptive, dishonest, or fraudulent trade  
12 practice.

13          (c) This section does not prohibit a navigator from  
14 providing information on public benefits and health coverage, or  
15 other information and services consistent with the mission of the  
16 navigator.

17          SECTION 2. This Act takes effect September 1, 2013.