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S.B. No. 1795

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. PURPOSE. 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. In this chapter:

(1) "Health benefit exchange" means 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

1 other health benefit plan. The term includes:

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

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

6 (C) a stock casualty insurance company;

7 (D) a mutual casualty insurance company;

8 (E) a Lloyd's plan;

9 (F) a reciprocal or interinsurance exchange;

10 (G) a fraternal benefit society;

11 (H) a stipulated premium company;

12 (I) a nonprofit hospital, medical, or dental
13 service corporation, including a company subject to Chapter 842;
14 and

15 (J) a health maintenance organization.

16 (3) "Navigator" means an individual or entity
17 performing the activities and duties of a navigator as described by
18 42 U.S.C. Section 18031 or any regulation enacted under that
19 section.

20 Sec. 4154.003. APPLICABILITY OF OTHER LAW. Notwithstanding
21 Section 101.051, 101.102, 4001.051, or 4001.101 or any other law, a
22 navigator that satisfies the requirements of this chapter may
23 perform any duty or function authorized or required by this chapter
24 or any applicable federal law or regulation without obtaining a
25 license from the department or any other agency of this state.

26 Sec. 4154.004. EXEMPTIONS. This chapter does not apply to:

27 (1) a licensed life, accident, and health insurance

1 agent;

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

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

4 Sec. 4154.005. RULES. The commissioner shall adopt rules
5 necessary to implement this chapter and to meet the minimum
6 requirements of 42 U.S.C. Section 18031, including regulations.

7 Sec. 4154.006. EXPIRATION OF CHAPTER. This chapter expires
8 September 1, 2017.

9 SUBCHAPTER B. STANDARDS AND QUALIFICATIONS FOR NAVIGATORS

10 Sec. 4154.051. SUFFICIENCY OF FEDERAL QUALIFICATIONS.

11 (a) The commissioner shall determine whether the standards and
12 qualifications for navigators provided by 42 U.S.C. Section 18031
13 and any regulations enacted under that section are sufficient to
14 ensure that navigators can perform the required duties, including:

15 (1) assisting consumers in completing the uniform
16 application for health coverage affordability programs available
17 through a health benefit exchange;

18 (2) explaining how health coverage affordability
19 programs work and interact, including Medicaid, the children's
20 health insurance program, and advance premium tax credits and
21 cost-sharing assistance;

22 (3) explaining health insurance concepts related to
23 qualified health plans, including premiums, cost-sharing,
24 networks, and essential health benefits;

25 (4) providing culturally and linguistically
26 appropriate information;

27 (5) avoiding conflicts of interest; and

1 (6) establishing standards and processes relating to
2 privacy and data security.

3 (b) If the commissioner determines that the standards
4 provided by regulations enacted under 42 U.S.C. Section 18031 are
5 insufficient to ensure that navigators can perform the required
6 duties, the commissioner shall make a good faith effort to work in
7 cooperation with the United States Department of Health and Human
8 Services and to propose improvements to those standards. If after a
9 reasonable interval the commissioner determines that the standards
10 remain insufficient, the commissioner by rule shall establish
11 standards and qualifications to ensure that navigators in this
12 state can perform the required duties.

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

15 (1) had a professional license suspended or revoked;

16 (2) been the subject of any other disciplinary action
17 by a financial or insurance regulator of this state, another state,
18 or the United States; or

19 (3) been convicted of a felony.

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

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

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

4 (1) indicate or suggest the professional superiority
5 of the navigator;

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

8 (3) include one or more of the following phrases in the
9 navigator's name or materials:

10 (A) "insurance advisor" or "insurance advisory";

11 (B) "insurance agent" or "insurance agency"; or

12 (C) "insurance consultant" or "insurance
13 counselor."

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

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

22 SUBCHAPTER C. PROHIBITED ACTS

23 Sec. 4154.101. NAVIGATORS NOT LICENSED AS AGENTS.

24 (a) Unless the navigator is licensed to act as an agent under
25 Chapter 4054, a navigator may not:

26 (1) sell, solicit, or negotiate coverage under a
27 health benefit plan;

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

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

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

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

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

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