

§2188. Permitted activities of insurance producers; navigators; requirements

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Exchange" means a health benefit exchange established or operated in this State, including a health benefit exchange established or operated by the Secretary of the United States Department of Health and Human Services, pursuant to Section 1311 of the federal Affordable Care Act. [PL 2011, c. 631, §1 (NEW).]

B. "Navigator" means a person selected to perform the activities and duties identified in Section 1311(i) of the federal Affordable Care Act. For the purposes of this section, if an organization or business entity serves as a navigator, an individual performing navigator duties for that organization or business entity is considered to be acting in the capacity of a navigator within the meaning of subsection 4. [PL 2011, c. 631, §1 (NEW).]

[PL 2011, c. 631, §1 (NEW).]

2. Prohibited activities. Certification as a navigator under this section does not authorize a person who is not licensed as an insurance producer or consultant in this State in accordance with chapter 16 to act as an insurance producer or consultant. Regardless of whether a navigator certified under this section is also licensed as an insurance producer or consultant in this State in accordance with chapter 16, a navigator may not, while acting as a navigator for an individual, enrollee, potential enrollee or employer:

A. Sell, solicit or negotiate insurance; [PL 2013, c. 388, Pt. A, §1 (AMD).]

B. Make recommendations to purchasers, enrollees or employers or prospective purchasers or enrollees to choose or reject a particular health plan; or [PL 2013, c. 388, Pt. A, §1 (AMD).]

C. Enroll an individual or employee in a qualified health plan offered through an exchange or act as an intermediary between an employer and an insurer that offers a qualified health plan offered through an exchange, except that the actions of a navigator to provide assistance to an individual or employee to facilitate that individual's or employee's enrollment in a qualified health plan is not considered enrolling an individual or employee in a qualified health plan under this paragraph. [PL 2013, c. 388, Pt. A, §1 (AMD).]

[PL 2013, c. 388, Pt. A, §1 (AMD).]

3. Certification of navigators. Prior to any exchange becoming operational in this State, the superintendent shall:

A. [PL 2013, c. 388, Pt. A, §1 (RP).]

B. Adopt rules to establish a certification program for individual navigators who are not licensed as insurance producers and training requirements for all individual navigators and prospective individual navigators that include initial and continuing education requirements and an examination. [PL 2013, c. 388, Pt. A, §1 (AMD).]

C. [PL 2013, c. 388, Pt. A, §1 (RP).]

[PL 2013, c. 388, Pt. A, §1 (AMD).]

4. Navigator requirements. An individual may not act in the capacity of a navigator unless the individual is either licensed as an insurance producer under chapter 16 or certified by the superintendent as a navigator under this section. To be certified as a navigator, an individual must:

A. Be at least 18 years of age; [PL 2013, c. 388, Pt. A, §1 (AMD).]

B. Have completed and submitted a disclosure form, which must be developed by the superintendent and which may include such information as the superintendent determines necessary, and have declared under penalty of refusal, suspension or revocation of the navigator

certification that the statements made in the form are true, correct and complete to the best of the individual's knowledge and belief; [PL 2013, c. 388, Pt. A, §1 (AMD).]

C. Have submitted to any criminal history record check or regulatory background check required by the superintendent by rule; [PL 2013, c. 388, Pt. A, §1 (AMD).]

D. [PL 2013, c. 388, Pt. A, §1 (RP).]

E. Have successfully completed the initial training requirements and any other certification requirements adopted by the superintendent in accordance with subsection 3; and [PL 2013, c. 388, Pt. A, §1 (AMD).]

F. Have paid any fees required by the superintendent. [PL 2013, c. 388, Pt. A, §1 (AMD).]
[PL 2013, c. 388, Pt. A, §1 (AMD).]

5. Unfair practices. The provisions of this chapter and any rules adopted pursuant to this chapter apply to navigators. This subsection may not be construed to create or imply a private cause of action for a violation of any provision of this chapter.
[PL 2013, c. 388, Pt. A, §1 (AMD).]

5-A. Privacy. A navigator may not collect, use, disclose or retain personal information, as defined in section 2204, subsection 20, except for the purposes of performing the duties of a navigator or as permitted by an exchange under privacy standards adopted in accordance with the federal Affordable Care Act. A navigator is a regulated insurance entity for purposes of chapter 24 only if the navigator collects, uses, discloses or retains personal information for purposes other than performing the duties of a navigator.
[PL 2013, c. 388, Pt. A, §1 (NEW).]

6. Denial, suspension or revocation. The superintendent may deny certification and may suspend or revoke the authority of a navigator certified pursuant to this section for any ground specified in section 1420-K, subsection 1. The superintendent may assess civil penalties in accordance with section 12-A for violations of laws regulating the activities of navigators.
[PL 2013, c. 388, Pt. A, §1 (AMD).]

7. Rules. The superintendent may adopt rules as necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2011, c. 631, §1 (NEW).]

8. Construction. This section may not be construed to prevent the application of any provisions of the federal Affordable Care Act relating to the duties of a navigator.
[PL 2013, c. 388, Pt. A, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 631, §1 (NEW). PL 2013, c. 388, Pt. A, §1 (AMD).

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