

2013 DRAFTING REQUEST

Assembly Amendment (AA-AB40)

Received: **5/16/2013** Received By: **pkahler**
Wanted: **As time permits** Same as LRB:
For: **Legislative Fiscal Bureau** By/Representing: **Austin**
May Contact: Drafter: **pkahler**
Subject: **Insurance - health** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Legislative Fiscal Bureau**
Carbon copy (CC) to: **Tamara.Dodge@legis.wisconsin.gov**

Pre Topic:

LFB:.....Austin, Licensing and regulation of navigators for health insurance exchange -

Topic:

Navigators for health insurance exchange

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 5/22/2013	kfollett 5/22/2013	rschluet 5/22/2013	_____			
/1	pkahler 5/31/2013			_____	srose 5/22/2013		
/2		kfollett 5/31/2013	rschluet 5/31/2013	_____	srose 5/31/2013		

FE Sent For:

<END>

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Topic:

Regulation and licensing of navigators for health insurance exchange

Instructions:

See attached

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/?	pkahler	1/15/13 5/22	J ms	✓			

FE Sent For:

<END>

Kahler, Pam

From: Austin, Sam
Sent: Thursday, May 16, 2013 10:48 AM
To: Kahler, Pam; Dodge, Tamara
Cc: CM (Charlie.Morgan@legis.wisconsin.gov)
Subject: JFC Action on OCI -- Navigators (4 of 4)
Attachments: 246.pdf; Rep Nygren Navigator Motion Draft - With Line Numbers - (Draft with OCI and WHA edits 5.14.13).doc

The final OCI item:

Please draft the provisions of provisions described in Motion #246 related to OCI regulation of navigators. This motion was based on proposed statutory language found in the attached document. Let me know if you need to touch base on anything, especially the rule-making authority that was added late in the process.

Thanks very much, Pam -- let me know if you have any questions.

Sam Austin, Fiscal Analyst
Wisconsin Legislative Fiscal Bureau
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Madison, WI 53703

Telephone: (608)266-3847
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INSURANCE

Licensing of Exchange Navigators

Motion:

Require the Office of the Commissioner of Insurance (OCI) to license and register "navigators," who will facilitate enrollment of individuals and families in insurance coverage obtained through a health benefits exchange, and prohibit individuals or entities from acting as navigators without being licensed by OCI.

Definitions. Define the following terms.

- "Exchange" as the American Health Benefit Exchange authorized in the Patient Protection and Affordable Care Act (ACA) (42 USC 18031).
- "Health benefit plan" as that term is defined in s. 632.745(11) of the statutes.
- "Navigator" as any natural person or an entity that supervises or employs a natural person who does the following: (a) performs any of the activities and duties identified in federal law related to the navigator program (42 USC 18031(i) and 45 CFR 155.210) on behalf of the exchange; and (b) receives funding to perform any of the activities and duties identified in federal law related to the navigator program (42 USC 18031(i) and 45 CFR 155.210) on behalf of the exchange. Specify that the term "navigator" does not include a person who is licensed under Subchapter II of Chapter 628 of the statutes and acting as an insurance intermediary, but specify that an insurance intermediary may apply to be licensed as a navigator under provisions of this motion.
- "Non-navigator assister" as any natural person who has been designated by the exchange, or could reasonably be described as working at the behest of the exchange as a non-navigator assister, such as an in-person assister, enrollment assister, application assister, or certified application counselor.

Navigator Licenses. Prohibit any natural person or entity from acting as a navigator in this state unless licensed or registered as a navigator.

Require a natural person applying for a navigator license to make an application to the Commissioner of Insurance ("Commissioner") on a form developed by the Commissioner, and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct and complete to the best of the individual's knowledge and belief.

Before approving the application, require the Commissioner to find that the individual meets all of the following criteria: (a) is at least 18 years of age; (b) resides in the state, or maintains his or her principal place of business in the state; (c) has completed the training and course of study

requirements established by the Commissioner (as described below), and any training and course of study requirements mandated by the exchange; (d) has successfully passed a written examination approved by the Commissioner (as described below) that tests the applicant's knowledge concerning the duties and responsibilities of a navigator, the insurance laws and regulations of this state, and state public assistance programs and eligibility; (e) has submitted a full set of fingerprints to the Commissioner and successfully completed a criminal and regulatory history background investigation in a manner prescribed by the Commissioner (as described below); (f) possesses the requisite character, integrity, competency, and trustworthiness as determined in accordance with the criteria under the rules promulgated under current law s. 628.04 of the statutes; (g) has not committed any act that the Commissioner finds would warrant the denial, suspension, or revocation of a license ; (h) has identified the entity which he or she will be affiliated with and supervised by, if any; and (i) has paid the applicable licensing fee.

Registration. Require an entity that acts or intends to operate as a navigator to first register as a navigator entity with the Commissioner. Specify that the registration shall be on a form developed by the Commissioner, which shall include such documentation as the Commissioner may deem necessary and appropriate. Before being registered, require the entity to establish to the satisfaction of the Commissioner that the entity meets all of the following criteria: (a) has policies and procedures in place to ensure that all acts that may only be performed by a licensed intermediary or navigator are performed by persons who are appropriately licensed under provisions of this motion and Subchapter II of Chapter 628 of the statutes; (b) certifies that it will assume full legal responsibility for the acts of the individual navigators that it employs, supervises, or is affiliated with that are performed in this state and that are within the scope of the navigator's apparent authority; (c) is sound, reliable, and entitled to public confidence; (d) has paid the applicable registration fee; and (e) has identified a designated responsible Wisconsin-licensed individual navigator on the registration form.

Authorize the Commissioner to require any documents deemed necessary to verify the information contained in an application by an individual for licensure as a navigator, or by an entity for registration as a navigator.

List of Individual Navigators. Require registered navigator entities to, in a manner prescribed by the Commissioner, provide the Commissioner with a list of all individual navigators that it employs, supervises, or is affiliated with upon initial registration. Require the entity to provide updates to the list of individual navigators, if any, on a monthly basis. Specify that a navigator entity is bound by the acts of the individual navigators who have been, or should have been, reported under this provision that are performed in this state and that are within the scope of the navigator's apparent authority.

Financial Responsibility. Require each entity that is a navigator, and each individual navigator not affiliated with an entity, to furnish a bond in an amount no less than \$100,000 from an insurer authorized to do business in this state, or provide other evidence of financial responsibility capable of protecting all persons against the wrongful acts, misrepresentations, errors, omissions, or negligence of the navigator. Permit the Commissioner to define by rule the amount of the financial responsibility requirement and alternative requirements for complying with this provision.

Fingerprints and Criminal and Regulatory Background Check. Require each navigator applying for licensure to provide fingerprints in a format specified by the Commissioner, and to complete a criminal and regulatory background check as a condition for being granted a license to act as a navigator. Require the Commissioner to use the fingerprints to conduct a state criminal history background investigation of the applicant with the Federal Bureau of Investigation.

Training and Examination. Require an individual navigator to complete at least 16 hours of pre-licensing training and satisfactorily complete an approved written examination for navigators prior to applying for an individual navigator's license. Require an individual navigator, after licensure, to complete a course of study of at least eight hours of approved training in every one-year period. Permit the Commissioner to do the following: (a) approve and designate courses and programs that an applicant for a navigator license may complete to fulfill the prelicensing training requirement or the annual training requirement; and (b) make arrangements, including contracting with an outside testing service or other appropriate entity to administer examinations and collect fees.

Social Security Number/Federal Employer Identification Number. Specify that applicants for individual navigator licensure and navigator entity registration are subject to s. 628.095 of the statutes (requiring that an application for a license to act as an insurance intermediary contain the applicant's social security number (SSN) or the applicant's federal employer identification number (FEIN)).

Failure to Pay Child Support or Tax Delinquency. Specify that applicants for individual navigator licensure and navigator entity registration are subject to s. 628.097 of the statutes (prohibiting issuance of a license to act as an insurance intermediary to applicants who are delinquent in court-ordered child support and other payments, fail to comply with a subpoena related to such payments, or are liable for delinquent taxes).

Navigator Conduct. For the purposes of these provisions, specify that a navigator or a non-navigator assister in the performance of their duties shall be deemed to constitute transacting the business of insurance.

Prohibit a navigator from doing any of the following: (a) receiving compensation from an insurer who offers a health benefit plan or stop loss insurance, or a third-party administrator; (b) providing any information or services related to enrollment in health benefit plans or other insurance products not offered in the exchange; (c) making or causing to be made any communication related to the exchange, health benefit plans, an insurance contract, the insurance business, any insurer, any navigator, or any intermediary that contains false, deceptive, or misleading information, including information that is misleading because of incompleteness; (d) providing advice about which health benefit plan is better or worse for a particular individual or employer; (e) recommending a particular health benefit plan or insurer or advising consumers about which health benefit plan to choose; (f) engaging in any unfair method of competition or any other unfair, fraudulent, deceptive, or dishonest act or practice; or (g) receiving compensation that is dependent in whole or in part on whether an individual enrolls in or renews a health benefit plan.

Permit the Commissioner to require that any person that violates these provisions make restitution to any person who has suffered injury because of a violation of these provisions.

Non-Navigator Assistants. Specify that non-navigator assistants are subject to the provisions that relate to navigator conduct and prohibited practices described above.

Require any entity that employs a non-navigator assistant to provide the Commissioner, in a manner prescribed by the Commissioner, with a list of all non-navigator assistants that it employs, supervises, or is formally affiliated with upon the non-navigator assistants first becoming authorized by the exchange to provide non-navigator assistance. Require the entity to provide updates to the list of non-navigator assistants, if any, on a monthly basis.

Prohibit a non-navigator assistant from acting as a non-navigator assistant in this state until registered with the Commissioner. Permit the Commissioner to refuse to register any non-navigator assistant who: (a) does not meet the requisite character, integrity, competency, and trustworthiness as determined in accordance with the criteria under the rules promulgated under current law s. 628.04 of the statutes; or (b) has committed any act that the Commissioner finds would warrant the denial, suspension, or revocation of a license or registration under the provisions of this motion.

In addition to the requirements described above, require certified application counselors, as defined by federal rule (45 CFR 155.225), to meet the training and examination requirements that apply to navigators (as described above). Permit certified application counselors to also become licensed as navigators.

Specify that an entity that employs, supervises, or is formally affiliated with a non-navigator assistant assumes the legal responsibility for the acts of the non-navigator assistant that are performed in this state and that are within the scope of the non-navigator assistant's apparent authority to act as a non-navigator assistant on behalf of that entity.

Specify that these provisions related to non-navigator assistants do not apply to any governmental entities, or any persons acting on behalf of a governmental entity.

OCI Rule-Making Authority. Permit the Commissioner to promulgate rules governing the administration of the provisions described above. Permit the Commissioner to promulgate these rules (except for rules related to fees, described below) as emergency rules, and specify that the Commissioner is not required to provide for a finding of an emergency.

Fees. Set the initial license fee for an individual navigator at \$75, and annual license renewal fee at \$35, unless the Commissioner specifies a different amount by rule. Set the initial registration fee for a navigator entity at \$100, and the annual registration renewal fee at \$100, unless the Commissioner specifies a different amount by rule.

Inclusion of Navigators in Provisions Related to Intermediaries. Apply to navigators the following provisions of current law that apply to insurance intermediaries:

- Requirements related to provision of an applicant's SSN or FEIN, including requiring inclusion of SSN or FEIN on a license application and when the annual renewal fee is paid, prohibiting OCI from issuing a license or registration if the applicant doesn't provide the SSN or FEIN, allowing disclosure of a SSN or FEIN to the Department of Children and Families or the Department of Revenue, and addressing situations where an applicant has no social security number. [s. 628.095 of the statutes]

- Prohibition on OCI from issuing a license or registration to an individual who is delinquent on child support payments, fails to comply with a subpoena related to such payments, or is liable for delinquent taxes, or from issuing a registration to an entity that is liable for delinquent taxes. [s. 49.857, s. 73.301, and s. 628.097]

- Requirements related to how a license may be terminated, revoked, suspended or limited, and how an individual may reapply for a license or have the license reinstated following revocation, and when those provisions apply. [s. 628.10 of the statutes]

Note:

The Patient Protection and Affordable Care Act (ACA) creates health benefits exchanges through which individuals and families can purchase private health insurance coverage and receive subsidies on plan premiums and cost-sharing a requirement, if they qualify based on income and access to other affordable coverage.

The ACA also created the "navigator" program. This program will designate and provide funding to entities to do the following: (a) conduct public education activities to raise awareness of the availability of qualified health plans; (b) distribute information concerning enrollment in qualified health plans, and the availability of premium tax credits and cost-sharing reductions; (c) facilitate enrollment in a qualified health plan; (d) provide referrals to the appropriate state agency for any enrollee with a grievance, complaint, or question regarding their health plan, coverage, or a determination under such plan or coverage; and (e) and provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the exchange.

In Wisconsin, the exchange and the navigator program will be administered by the federal government. The U.S. Department of Health and Human Services (HHS) has announced that a total of \$829,300 in grant funds will be provided to support the activities of navigators in Wisconsin. Applications for these navigator grants are due on June 7, with an anticipated announcement date of the grant recipients on August 15.

This motion would create statutory provisions regarding regulation of navigators by OCI. It would increase program revenue OCI collects from applicants for navigator licenses and renewals of these licenses. As the motion would provide no additional funding or position authority to OCI, the costs of administering these provisions would be absorbed by the agency.

1
2
3 **Subchapter V**

4
5 **628. Definitions**

6 For purposes of this subchapter:

7 (1) "Exchange" means the American Health Benefit Exchange authorized by 42 U.S.C. § 18031.

8
9 (2) "Health benefit plan" has the same meaning as defined in s. 632.745(11).

10
11 (3)

12 (a) "Navigator" means any natural person or an entity that supervises or employs a
13 natural person who:

14
15 (1) Performs any of the activities and duties identified in 42 U.S.C. § 18031(i) and 45
16 C.F.R. § 155.210 on behalf of the exchange; and

17 (2) Receives funding to perform any of the activities and duties identified in 42 U.S.C. §
18 18031(i) and 4 C.F.R. § 155.210 on behalf of the exchange.

19 (b) "Navigator" does not include a person acting as an insurance intermediary licensed
20 under subchapter II but an insurance intermediary may apply to be licensed as a
21 navigator under this subchapter.

22 (4) "Non-Navigator Assister" means any natural person who has been designated by the
23 exchange, or could reasonably be described as working at the behest of the exchange as a
24 non-navigator assister, such as an in-person assister, enrollment assister, application
25 assister, or certified application counselor. The commissioner may designate non-navigator
26 assisters by rule.

27
28
29 **628. Requirement of license**

30
31 (1) GENERAL. No natural person or entity may act as a navigator in this state unless licensed
32 or registered as a navigator under s. 628.____.

1 **628.____. Issuance of license**

2

3 (1) INDIVIDUAL LICENSE REQUIRED. A natural person applying for a navigator license shall
4 make application to the commissioner on a form developed by the commissioner and declare
5 under penalty of refusal, suspension, or revocation of the license that the statements made in
6 the application are true, correct, and complete to the best of the individual's knowledge and
7 belief. Before approving the application, the commissioner shall find that the person:

8

9 (a) Is at least eighteen years of age.

10

11 (b) Resides in the state or maintains his or her principal place of business in the state.

12

13 (c) Has completed the training and course of study requirements established by the
14 commissioner under sub. (7) and any training and course study requirements mandated
15 by the exchange.

16

17 (d) Has successfully passed a written examination approved by the commissioner under
18 sub. (7) that tests the applicant's knowledge concerning the duties and responsibilities of
19 a navigator, the insurance laws and regulations of this state, and state public assistance
20 programs and eligibility.

21

22 (e) Has submitted a full set of fingerprints to the commissioner and successfully
23 completed a criminal and regulatory history background investigation in a manner
24 prescribed by the commissioner under sub. (6).

25

26 (g) Possesses the requisite character, integrity, competency, and trustworthiness as
27 determined in accordance with the criteria under the rules promulgated under s. 628.04.

28

29 (h) Has not committed any act that the commissioner finds would warrant the denial,
30 suspension, or revocation of a license under this subchapter.

31

32 (i) Has identified the entity which he or she is or will be affiliated with and supervised, if
33 any.

34

1 (j) Has paid the applicable licensing fee as set forth in s. 601.31.
2
3

4 (2) ENTITY REGISTRATION REQUIRED. An entity that acts or intends to operate as a
5 navigator, supervises the activities of individual navigators, or receives funding to perform such
6 activities shall first register as a navigator entity with the commissioner. This registration shall
7 be on a form developed by the commissioner, which shall include such documentation as the
8 commissioner may deem necessary and appropriate. Before registering the entity, the entity
9 shall establish to the satisfaction of the commissioner that:

- 10
11 a) The entity has policies and procedures in place to ensure that all acts that may only be
12 performed by a licensed intermediary or navigator are performed by persons who are
13 appropriately licensed under this subchapter and subchapter II;
14
15 b) The entity certifies that it will assume full legal responsibility for the acts of the individual
16 navigators that it employs, supervises, or is affiliated with that are performed in this state
17 and that are within the scope of the navigator's apparent authority;
18
19 c) The applicant is sound, reliable, and entitled to public confidence;
20
21 d) The entity has paid the applicable registration fee as set forth s. 601.31; and
22
23 e) The entity has identified a designated responsible Wisconsin-licensed individual
24 navigator on the registration form.
25

26 (3) DOCUMENTATION. The commissioner may require any documents deemed necessary to
27 verify the information contained in an application submitted under sub. (1) and (2).
28

29 (4) LIST OF INDIVIDUAL NAVIGATORS. Registered navigator entities shall, in a manner
30 prescribed by the commissioner, provide the commissioner with a list of all individual navigators
31 that it employs, supervises, or is affiliated with upon initial registration. Thereafter, the entity
32 shall provide updates to the list of individual navigators on a monthly basis, if any. A navigator
33 entity is bound by the acts of the individual navigators, who have been or should have been
34 reported under this subsection, that are performed in this state and that are within the scope of

1 the navigator's apparent authority. ~~The commissioner may define by rule the requirements for~~
2 ~~complying with this section.~~

3
4 (5) FINANCIAL RESPONSIBILITY REQUIREMENT. Each entity that is a navigator shall furnish
5 a bond in an amount no less than \$100,000 from an insurer authorized to do business in this
6 state or provide other evidence of financial responsibility capable of protecting all persons
7 against the wrongful acts, misrepresentations, errors, omissions, or negligence of the navigator.
8 An individual navigator not affiliated with an entity shall furnish a bond in an amount no less than
9 \$100,000 from an insurer authorized to do business in this state or provide other evidence of
10 financial responsibility capable of protecting all persons against the wrongful acts,
11 misrepresentations, errors, omissions, or negligence of the navigator. The commissioner may
12 by rule define the amount of the financial responsibility requirement and alternative
13 requirements for complying with this section.

Comment [AS1]: Maintain rule making here

14
15 (6) FINGERPRINTS AND CRIMINAL AND REGULATORY BACKGROUND CHECK. Each
16 individual navigator applying for licensure shall provide fingerprints in a format specified by the
17 commissioner and complete a criminal and regulatory background check as a condition for
18 being granted a license to act as a navigator. The commissioner shall use the fingerprints to
19 conduct a state criminal history background investigation of the applicant and a national criminal
20 history background investigation of the applicant with the federal bureau of investigation. ~~The~~
21 ~~commissioner may define by rule the requirements for complying with this section.~~

22
23 (7) TRAINING AND EXAMINATION. An individual navigator shall complete at least 16 hours
24 of prelicensing training and satisfactorily complete an approved written examination for
25 navigators prior to applying for an individual navigator's license. After licensure, an individual
26 navigator shall complete a course of study of at least 8 hours of approved training every one
27 year period. The commissioner may approve and designate courses and programs that an
28 applicant for a navigator's license may complete to fulfill the prelicensing training requirement or
29 that a licensed navigator may complete to fulfill the annual training requirement. The
30 commissioner may make arrangements, including contracting with an outside testing service or
31 other appropriate entity, to administer examinations and collect fees. The commissioner may by
32 rule set the prelicensing and annual training standards and approve a written examination for
33 navigators.

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Comment [AS2]: Maintain rule reference here.

1 **628.____. . Social security and federal employer identification numbers on license**
2 **applications or at time of fee payment**

3
4 (1) Applicants for individual navigator licensure and navigator entity registration are subject s.
5 628.095.

6
7 **628.--. Refusal to issue license; failure to pay support or to comply with subpoena or**
8 **warrant; tax delinquency.**

9
10 (1) Applicants for individual navigator licensure and navigator entity registration are subject to s.
11 628.097.

12
13 **628.__. Termination of License**

14
15 (1) Individual navigator licenses are subject to s. 628.10.

16
17 **628.____. Navigator Conduct**

18
19 (1) GENERAL. For purposes of this subchapter, ~~the activities and duties of a navigator or non-~~
20 ~~navigator assister in the performance of their duties~~ shall be deemed to constitute transacting
21 the business of insurance.

22
23 (2) PROHIBITED PRACTICES. A navigator may not:

24
25 (a) Receive compensation from an insurer who offers a health benefit plan or stop loss
26 insurance or a third-party administrator;

27
28 (b) Provide any information or services related to enrollment in health benefit plans or
29 other insurance products not offered in the exchange;

30
31 (c) Make or cause to be made any communication relating to the exchange, health
32 benefit plans, an insurance contract, the insurance business, any insurer, any navigator,
33 or any intermediary that contains false, deceptive, or misleading information, including
34 information that is misleading because of incompleteness;

1
2 (d) Provide advice about which health benefit plan is better or worse for a particular
3 individual or employer;

4
5 (e) Recommend a particular health benefit plan or insurer or advise consumers about
6 which health benefit plan to choose;

7
8 (f) Engage in any unfair method of competition or any other unfair, fraudulent, deceptive,
9 or dishonest act or practice; or

10
11 (g) Receive compensation that is dependent, in whole or in part, on whether an
12 individual enrolls in or renews a health benefit plan.

13
14 ~~(3) DEFINING PROHIBITED PRACTICES. The commissioner may define prohibited practices~~
15 ~~by rule.~~

16
17 (4) RESTITUTION. The commissioner may require that any person that violates this
18 subchapter make restitution to any person who has suffered financial injury because of a
19 violation of this subchapter.

20
21
22 **628. Non-Navigator Assistors**

23
24 (1) PROHIBITED PRACTICES.

25 Non-navigator assistors are subject to s. 628. _____

Comment [RBW3]: Clarifying that the whole Navigator conduct section applies to non-navigator assistors.

26
27 (2) REGISTRATION REQUIRED.

28 Any entity that employs a non-navigator assister shall, in a manner prescribed by the
29 commissioner, provide the commissioner with a list of all non-navigator assistors that it
30 employs, supervises, or is affiliated with upon the non-navigator assistors first becoming
31 authorized by the exchange to provide non-navigator assistance. Thereafter, the entity
32 shall provide updates to the list of non-navigator assistors on a monthly basis, if any. No
33 non-navigator assister may act as a non-navigator assister in this state until registered

1 with the commissioner. The commissioner may refuse to register any non-navigator
2 assister who:

3 (a) does not possess the requisite character, integrity, competency, and trustworthiness
4 as determined in accordance with the criteria under the rules promulgated under s.
5 628.04; or

6 (b) has committed any act that the commissioner finds would warrant the denial,
7 suspension, or revocation of a license or registration under this subchapter.

8
9 ~~The commissioner may define by rule the requirements for complying with this section.~~

10
11 (3) APPLICATION COUNSELORS.

12 In addition to the requirements of this section, Certified Application Counselors, as
13 established by 45 C.F.R. § 155.225, shall also be required to meet the training and examination
14 requirements as set forth in s. 628.__(7). Certified Application Counselors may also become
15 licensed as individual navigators.

16
17 (4) ENTITY LIABILITY.

18 An entity that employs, supervises, or is formally affiliated with a non-navigator assister
19 ~~is bound by and assumes full legal responsibility~~ for the acts of the non-navigator assister that
20 are performed in this state and that are within the scope of the non-navigator assister's apparent
21 authority to act as a non-navigator assister on behalf of that entity.

22
23 (5) EXEMPTION FOR GOVERNMENT ENTITIES.

24 This section does not apply to any government entities and any persons acting on behalf
25 of a government entity.

26
27 Allow OCI broad rule-making authority for the Subchapter. Allow Commissioner to promulgate
28 rules as emergency rules.

29
30 628.095 is amended as follows:

31
32 **628.095 Social security and federal employer identification numbers on license**
33 **applications or at time of fee payment.**

1 | **(1) REQUIRED ON APPLICATIONS.** An application for a license or registration issued under this
2 | subchapter or subchapter V shall contain the applicant's social security number, if the applicant
3 | is a natural person unless the applicant does not have a social security number, or the
4 | applicant's federal employer identification number, if the applicant is not a natural person.
5 |

6 | **(2) REFUSAL TO ISSUE LICENSE.** The commissioner may not issue a license or register a
7 | navigator entity, including a temporary license, under this subchapter or subchapter V unless
8 | the applicant provides his or her social security number, if the applicant is a natural person
9 | unless the applicant does not have a social security number, or provides the applicant's federal
10 | tax identification number, if the applicant is not a natural person.
11 |

12 | **(3) REQUIRED WHEN ANNUAL FEE PAID.** At the time that the annual fee is paid under s.
13 | 601.31(1)(m) or (z), an intermediary or navigator who is a natural person shall provide his or her
14 | social security number unless the intermediary or navigator does not have a social security
15 | number, and an intermediary or navigator that is not a natural person shall provide its federal
16 | employer identification number, if the social security number or federal employer identification
17 | number was not provided on the application for the license or registration or previously when the
18 | annual fee was paid.
19 |

20 | **(4) DISCLOSURE.**
21 |

22 | **(a)** The commissioner shall disclose a social security number obtained under sub. (1) or (3)
23 | to the department of children and families in the administration of s. 49.22, as provided in a
24 | memorandum of understanding entered into under s. 49.857.
25 |

26 | **(b)** The commissioner may disclose any information received under sub. (1) or (3) to the
27 | department of revenue for the purpose of requesting certifications under s. 73.0301.
28 |

29 | **(5) IF APPLICANT OR INTERMEDIARY HAS NO SOCIAL SECURITY NUMBER.** If an applicant who is a
30 | natural person does not have a social security number, the applicant shall provide to the
31 | commissioner, along with the application for a license and on a form prescribed by the
32 | department of children and families, a statement made or subscribed under oath or affirmation
33 | that the applicant does not have a social security number. If an intermediary or navigator who is
34 | a natural person does not have a social security number, the intermediary or navigator shall

1 | provide to the commissioner, each time that the annual fee is paid under s. 601.31(1)(m) or (z)
2 | and on a form prescribed by the department of children and families, a statement made or
3 | subscribed under oath or affirmation that the applicant does not have a social security number.
4 |

5 | 628.097 is amended as follows:
6 |

7 | **628.097 Refusal to issue license; failure to pay support or to comply with subpoena**
8 | **or warrant; tax delinquency.**

9 | (1m) FOR FAILURE TO PAY SUPPORT OR TO COMPLY WITH SUBPOENA OR WARRANT. The
10 | commissioner shall refuse to issue to a natural person a license, including a temporary license,
11 | under this subchapter or subchapter V if the natural person is delinquent in court-ordered
12 | payments of child or family support, maintenance, birth expenses, medical expenses or other
13 | expenses related to the support of a child or former spouse, or if the natural person fails to
14 | comply, after appropriate notice, with a subpoena or warrant issued by the department of
15 | children and families or a county child support agency under s. 59.53 (5) and related to paternity
16 | or child support proceedings, as provided in a memorandum of understanding entered into
17 | under s. 49.857.

18 | (2m) FOR LIABILITY FOR DELINQUENT TAXES. The commissioner shall refuse to issue a license
19 | or registration, including a temporary license, under this subchapter or subchapter V if the
20 | department of revenue certifies under s. 73.0301 that the applicant for the license or registration
21 | is liable for delinquent taxes.
22 |

23 |
24 | 628.10 is amended as follows:
25 |

26 | **-628.10 Termination of license.**
27 |

28 | (1) GENERAL. An intermediary's license issued under s. 628.04 or a navigator's license issued
29 | under 628.—(1) remains in force until it is revoked or limited under sub. (2), until it is suspended
30 | under sub. (2) or s. 227.51 (3), until it is surrendered or until the licensee dies or is in this state
31 | adjudicated incompetent.
32 |

33 | (2) REVOCATION, SUSPENSION, AND LIMITATION OF LICENSES.
34 |

1 **(a)** *For failure to comply with continuing education requirements.* The license of any
2 intermediary or navigator who fails to produce evidence of compliance with continuing education
3 or training standards set by the commissioner is revoked, effective on the date on which the
4 evidence of compliance is due. At least 60 days before that date, the commissioner shall send
5 by 1st class mail to the intermediary's or navigator's address that is on file with the
6 commissioner notice of the date by which the evidence of compliance is due and that the
7 intermediary's or navigator's license will be revoked if the evidence is not received by that date.
8 An intermediary or navigator whose license is revoked under this paragraph may have his or her
9 license reinstated, or may be relicensed, as provided in sub. (5).

10
11 **(am)** *Nonpayment of fees.* The license of an intermediary or navigator who fails to pay a fee
12 when due is revoked, effective on the date on which the fee is due. At least 60 days before that
13 date, the commissioner shall send by 1st class mail to the intermediary's or navigator's address
14 that is on file with the commissioner notice of the date by which the fee is due and that the
15 intermediary's or navigator's license will be revoked if timely payment is not made. An
16 intermediary or navigator who is a natural person whose license is revoked under this
17 paragraph may have his or her license reinstated, or may be relicensed, as provided in sub. (5).

18
19 **(b)** *For other reasons.* Except as provided in pars. (c) to (d), after a hearing, the commissioner
20 may revoke, suspend or limit in whole or in part the license of any intermediary or navigator if
21 the commissioner finds that the licensee is unqualified as an intermediary or navigator, is not of
22 good character or has repeatedly or knowingly violated an insurance statute or rule or a valid
23 order of the commissioner under s. 601.41 (4), or if the intermediary's or navigator's methods
24 and practices in the conduct of business endanger, or financial resources are inadequate to
25 safeguard, the legitimate interests of customers and the public. Nothing in this paragraph limits
26 the authority of the commissioner to suspend summarily an intermediary's or navigator's license
27 under s. 227.51 (3).

28
29 **(c)** *For failure to pay support or to comply with subpoena or warrant.* The commissioner shall
30 suspend or limit the license of an intermediary or navigator who is a natural person, or a
31 temporary license of a natural person under s. 628.09, if the natural person is delinquent in
32 court-ordered payments of child or family support, maintenance, birth expenses, medical
33 expenses or other expenses related to the support of a child or former spouse, or if the natural
34 person fails to comply, after appropriate notice, with a subpoena or warrant issued by the

1 department of children and families or a county child support agency under s. 59.53 (5) and
2 related to paternity or child support proceedings, as provided in a memorandum of
3 understanding entered into under s. 49.857. A natural person whose license or temporary
4 license is suspended under this paragraph who satisfies the requirements under this paragraph
5 for which the license was suspended may have his or her license or temporary license
6 reinstated by satisfactorily completing a reinstatement application and paying the application fee
7 for original licensure as specified by rule.

8
9 **(cm)** *For liability for delinquent taxes.* The commissioner shall revoke the license of an
10 intermediary or navigator, including a temporary license under s. 628.09, if the department of
11 revenue certifies under s. 73.0301 that the intermediary or navigator is liable for delinquent
12 taxes. An intermediary or navigator who is a natural person whose license is revoked under this
13 paragraph may have his or her license reinstated, or may be relicensed, as provided in sub. (5).

14
15 **(cr)** *For providing false information in statement.* The commissioner shall revoke the license of
16 an intermediary or navigator, including a temporary license under s. 628.09, if the commissioner
17 determines, after a hearing, that the intermediary or navigator provided false information in a
18 statement provided under s. 628.095 (5) with the intermediary's or navigator's application or at
19 the time that the annual fee was paid under s. 601.31 (1) (m) or (z).

20
21 **(d)** *For failure to provide social security number, federal employer identification number or*
22 *statement.* If an intermediary or navigator fails to provide a social security number or federal
23 employer identification number as required under s. 628.095 (3) or a statement as required
24 under s. 628.095 (5), the commissioner shall suspend or limit the license of the intermediary or
25 navigator, effective the day following the last day on which the annual fee under s. 601.31 (1)
26 (m) or (z) may be paid, if the commissioner has given the intermediary or navigator reasonable
27 notice of when the fee must be paid to avoid suspension or limitation. If the intermediary or
28 navigator provides the social security number, federal employer identification number or
29 statement within 60 days from the effective date of the suspension, the commissioner shall
30 reinstate the intermediary's or navigator's license effective as of the date of suspension.

31
32 **(e)** *For changing state of residence.* The license of an intermediary or navigator who changes
33 residence from one state to another is revoked 60 days after the change of residence. ~~The An~~

1 intermediary may be relicensed only after satisfying any requirements under s. 628.04 that are
2 specified by the commissioner by rule.

3

4 **(3) DELAY FOR NEW APPLICATION.** An order revoking an intermediary's or navigator's
5 license under sub. (2) (b) or (c) may specify a time not to exceed 5 years within which the
6 former intermediary or navigator may not apply for a new license. If no time is specified, the
7 intermediary or navigator may not apply for 5 years.

8 628.10(5)

9

10 **(5) REINSTATEMENT OR RELICENSING AFTER CERTAIN REVOCATIONS.**

11

12 *(a) Reinstatement within 12 months.* An intermediary or navigator who is a natural person and
13 whose license is revoked under sub. (2) (a), (am), or (cm) may have his or her license
14 reinstated within 12 months after the date on which the license was revoked without having to
15 satisfy any preclicensing education, training, or examination requirements under s. 628.04 or
16 628.—(7). To have his or her license reinstated, the intermediary or navigator must satisfy the
17 requirements under sub. (2) (a), (am), or (cm) for which the license was revoked, satisfactorily
18 complete a reinstatement application, and pay twice the amount of the license renewal fee as
19 specified by statute or rule. The reinstatement is effective on the date on which the
20 commissioner actually reinstates the license. If the intermediary or navigator is also a resident
21 who is required to complete continuing education or training, the intermediary or navigator must
22 have satisfied all previous continuing education or training requirements to have his or her
23 license reinstated under this paragraph.

24

25 *(b) Relicensing required after 12 months.* An intermediary or navigator specified in par. (a)
26 whose license has been revoked for more than 12 months is not eligible to have his or her
27 license reinstated under par. (a) but may apply for relicensing at any time after 12 months have
28 elapsed from the date of revocation. To be relicensed, the intermediary or navigator must satisfy
29 any requirements under s. 628.04 or 628.—(1) or that are specified by the commissioner by
30 rule.

31

32 **(c) Applicability.** This subsection applies to all of the following:

33

34 1. Intermediaries whose licenses were revoked under sub. (2) (a), (am), or (cm) before

April 9, 2008, regardless of whether an order under sub. (3) applies to the intermediary.

1 2. Intermediaries whose licenses are revoked under sub. (2) (a), (am), or (cm) on or after
2 April 9, 2008.

3 3. Navigators whose licenses were revoked under sub. (2) (a), (am), or (cm) on or after
4 [the effective date of this paragraph] [LRB inserts date].

5
6 ✓ 601.31(1)(z) is created to read:

7
8 (z)

9 1. For an individual navigator licensed under s. 628.__(1), \$75 upon initial licensure,
10 \$35 annually thereafter, unless the commissioner specifies a different amount by rule.

11 2. For an entity navigator registered under s. 628.__(2), \$100 upon initial registration,
12 \$100 annually thereafter, unless the commissioner specifies a different amount by rule.

Formatted: Indent: First line: 0.5"

Comment [A54]: Maintain rule reference here.

13
14 ✓ 73.0301(d)(12) is amended to read:

15
16 12. A license issued under s. 628.04, 632.69 (2), ~~or 633.14~~, or 628.--(1) or a temporary license
17 issued under s. 628.09 or registration under 628.__(2).

18
19 ✓ 49.857(d)(20) is amended to read:

20
21 20. A license issued under s. 628.04, 632.69 (2), ~~or 633.14~~, or 628.--(1) or a temporary license
22 issued under s. 628.09.
23



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBb0098/

PJK:

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✓ in list

LFB:.....Austin, Licensing and regulation of navigators for health insurance exchange – Navigators for health insurance exchange

FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY BILL 40

(in 5-22)

- 1 At the locations indicated, amend the bill as follows:
- 2. [✓] 1. Page 619, line 12: after that line insert:





State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2395/1
PJK:kjf:jf

2013 BILL

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

This is an LRB draft that will be turned into a budget amendment.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 " SECTION ^{122c 1227c} 1. 49.857 (1) (d) 20. of the statutes is amended to read:
3 49.857 (1) (d) 20. A license issued under s. 628.04, 628.92 (1), 632.69 (2), or

4 633.14 or a temporary license issued under s. 628.09. "

→ #. Page 727, line 13: after that line insert:

5 " SECTION ¹⁴⁶²ⁿ 2. 73.0301 (1) (d) 12. of the statutes is amended to read:

6 73.0301 (1) (d) 12. A license issued under s. 628.04, 628.92 (1), 632.69 (2), or

7 633.14, a registration under s. 628.92 (2), or a temporary license issued under s.

8 628.09. "

9 " SECTION ^{2264r} 3. 601.31 (1) (nm) of the statutes is created to read:

#. Page 779, line 6: after that line insert:

BILL

1 601.31 (1) (nm) For issuing a license as an individual navigator under s. 628.92
2 (1), unless the commissioner specifies a different amount by rule:

3 1. Initial issuance, \$75.

4 2. Annual renewal, \$35.

5 SECTION ^{2264s} 4. 601.31 (1) (np) of the statutes is created to read:

6 601.31 (1) (np) For registering as a navigator entity under s. 628.92 (2), unless
7 the commissioner specifies a different amount by rule:

8 1. Initial registration, \$100.

9 2. Annual renewal, \$100. " " "

10 " SECTION ^{2265b} 5. 628.095 (title) of the statutes is amended to read:
#. Page 979, line 9: after that line insert:

11 **628.095 (title) Social security and federal employer identification**
12 **numbers on license applications or at time of fee payment.**

13 SECTION ^{2265c} 6. 628.095 (1) of the statutes is amended to read:

14 628.095 (1) REQUIRED ON APPLICATIONS. An application for a license issued
15 under this subchapter or subch. V, or for registration under s. 628.92 (2), shall
16 contain the applicant's social security number, if the applicant is a natural person
17 unless the applicant does not have a social security number, or the applicant's federal
18 employer identification number, if the applicant is not a natural person.

19 SECTION ^{2265d} 7. 628.095 (2) of the statutes is amended to read:

20 628.095 (2) REFUSAL TO ISSUE LICENSE OR REGISTER. The commissioner may not
21 issue a license, including a temporary license, under this subchapter or subch. V, or
22 register a navigator entity under subch. V, unless the applicant provides his or her
23 social security number, if the applicant is a natural person unless the applicant does
24 not have a social security number, or provides the applicant's federal tax
25 identification number, if the applicant is not a natural person.

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1 SECTION 8. 2265e 628.095 (3) of the statutes is amended to read:

2 628.095 (3) REQUIRED WHEN ANNUAL FEE PAID. At the time that the annual fee
3 is paid under s. 601.31 (1) (m), (nm), or (np), an intermediary or navigator who is a
4 natural person shall provide his or her social security number unless the
5 intermediary does not have a social security number, and an intermediary or
6 navigator that is not a natural person shall provide its federal employer
7 identification number, if the social security number or federal employer
8 identification number was not provided on the application for the license or
9 registration or previously when the annual fee was paid.

10 SECTION 9. 2265f 628.095 (5) of the statutes is amended to read:

11 628.095 (5) IF APPLICANT OR INTERMEDIARY OR NAVIGATOR HAS NO SOCIAL SECURITY
12 NUMBER. If an applicant who is a natural person does not have a social security
13 number, the applicant shall provide to the commissioner, along with the application
14 for a license and on a form prescribed by the department of children and families, a
15 statement made or subscribed under oath or affirmation that the applicant does not
16 have a social security number. If an intermediary or navigator who is a natural
17 person does not have a social security number, the intermediary or navigator shall
18 provide to the commissioner, each time that the annual fee is paid under s. 601.31
19 (1) (m) or (nm) and on a form prescribed by the department of children and families,
20 a statement made or subscribed under oath or affirmation that the applicant
21 intermediary or navigator does not have a social security number.

22 SECTION 10. 2265g 628.097 (1m) of the statutes is amended to read:

23 628.097 (1m) FOR FAILURE TO PAY SUPPORT OR TO COMPLY WITH SUBPOENA OR
24 WARRANT. The commissioner shall refuse to issue to a natural person a license,
25 including a temporary license, under this subchapter or subch. V if the natural

BILL**SECTION 10**

1 person is delinquent in court-ordered payments of child or family support,
2 maintenance, birth expenses, medical expenses, or other expenses related to the
3 support of a child or former spouse, or if the natural person fails to comply, after
4 appropriate notice, with a subpoena or warrant issued by the department of children
5 and families or a county child support agency under s. 59.53 (5) and related to
6 paternity or child support proceedings, as provided in a memorandum of
7 understanding entered into under s. 49.857.

8 **SECTION 11.** ^{→ 2265h} 628.097 (2m) of the statutes is amended to read:

9 628.097 (2m) FOR LIABILITY FOR DELINQUENT TAXES. The commissioner shall
10 refuse to issue a license, including a temporary license, under this subchapter or
11 subch. V, or to register a navigator entity under subch. V, if the department of
12 revenue certifies under s. 73.0301 that the applicant for the license or registration
13 is liable for delinquent taxes. ^{→ 2265i}

14 **SECTION 12.** ^{→ 2265i} 628.10 (1) of the statutes is amended to read:

15 628.10 (1) GENERAL. An intermediary's license issued under s. 628.04, or an
16 individual navigator's license issued under s. 628.92 (1), remains in force until it is
17 revoked or limited under sub. (2), until it is suspended under sub. (2) or s. 227.51 (3),
18 until it is surrendered, or until the licensee dies or is in this state adjudicated
19 incompetent. ^{→ 2265j}

20 **SECTION 13.** ^{→ 2265j} 628.10 (2) (a) of the statutes is amended to read:

21 628.10 (2) (a) *For failure to comply with continuing education requirements.*
22 The license of any intermediary or individual navigator who fails to produce evidence
23 of compliance with continuing education standards set by the commissioner is
24 revoked, effective on the date on which the evidence of compliance is due. At least
25 60 days before that date, the commissioner shall send by 1st class mail to the

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1 intermediary's or navigator's address that is on file with the commissioner notice of
2 the date by which the evidence of compliance is due and that the intermediary's or
3 navigator's license will be revoked if the evidence is not received by that date. An
4 intermediary or navigator whose license is revoked under this paragraph may have
5 his or her license reinstated, or may be relicensed, as provided in sub. (5).

6 **SECTION 1A** ^{2265k} 628.10 (2) (am) of the statutes is amended to read:

7 628.10 (2) (am) *Nonpayment of fees.* The license of an intermediary or
8 individual navigator who fails to pay a fee when due is revoked, effective on the date
9 on which the fee is due. At least 60 days before that date, the commissioner shall send
10 by 1st class mail to the intermediary's or navigator's address that is on file with the
11 commissioner notice of the date by which the fee is due and that the intermediary's
12 or navigator's license will be revoked if timely payment is not made. An intermediary
13 who is a natural person, or an individual navigator, whose license is revoked under
14 this paragraph may have his or her license reinstated, or may be relicensed, as
15 provided in sub. (5).

16 **SECTION 15** ^{2265L} 628.10 (2) (b) of the statutes is amended to read:

17 628.10 (2) (b) *For other reasons.* Except as provided in pars. (c) to (d), after a
18 hearing, the commissioner may revoke, suspend, or limit in whole or in part the
19 license of any intermediary or individual navigator if the commissioner finds that the
20 licensee is unqualified as an intermediary or navigator, is not of good character, or
21 has repeatedly or knowingly violated an insurance statute or rule or a valid order of
22 the commissioner under s. 601.41 (4), or if the intermediary's or navigator's methods
23 and practices in the conduct of business endanger, or financial resources are
24 inadequate to safeguard, the legitimate interests of customers and the public.

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1 Nothing in this paragraph limits the authority of the commissioner to suspend
2 summarily an intermediary's or individual navigator's license under s. 227.51 (3).

3 SECTION 16. ^{2265m} 628.10 (2) (c) of the statutes is amended to read:

4 628.10 (2) (c) *For failure to pay support or to comply with subpoena or warrant.*

5 The commissioner shall suspend or limit the license of an intermediary who is a
6 natural person, the license of an individual navigator, or a temporary license of a
7 natural person under s. 628.09, if the natural person is delinquent in court-ordered
8 payments of child or family support, maintenance, birth expenses, medical expenses,
9 or other expenses related to the support of a child or former spouse, or if the natural
10 person fails to comply, after appropriate notice, with a subpoena or warrant issued
11 by the department of children and families or a county child support agency under
12 s. 59.53 (5) and related to paternity or child support proceedings, as provided in a
13 memorandum of understanding entered into under s. 49.857. A natural person
14 whose license or temporary license is suspended under this paragraph who satisfies
15 the requirements under this paragraph for which the license was suspended may
16 have his or her license or temporary license reinstated by satisfactorily completing
17 a reinstatement application and paying the application fee for original licensure as
18 specified by rule.

19 SECTION 17. ²²⁶⁵ⁿ 628.10 (2) (cm) of the statutes is amended to read:

20 628.10 (2) (cm) *For liability for delinquent taxes.* The commissioner shall
21 revoke the license of an intermediary or individual navigator, including a temporary
22 license under s. 628.09, if the department of revenue certifies under s. 73.0301 that
23 the intermediary or navigator is liable for delinquent taxes. An intermediary who
24 is a natural person, or an individual navigator, whose license is revoked under this

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1 paragraph may have his or her license reinstated, or may be relicensed, as provided
2 in sub. (5).

3 **SECTION 18.** 628.10 (2) (cr) of the statutes is amended to read:

4 628.10 (2) (cr) *For providing false information in statement.* The commissioner
5 shall revoke the license of an intermediary or individual navigator, including a
6 temporary license under s. 628.09, if the commissioner determines, after a hearing,
7 that the intermediary or navigator provided false information in a statement
8 provided under s. 628.095 (5) with the intermediary's or navigator's application or
9 at the time that the annual fee was paid under s. 601.31 (1) (m) or (nm).

10 **SECTION 19.** 628.10 (2) (d) of the statutes is amended to read:

11 628.10 (2) (d) *For failure to provide social security number, federal employer*
12 *identification number or statement.* If an intermediary or individual navigator fails
13 to provide a social security number or federal employer identification number as
14 required under s. 628.095 (3) or a statement as required under s. 628.095 (5), the
15 commissioner shall suspend or limit the license of the intermediary or navigator,
16 effective the day following the last day on which the annual fee under s. 601.31 (1)
17 (m) may be paid, if the commissioner has given the intermediary or navigator
18 reasonable notice of when the fee must be paid to avoid suspension or limitation. If
19 the intermediary or navigator provides the social security number, federal employer
20 identification number, or statement within 60 days from the effective date of the
21 suspension, the commissioner shall reinstate the intermediary's or navigator's
22 license effective as of the date of suspension.

23 **SECTION 20.** 628.10 (2) (e) of the statutes is amended to read:

24 628.10 (2) (e) *For changing state of residence.* The license of an intermediary
25 or individual navigator who changes residence from one state to another is revoked

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SECTION 20

1 60 days after the change of residence. The intermediary or navigator may be
2 relicensed only after satisfying any requirements under s. 628.04 that are specified
3 by the commissioner by rule. → 2265r

4 SECTION 21. 628.10 (3) of the statutes is amended to read:

5 628.10 (3) DELAY FOR NEW APPLICATION. An order revoking an intermediary's or
6 individual navigator's license under sub. (2) (b) or (cr) may specify a time not to
7 exceed 5 years within which the former intermediary or navigator may not apply for
8 a new license. If no time is specified, the intermediary or navigator may not apply
9 for 5 years.

10 SECTION 22. 628.10 (5) (a) of the statutes is amended to read: → 2265s

11 628.10 (5) (a) *Reinstatement within 12 months.* An intermediary who is a
12 natural person ~~and, or an individual navigator,~~ whose license is revoked under sub.
13 (2) (a), (am), or (cm) may have his or her license reinstated within 12 months after
14 the date on which the license was revoked without having to satisfy any prelicensing
15 education or examination requirements under s. 628.04. To have his or her license
16 reinstated, the intermediary or navigator must satisfy the requirement under sub.
17 (2) (a), (am), or (cm) for which the license was revoked, satisfactorily complete a
18 reinstatement application, and pay twice the amount of the license renewal fee as
19 specified by rule. The reinstatement is effective on the date on which the
20 commissioner actually reinstates the license. If the intermediary or navigator is also
21 a resident who is required to complete continuing education, the intermediary or
22 navigator must have satisfied all previous continuing education requirements to
23 have his or her license reinstated under this paragraph.

24 SECTION 23. 628.10 (5) (b) of the statutes is amended to read: → 2265+

BILL

1 628.10 (5) (b) *Relicensing required after 12 months.* An intermediary or
2 individual navigator specified in par. (a) whose license has been revoked for more
3 than 12 months is not eligible to have his or her license reinstated under par. (a) but
4 may apply for relicensing at any time after 12 months have elapsed from the date of
5 revocation. To be relicensed, the intermediary or navigator must satisfy any
6 requirements under s. 628.04 that are specified by the commissioner by rule.

7 ^{2265u}
SECTION 24. 628.10 (5) (c) 3. of the statutes is created to read:

8 628.10 (5) (c) 3. Individual navigators whose licenses were revoked under sub.
9 (2) (a), (am), or (em) on or after the effective date of this subdivision [LRB inserts
10 date].

11 ^{2265v}
SECTION 25. Subchapter V of chapter 628 [precedes 628.90] of the statutes is
12 created to read:

CHAPTER 628**SUBCHAPTER V****REGULATION OF NAVIGATORS**

16 **628.90 Definitions.** In this subchapter:

17 (1) “Exchange” means the American health benefit exchange, as described in
18 42 USC 18031.

19 (2) “Health benefit plan” has the meaning given in s. 632.745 (11).

20 (3) (a) Except as provided in par. (b), “navigator” means a natural person, or
21 an entity that supervises or employs a natural person, who does any of the following:

22 1. Performs any of the activities and duties identified in 42 USC 18031 (i) and
23 45 CFR 155.210 on behalf of the exchange.

24 2. Receives funding to perform any of the activities and duties identified in 42
25 USC 18031 (i) and 45 CFR 155.210 on behalf of the exchange.

BILL

1 (b) “Navigator” does not include a person acting as an insurance intermediary
2 licensed under subch. II, but an insurance intermediary may apply to be licensed as
3 a navigator under this subchapter.

4 (4) “Nonnavigator assister” means a natural person who has been designated
5 by the exchange, or could reasonably be described as working at the behest of the
6 exchange, as a nonnavigator assister, including an in-person assister, enrollment
7 assister, application assister, or certified application counselor.

8 **628.91 Requirement of licensure or registration.** No natural person or
9 entity may act as a navigator in this state unless licensed or registered as a navigator
10 under s. 628.92.

11 **628.92 Issuance of license and registration.** (1) INDIVIDUAL LICENSE. A
12 natural person applying for a navigator license shall make application to the
13 commissioner on a form developed by the commissioner and shall declare under
14 penalty of refusal, suspension, or revocation of the license that the statements made
15 in the application are true, correct, and complete to the best of the individual’s
16 knowledge and belief. Before approving the application, the commissioner shall find
17 that the person satisfies all of the following:

18 (a) Is at least 18 years of age.

19 (b) Resides in this state or maintains his or her principal place of business in
20 this state.

21 (c) Has completed the training and course of study requirements established
22 by the commissioner under sub. (7) and any training and course of study
23 requirements mandated by the exchange.

24 (d) Has successfully passed a written examination approved by the
25 commissioner under sub. (7) that tests the applicant’s knowledge concerning the

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1 duties and responsibilities of a navigator, the insurance laws and regulations of this
2 state, and state public assistance programs and eligibility.

3 (e) Has submitted a full set of fingerprints to the commissioner and successfully
4 completed a regulatory and criminal history background investigation in a manner
5 prescribed by the commissioner under sub. (6).

6 (f) Possesses the requisite character, integrity, competency, and
7 trustworthiness as determined in accordance with the criteria under the rules
8 promulgated under s. 628.04.

9 (g) Has not committed any act that the commissioner finds would warrant the
10 denial, suspension, or revocation of a license under this subchapter.

11 (h) Has identified the entity with which he or she is, or will be, affiliated and
12 by which he or she is, or will be, supervised, if any.

13 (i) Has paid the applicable licensing fee as set forth in s. 601.31 (1) (nm).

14 **(2) ENTITY REGISTRATION.** An entity that acts or intends to operate as a
15 navigator, supervises the activities of individual navigators, or receives funding to
16 perform such activities shall first register as a navigator entity with the
17 commissioner. This registration shall be on an application form developed by the
18 commissioner, which shall include such documentation as the commissioner
19 determines is necessary and appropriate. Before the commissioner may register the
20 entity, the entity must establish to the satisfaction of the commissioner that it
21 satisfies all of the following:

22 (a) The entity has policies and procedures in place to ensure that all acts that
23 may be performed only by a navigator or licensed intermediary are performed by
24 persons who are appropriately licensed under this subchapter or subch. II, or both.

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1 (b) The entity will assume full legal responsibility for the acts of the individual
2 navigators that it employs, supervises, or is affiliated with that are performed in this
3 state and that are within the scope of the navigator's apparent authority.

4 (c) The entity is sound, reliable, and entitled to public confidence.

5 (d) The entity has paid the applicable registration fee as set forth in s. 601.31
6 (1) (np).

7 (e) The entity has identified on the registration form a designated responsible
8 individual navigator who is licensed under this subchapter.

9 **(3) DOCUMENTATION.** The commissioner may require any documents necessary
10 to verify the information contained in an application submitted under sub. (1) or (2).

11 **(4) LIST OF INDIVIDUAL NAVIGATORS.** Upon initial registration, navigator entities
12 shall, in a manner prescribed by the commissioner, provide the commissioner with
13 a list of all individual navigators that it employs, supervises, or is affiliated with.
14 Thereafter, the navigator entity shall provide updates, if any, to the list of individual
15 navigators on a monthly basis. A navigator entity is bound by the acts of each
16 individual navigator who has been, or should have been, reported under this
17 subsection that are performed in this state and that are within the scope of the
18 individual navigator's apparent authority.

19 **(5) FINANCIAL RESPONSIBILITY REQUIREMENT.** (a) Each entity that is a navigator
20 shall furnish a bond in an amount no less than \$100,000 from an insurer authorized
21 to do business in this state or provide other evidence of financial responsibility
22 capable of protecting all persons against the wrongful acts, misrepresentations,
23 errors, omissions, or negligence of the navigator.

24 (b) An individual navigator not affiliated with an entity shall furnish a bond
25 in an amount no less than \$100,000 from an insurer authorized to do business in this

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1 state or provide other evidence of financial responsibility capable of protecting all
2 persons against the wrongful acts, misrepresentations, errors, omissions, or
3 negligence of the navigator.

4 (c) The commissioner may by rule define the amount of the financial
5 responsibility requirement and alternative requirements for complying with this
6 section.

7 **(6) FINGERPRINTS AND CRIMINAL AND REGULATORY BACKGROUND CHECK.** Each
8 applicant for licensure as an individual navigator shall provide fingerprints in a
9 format specified by the commissioner and complete a criminal and regulatory
10 background check as a condition for being granted a license to act as a navigator. The
11 commissioner shall use the fingerprints to conduct a state criminal history
12 background investigation of the applicant and a national criminal history
13 background investigation of the applicant with the federal bureau of investigation.

14 **(7) TRAINING AND EXAMINATION.** An individual navigator shall complete at least
15 16 hours of prelicensing training and satisfactorily complete an approved written
16 examination for navigators before applying for an individual navigator's license.
17 After licensure, an individual navigator shall complete a course of study of at least
18 8 hours of approved training every one-year period. The commissioner may approve
19 and designate courses and programs that an applicant for a navigator's license may
20 complete to fulfill the prelicensing training requirement or that a licensed navigator
21 may complete to fulfill the annual training requirement. The commissioner may
22 make arrangements, including contracting with an outside testing service or other
23 appropriate entity, to administer examinations and collect fees. The commissioner
24 may by rule set the prelicensing and annual training standards and approve a
25 written examination for navigators.

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1 **628.93 Other applicable provisions. (1) SOCIAL SECURITY AND FEDERAL**
2 EMPLOYER IDENTIFICATION NUMBERS ON APPLICATIONS OR AT TIME OF FEE PAYMENT.
3 Applicants for individual navigator licensure and navigator entity registration are
4 subject to s. 628.095.

5 **(2) REFUSAL TO ISSUE LICENSE; FAILURE TO PAY SUPPORT OR TO COMPLY WITH**
6 SUBPOENA OR WARRANT; TAX DELINQUENCY. Applicants for individual navigator
7 licensure and navigator entity registration are subject to s. 628.097.

8 **(3) TERMINATION OF LICENSE.** Individual navigator licenses are subject to s.
9 628.10.

10 **628.95 Navigator and nonnavigator assister conduct. (1) GENERAL.** For
11 purposes of this subchapter, a navigator or nonnavigator assister, in the performance
12 of its duties, shall be considered to be transacting the business of insurance.

13 **(2) PROHIBITED PRACTICES.** A navigator or nonnavigator assister may not do any
14 of the following:

15 (a) Receive compensation from an insurer who offers a health benefit plan or
16 stop loss insurance or from a 3rd-party administrator.

17 (b) Provide any information or services related to enrollment in health benefit
18 plans or other insurance products not offered in the exchange.

19 (c) Make or cause to be made any communication relating to the exchange,
20 health benefit plans, an insurance contract, the insurance business, any insurer, any
21 navigator, or any intermediary that contains false, deceptive, or misleading
22 information, including information that is misleading because of incompleteness.

23 (d) Provide advice about which health benefit plan is better or worse for a
24 particular individual or employer.

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1 (e) Recommend a particular health benefit plan or insurer or advise consumers
2 about which health benefit plan to choose.

3 (f) Engage in any unfair method of competition or any other unfair, fraudulent,
4 deceptive, or dishonest act or practice.

5 (g) Receive compensation that is dependent, in whole or in part, on whether an
6 individual enrolls in or renews a health benefit plan.

7 **(3) RESTITUTION.** The commissioner may require that any person that violates
8 this subchapter make restitution to any individual who suffers financial injury
9 because of the violation of this subchapter.

10 **628.96 Nonnavigator assisters. (1) REGISTRATION REQUIRED.** Any entity that
11 employs a nonnavigator assister shall, in a manner prescribed by the commissioner,
12 provide the commissioner with a list of all nonnavigator assisters that it employs,
13 supervises, or is affiliated with upon the nonnavigator assister first becoming
14 authorized by the exchange to provide nonnavigator assistance. Thereafter, the
15 entity shall provide updates, if any, to the list of nonnavigator assisters on a monthly
16 basis. No nonnavigator assister may act as a nonnavigator assister in this state until
17 registered with the commissioner. The commissioner may refuse to register any
18 nonnavigator assister to which any of the following applies:

19 (a) The nonnavigator assister does not possess the requisite character,
20 integrity, competency, and trustworthiness as determined in accordance with the
21 criteria under the rules promulgated under s. 628.04.

22 (b) The nonnavigator assister has committed any act that the commissioner
23 finds would warrant the denial, suspension, or revocation of a license or registration
24 under this subchapter.

Kahler, Pam

From: Austin, Sam
Sent: Thursday, May 30, 2013 4:46 PM
To: Kahler, Pam
Subject: RE: navigator amendment

I think that makes sense, Pam. Thanks.

From: Kahler, Pam
Sent: Thursday, May 30, 2013 4:42 PM
To: Austin, Sam
Subject: navigator amendment

Sam,

I think I should also remove "established by the commissioner" on page 11, lines 1 and 2 of the amendment, since the commissioner doesn't really establish the requirements, they are set out in the statute. Even if the commissioner does have some involvement with the specifics of the training requirements, such as approving certain courses, that would still be included in the "under sub. (7)" language. What do you think?

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
608-266-2682

*Other changes made to "/1" per
discussion w/ Sam*