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An Act Relating to Navigators under Health Benefit Exchanges

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 24-A MRSA §2188 is enacted to read:

§ 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.

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.

2. Permitted insurance producer or consultant activities. Only a person licensed as an insurance producer in this State in accordance with chapter 16, or, with respect to paragraph B, a person licensed as a consultant in accordance with chapter 16, may:

A. Sell, solicit or negotiate health insurance;

B. Make recommendations to purchasers, enrollees or employers or prospective purchasers or enrollees concerning the substantive benefits, terms or conditions of health plans; or

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.

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

A. Develop criteria for use by any exchange for the selection of a navigator pursuant to Section 1311(i) of the federal Affordable Care Act and state law;

B. Adopt rules to establish a certification and training program for a prospective individual navigator that includes initial and continuing education requirements and an examination; and

C. Adopt rules, to the extent permitted by the federal Affordable Care Act, that require a navigator to carry and maintain errors and omissions insurance to cover all activities contemplated or performed pursuant to this section and Section 1311(i) of the federal Affordable Care Act.

4. Navigator requirements. An individual, other than a licensed insurance producer under chapter 16, may not act in the capacity of a navigator unless the individual:

A. Is at least 18 years of age;

B. Has 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 has 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;

C. Has submitted to any criminal history record check or regulatory background check required by the superintendent by rule;

D. Has not committed any act that would be a ground for denial, suspension or revocation of a producer license as set forth in section 1420-K;

E. Has successfully completed the certification and training requirements adopted by the superintendent in accordance with subsection 3; and

F. Has paid any fees required by the superintendent.

5. Unfair practices. The provisions of this chapter and chapter 24 and any rules adopted pursuant to those chapters apply to navigators. For purposes of this section and the application of other provisions of this Title, the duties of a navigator are deemed to constitute the business of insurance.

6. Denial, suspension or revocation. The superintendent may deny, suspend or revoke the authority of a navigator certified pursuant to this section for good cause.

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.

Effective 90 days following adjournment of the 125th
Legislature, Second Regular Session, unless otherwise indicated.