

LEGISLATIVE REFERENCE BUREAU

AMENDMENTS TO SENATE BILL NO. 1268

Sponsor:

Printer's No. 1955

1 Amend Bill, page 1, line 1, by striking out "and insurance
2 producers"

3 Amend Bill, page 1, lines 15 and 16, by striking out all of
4 said lines

5 Amend Bill, page 2, line 13, by striking out "carrier" or
6 "carrier" and inserting
7 carrier

8 Amend Bill, page 2, lines 18 through 30; pages 3 through 7,
9 lines 1 through 30; page 8, lines 1 through 3, by striking out
10 the colon in line 18, all of lines 19 through 30 on page 2, all
11 of lines 1 through 30 on pages 3 through 7 and all of lines 1
12 through 3 on page 8 and inserting

13 an entity organized under:

14 (1) The act of May 17, 1921 (P.L.682, No.284), known as
15 The Insurance Company Law of 1921, including section 630 and
16 Article XXIV thereof.

17 (2) The act of December 29, 1972 (P.L.1701, No.364),
18 known as the Health Maintenance Organization Act.

19 (3) 40 Pa.C.S. Chs. 61 (relating to hospital plan
20 corporations) and 63 (relating to professional health
21 services plan corporations).

22 "Health insurance producer." An insurance producer with an
23 accident and health line of authority as defined in section 601-
24 A of the act of May 17, 1921 (P.L.789, No.285), known as The
25 Insurance Department Act of 1921.

26 "Insurance producer." Insurance producer has the meaning
27 given it in section 601-A of the act of May 17, 1921 (P.L.789,
28 No.285), known as The Insurance Department Act of 1921.

29 "Navigator." An organization or individual under the Federal
30 health care act that provides public education or consumer

1 assistance activities for or on behalf of an exchange to
2 uninsured individuals and groups seeking health insurance
3 coverage. The term shall include an individual performing
4 navigator duties for an organization, association or business
5 entity, if the organization, association or business entity is
6 serving as a navigator.

7 "Negotiate." The term has the same meaning given it in
8 section 601-A of the act of May 17, 1921 (P.L.789, No.285),
9 known as The Insurance Department Act of 1921.

10 "Qualified employer." The term has the same meaning given it
11 in the Federal health care act.

12 "Qualified health plan." The term has the same meaning given
13 it in the Federal health care act.

14 "Qualified individual." The term has the same meaning given
15 it in the Federal health care act.

16 "Sell." The term has the same meaning given it in section
17 601-A of the act of May 17, 1921 (P.L.789, No.285), known as The
18 Insurance Department Act of 1921,.

19 "Shop exchange." The term has the same meaning given it in
20 the Federal health care act.

21 "Small employer." An employer that purchasers accident and
22 health insurance in the small group market, as defined in
23 section 2791(e) (5) of the Public Health Service Act (110 Stat.
24 1972, 42 U.S.C. § 300gg-91(e) (5)), except that for plan years
25 beginning prior to January 1, 2016, or other date as established
26 in Federal law, 50 employees shall be required.

27 "Solicit." The term has the same meaning given it in section
28 601-A of the act of May 17, 1921 (P.L.789, No.285), known as The
29 Insurance Department Act of 1921.

30 Section 3. Registration.

31 (a) Prohibition.--An individual or organization may not
32 advertise a service as a navigator or an exchange assister or
33 operate in this Commonwealth as a navigator or an exchange
34 assister without first registering with the department.

35 (b) Registration application.--An individual or organization
36 shall register with the department as a navigator or exchange
37 assister, on a form approved by the department. The department
38 shall review each application and may conduct an investigation
39 of each applicant who applies for a registration in accordance
40 with this act. The department shall issue a registration, as
41 appropriate, to an applicant when the department determines that
42 the applicant:

43 (1) Is at least 18 years of age.

44 (2) Resides in this Commonwealth or maintains a
45 registered place of business in this Commonwealth.

46 (3) Is not disqualified for having committed an act that
47 would be grounds for denial, suspension or revocation of a
48 license as an insurance producer.

49 (4) Has not had a license as an insurance producer
50 denied, suspended or revoked.

51 (5) Has submitted a completed application.

1 (6) Has submitted the applicant's fingerprints, for the
2 department to receive national criminal history records
3 information from the Criminal Justice Information Services
4 Division of the Federal Bureau of Investigation.

5 (7) Has paid the required registration fee and fees for
6 obtaining national criminal history records information
7 as prescribed by the department.

8 (b) Confirmation.--The department shall issue, in paper or
9 electronic form, a nontransferable registration certification,
10 which shall prominently list the expiration date of the
11 registration and which must be shown upon request to potential
12 enrollees.

13 (c) Term.--The term of registration shall be two years from
14 the date of issue.

15 (d) Searchable list.--The department shall maintain and make
16 available to the public a searchable list of all registrants on
17 its publicly accessible Internet website.

18 Section 4. Scope of activity.

19 (a) Registration required.--An individual or organization
20 may not act or present itself to be a navigator or an exchange
21 assister unless the individual or organization is registered as
22 a navigator or an exchange assister under this act.

23 (b) Limitations.--A navigator or an exchange assister may
24 not engage in an activity for which licensure as a producer is
25 required, except as explicitly permitted by Federal law or
26 regulation, including any of the following:

27 (1) Sell, solicit or negotiate insurance.

28 (2) Discuss the effect of age, health or other risk-
29 related conditions of the prospective policyholders.

30 (3) Urge or advise a prospective purchaser to buy a
31 particular policy or to insure with a particular company.

32 (4) Initiate sales over the telephone or otherwise.

33 (5) Collect premiums.

34 (6) Make or propose to make an insurance contract.

35 (7) Other than as necessary to inform a prospective
36 purchaser of the availability of health insurance off the
37 exchange, provide information or services related to health
38 benefit plans or other products other than those offered in
39 the health insurance marketplace, SHOP exchange, the
40 Children's Health Insurance Program or product available
41 through the Social Security Act (49 Stat. 620, 42 U.S.C. §301
42 et seq.).

43 (8) Initiate an inquiry as to the terms of existing
44 coverage.

45 (9) Discuss or describe the specific coverages or terms
46 of a proposed contract of insurance with a prospective
47 policyholder, including counseling as to which coverages to
48 buy.

49 (10) Recommend or initiate additions or deletions to an
50 insured's policy.

51 (11) Sign binders, endorsements and insurance policies.

1 (12) Authorize the issuance or delivery of certificates
2 of insurance, endorsements, binders or insurance policies on
3 insurance identification cards.

4 (13) Respond to a policyholder's request for advice or
5 counsel regarding policy provisions or coverage.

6 Section 5. Enforcement by department.

7 (a) Notice.--Upon evidence of a violation of this act or
8 Article VI-A of the act of May 17, 1921 (P.L.789, No.285), known
9 as The Insurance Department Act of 1921, the department shall
10 notify the person of the alleged violation. The notice shall
11 specify the nature of the alleged violation and fix a time and
12 place, at least ten days thereafter, when a hearing on the
13 matter shall be held.

14 (b) Hearing.--The department shall conduct the hearing on
15 the violation in accordance with 2 Pa.C.S. Ch. 5 Subch. A
16 (relating to practice and procedure of Commonwealth agencies).

17 (c) Evidence.--No person shall be excused from testifying or
18 from producing any books, papers, contracts, agreements or
19 documents at any hearing held by the commissioner on the ground
20 that the testimony or evidence may tend to incriminate that
21 person.

22 (d) Penalties.--After the hearing or upon failure of the
23 person to appear at the hearing, if a violation is found, the
24 commissioner may, in addition to any penalty which may be
25 imposed by a court, do any combination of the following deemed
26 appropriate:

27 (1) Deny, suspend, refuse to renew or revoke the
28 registration, if any, of the person.

29 (2) Impose a civil penalty of up to \$5,000 for each
30 violation of this act.

31 (3) Impose an order to cease and desist.

32 (4) Report violations of this act to the United States
33 Department of Health and Human Services.

34 (5) Refer potential violations of any laws of this
35 Commonwealth relating to privacy of personal information to
36 the Office of Attorney General.

37 (6) Enforce other violations of The Insurance Department
38 Act of 1921, as applicable.

39 (7) Impose any other conditions the commissioner deems
40 appropriate.

41 (e) Regulations and form.--The department may promulgate
42 regulations and publish forms as necessary and appropriate to
43 carry out this act.

44 Section 6. Effective date.

45 This act shall take effect February 15, 2015, or the close of
46 the 2015 open enrollment period, whichever is later.