

SENATE BILL NO. 634

November 01, 2023, Introduced by Senator SANTANA and referred to the Committee on Health Policy.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 1261, 1262, 1262a, and 1264 (MCL 500.1261, 500.1262, 500.1262a, and 500.1264), as added by 2014 PA 566.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1261. As used in this chapter:
- 2 (a) "Affordable care act" means the patient protection and
- 3 affordable care act, Public Law 111-148, as amended by the health
- 4 care and education reconciliation act of 2010, Public Law 111-152.

1 (b) "Business entity" means a corporation, association,
2 partnership, limited liability company, limited liability
3 partnership, or other legal entity.

4 (c) "Certificate" means a document issued by the director
5 authorizing a person to act as a navigator or certified application
6 counselor for the qualifications specified in the document. The
7 certificate itself does not create any actual, apparent, or
8 inherent authority in the certificate holder to represent or commit
9 an insurer.

10 (d) "Certificate holder" means a person issued a certificate
11 under this chapter.

12 (e) "Certified application counselor" means an individual who
13 is certified as a certified application counselor under this
14 chapter and is authorized by the United States ~~department of health~~
15 ~~and human services~~ **Department of Health and Human Services** to
16 perform the duties described in 45 CFR 155.225.

17 (f) "Certified navigator" means a person that is certified as
18 a navigator under this chapter.

19 (g) "Exchange" means ~~an American health benefits exchange~~
20 ~~established or operating under the affordable care act.~~ **marketplace**
21 **as that term is defined in section 103 of the Michigan health**
22 **insurance exchange act.**

23 (h) "Insurance" means any of the kinds of insurance described
24 in chapter 6.

25 (i) "Insurance producer" means a person required to be
26 licensed under the laws of this state to sell, solicit, or
27 negotiate insurance.

28 (j) "Navigator" means a person that receives any funding from
29 an exchange or the federal government and is designated or selected

1 by an exchange or the federal government to perform any of the
2 duties described in 42 USC 18031(i)(3).

3 (k) "Negotiate" means the act of conferring directly with or
4 offering advice directly to a purchaser or prospective purchaser of
5 a particular contract of insurance concerning any of the
6 substantive benefits, terms, or conditions of the contract,
7 ~~provided that if~~ the person engaged in that act either sells
8 insurance or obtains insurance from insurers for purchasers.

9 (l) "Qualified health plan" means that term as defined in
10 ~~section 1301 of the affordable care act.~~ **42 USC 18021.**

11 (m) "Sell" means to exchange a contract of insurance by any
12 means, for money or its equivalent, on behalf of an insurance
13 company.

14 (n) "Solicit" means attempting to sell insurance or asking or
15 urging a person to apply for a particular kind of insurance from a
16 particular company.

17 Sec. 1262. (1) Beginning June 30, 2015, an individual shall
18 not act as a navigator unless he or she has filed an application
19 under section 1263(1) and is certified with this state as a
20 navigator.

21 (2) Unless certified as a navigator, an individual shall not
22 receive funding from an exchange.

23 (3) Subject to the affordable care act, a certified navigator
24 shall do all of the following:

25 (a) Conduct public education activities to raise awareness of
26 the availability of qualified health plans.

27 (b) Distribute fair and impartial information concerning
28 enrollment in all qualified health plans offered within the
29 exchange and the availability of the premium tax credits under

1 section 36B of the internal revenue code of 1986, 26 USC 36B, and
2 cost-sharing reduction under section 1402 of the affordable care
3 act.

4 (c) Facilitate selection of a qualified health plan.

5 (d) Provide referrals to appropriate state agencies for an
6 enrollee with a grievance, complaint, or question regarding the
7 enrollee's health plan ~~, or~~ coverage ~~, or~~ a determination under
8 ~~such~~**the** plan coverage.

9 (e) Provide information in a manner that is culturally and
10 linguistically appropriate to the needs of the population served by
11 the exchange.

12 (4) A certified navigator shall not do any of the following:

13 (a) Sell, solicit, or negotiate health insurance.

14 (b) Recommend a particular health ~~benefit plan~~**insurance**
15 **policy**.

16 (c) Provide any information or services related to insurance
17 regulated under this act other than health ~~benefit plans~~**insurance**
18 **policies** or other products offered in the exchange.

19 (5) If an exchange is operational in this state, the director
20 shall determine whether a program to certify and train navigators
21 protects the privacy and security of personally identifiable
22 information of the residents of this state under the laws of this
23 state. If the director determines that the program does not protect
24 the residents of this state under this subsection, the director
25 shall do all of the following:

26 (a) Establish a certification and training program that must
27 include, but is not limited to, all of the following:

28 (i) A criminal history check using the department of state
29 police's internet criminal history access tool (ICHAT).

1 (ii) Training on privacy and security of personal identifying
2 information, training on ethics, training on provisions of the
3 affordable care act relating to navigators and certified
4 application counselors, and any necessary state-specific training
5 as determined by the director.

6 (b) Develop an application and disclosure form by which an
7 applicant for a certificate shall disclose any potential conflicts
8 of interest, as well as any other information required by the
9 director.

10 (c) Submit an annual report to the standing committees of the
11 senate and house of representatives with jurisdiction over health
12 policy. The report must include all of the following:

13 (i) The director's assessment of any federal program to certify
14 and train navigators and certified application counselors.

15 (ii) Any changes implemented by the department as a result of a
16 federal program to train navigators and certified application
17 counselors.

18 Sec. 1262a. (1) An individual shall not act as a certified
19 application counselor unless he or she has filed an application
20 under section 1263(2) and is certified with this state as a
21 certified application counselor.

22 (2) Unless certified as a certified application counselor, an
23 individual shall not receive funding from an exchange.

24 (3) Subject to the affordable care act, a certified
25 application counselor may do all of the following:

26 (a) Conduct public education activities to raise awareness of
27 the availability of qualified health plans.

28 (b) Distribute fair and impartial information about all
29 qualified health plans offered within the exchange and the

1 availability of the premium tax credits under section 36B of the
 2 internal revenue code of 1986, 26 USC 36B, and cost-sharing
 3 reduction under section 1402 of the affordable care act.

4 (c) Assist individuals applying for coverage in a qualified
 5 health plan.

6 (d) Facilitate selection of eligible individuals in a
 7 qualified health plan.

8 (e) Provide information in a manner that is culturally and
 9 linguistically appropriate to the needs of the population served by
 10 the exchange.

11 (f) Refer an individual with limited English proficiency to a
 12 navigator, insurance producer, or other source of assistance.

13 (4) A certified application counselor shall not do any of the
 14 following:

15 (a) Sell, solicit, or negotiate health insurance.

16 (b) Recommend a particular qualified health benefit plan **or**
 17 **health insurance policy.**

18 (c) Provide any information or services related to insurance
 19 regulated under this act other than qualified health benefit plans
 20 or other products offered in the exchange.

21 (5) Before providing services to or acting for an individual
 22 under subsection (3), a certified application counselor shall
 23 disclose any potential conflict of interest to the individual.

24 Sec. 1264. (1) In addition to any other powers under this act,
 25 the director may place on probation, suspend, or revoke a
 26 certificate or may levy a civil fine under section 1270, or **take**
 27 any combination of actions, and the director shall refuse to issue
 28 a certificate under section 1263, for any 1 or more causes that
 29 would be a ground for refusal, suspension, or revocation of an

1 insurance producer's license under section 1239. The director may
2 revoke a certificate of a person or refuse to issue a certificate
3 for a person that receives financial compensation, including
4 monetary and in-kind compensation, gifts, or any compensation
5 related to enrollment from an insurer offering qualified health
6 ~~benefits~~ **plans** through an exchange operating in this state. The
7 director may deny, suspend, approve, renew, or revoke a certificate
8 if the director considers it necessary to protect insureds and the
9 public.

10 (2) The certificate of a business entity may be suspended,
11 revoked, or refused if the director finds, after hearing, that an
12 individual certificate holder's violation was known or should have
13 been known by 1 or more of the partners, officers, or managers
14 acting on behalf of the business entity and the violation was
15 neither reported to the director nor corrective action taken.

16 (3) The director may examine the books and records of a
17 certificate holder to determine whether the certificate holder is
18 conducting its business in accordance with this chapter. For the
19 purpose of facilitating the examination, the certificate holder
20 shall allow the director free access, at reasonable times, to all
21 of the certificate holder's books and records relating to
22 transactions to which this chapter applies.

23 Enacting section 1. This amendatory act does not take effect
24 unless Senate Bill No. 633 of the 102nd Legislature is enacted into
25 law.