

INTERIM STUDY PROPOSAL 2015-013

1  
2 State of Arkansas  
3 90th General Assembly  
4 Regular Session, 2015

**A Bill**

HOUSE BILL 1492

5  
6 By: Representatives Bentley, M. Gray, Lundstrum, Tosh, Ballinger, Beck, Brown, Copeland,  
7 Deffenbaugh, C. Douglas, Drown, Farrer, C. Fite, Gates, Gonzales, Gossage, Harris, Henderson, G.  
8 Hodges, Jean, Ladyman, Lemons, Lowery, McNair, D. Meeks, S. Meeks, Miller, Payton, Petty,  
9 Richmond, Rushing, Scott, B. Smith, Sorvillo, Speaks, Sullivan, Vaught, Wallace, Womack

10 Filed with: House Committee on Insurance and Commerce  
11 pursuant to A.C.A. §10-3-217.

**For An Act To Be Entitled**

12  
13 AN ACT TO REPEAL THE ARKANSAS HEALTH INSURANCE  
14 MARKETPLACE ACT; TO REPEAL THE ARKANSAS HEALTH  
15 INSURANCE MARKETPLACE LEGISLATIVE OVERSIGHT  
16 COMMITTEE; TO AMEND CERTAIN LAWS REFERRING TO THE  
17 ARKANSAS HEALTH INSURANCE MARKETPLACE; AND FOR OTHER  
18 PURPOSES.

**Subtitle**

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21  
22 TO REPEAL THE ARKANSAS HEALTH INSURANCE  
23 MARKETPLACE ACT; TO REPEAL THE ARKANSAS  
24 HEALTH INSURANCE MARKETPLACE LEGISLATIVE  
25 OVERSIGHT COMMITTEE; AND TO AMEND  
26 CERTAIN LAWS REFERRING TO THE ARKANSAS  
27 HEALTH INSURANCE MARKETPLACE.

28  
29  
30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

31  
32 SECTION 1. DO NOT CODIFY. Legislative intent.

33 It is the intent of the General Assembly that:

34 (1) The Arkansas Health Insurance Marketplace and the Board of Directors of the  
35 Arkansas Health Insurance Marketplace be dissolved as of the effective date of this act;

1 ~~(e)(1) The President Pro Tempore of the Senate and the Speaker of the House of~~  
2 ~~Representatives shall each designate a cochair of the Arkansas Health Insurance Marketplace Legislative~~  
3 ~~Oversight Committee.~~

4 ~~(2) The Arkansas Health Insurance Marketplace Legislative Oversight Committee shall~~  
5 ~~meet at least quarterly upon the joint call of the cochairs of the Arkansas Health Insurance Marketplace~~  
6 ~~Legislative Oversight Committee.~~

7 ~~(3) A majority of the Arkansas Health Insurance Marketplace Legislative Oversight~~  
8 ~~Committee constitutes a quorum.~~

9 ~~(4) No action may be taken by the Arkansas Health Insurance Marketplace Legislative~~  
10 ~~Oversight Committee except by a majority vote at a meeting at which a quorum is present.~~

11 ~~(f) Members of the Arkansas Health Insurance Marketplace Legislative Oversight Committee are~~  
12 ~~entitled to per diem and mileage reimbursement at the same rate authorized by law for attendance at~~  
13 ~~meetings of interim committees of the General Assembly and shall be paid from the same source.~~

14 ~~(g)(1) With the consent of both the President Pro Tempore of the Senate and the Speaker of the~~  
15 ~~House of Representatives, the Arkansas Health Insurance Marketplace Legislative Oversight Committee~~  
16 ~~may meet during a session of the General Assembly to perform its duties under this section.~~

17 ~~(2) This subsection does not limit the authority of the Arkansas Health Insurance~~  
18 ~~Marketplace Legislative Oversight Committee to meet during a recess as authorized by § 10-3-211 or §~~  
19 ~~10-2-223.~~

20  
21 SECTION 3. Arkansas Code Title 23, Chapter 61, Subchapter 8, is repealed.

22 Subchapter 8 — Arkansas Health Insurance Marketplace Act

23  
24 ~~23-61-801. Title.~~

25 This subchapter shall be known and may be cited as the "Arkansas Health Insurance  
26 Marketplace Act".

27  
28 ~~23-61-802. Definitions.~~

29 As used in this subchapter:

30 (1) "Federal act" means the federal healthcare laws established by Pub. L. No. 111-148,  
31 as amended by Pub. L. No. 111-152, and any amendments to or regulations or guidance issued under  
32 these statutes existing on April 23, 2013;

33 (2)(A) "Health benefit plan" means a policy, contract, certificate, or agreement offered or  
34 issued by a health insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of  
35 healthcare services.

36 (B) "Health benefit plan" does not include:

1 (iii) ~~Similar supplemental coverage provided to coverage under a group~~  
2 ~~health plan;~~

3 (3) ~~“Health insurance” means insurance that is primarily for the diagnosis, cure,~~  
4 ~~mitigation, treatment, or prevention of disease or amounts paid for the purpose of affecting any structure~~  
5 ~~of the body, including transportation that is essential to obtaining health insurance, but excluding:~~

6 (A) ~~Coverage only for accident or disability income insurance, or any~~  
7 ~~combination thereof;~~

8 (B) ~~Coverage issued as a supplement to liability insurance;~~

9 (C) ~~Liability insurance, including general liability insurance and automobile~~  
10 ~~liability insurance;~~

11 (D) ~~Workers' compensation or similar insurance;~~

12 (E) ~~Automobile medical payment insurance;~~

13 (F) ~~Credit-only insurance;~~

14 (G) ~~Coverage for on-site medical clinics;~~

15 (H) ~~Coverage only for limited scope vision benefits;~~

16 (I) ~~Benefits for long-term care, nursing home care, home health care,~~  
17 ~~community-based care, or any combination thereof;~~

18 (J) ~~Coverage for specified disease or critical illness;~~

19 (K) ~~Hospital indemnity or other fixed indemnity insurance;~~

20 (L) ~~Medicare supplement policies;~~

21 (M) ~~Medicare, Medicaid, or the Federal Employee Health Benefit Program;~~

22 (N) ~~Coverage only for medical and surgical outpatient benefits;~~

23 (O) ~~Excess or stop-loss insurance; and~~

24 (P) ~~Other similar insurance coverage:~~

25 (i) ~~Under which benefits for health insurance are secondary or incidental~~  
26 ~~to other insurance benefits; or~~

27 (ii) ~~Specified in federal regulations issued under the Health Insurance~~  
28 ~~Portability and Accountability Act of 1996, Pub. L. No. 104-191, and existing on April 23, 2013, under~~  
29 ~~which benefits for healthcare services are secondary or incidental to other insurance benefits;~~

30 (4) ~~“Health insurer” means an entity that provides health insurance or a health benefit~~  
31 ~~plan in the State of Arkansas, including without limitation an insurance company, medical services plan,~~  
32 ~~hospital plan, hospital medical service corporation, health maintenance organization, fraternal benefits~~  
33 ~~society, or any other entity providing a plan of health insurance or health benefits subject to state~~  
34 ~~insurance regulation;~~

35 (5) ~~“Qualified employer” means a small employer that elects to make its full-time~~  
36 ~~employees eligible for one (1) or more qualified health plans offered through the small business health~~

1 (A) All state, county, and local taxes; and

2 (B) All laws other than the Freedom of Information Act of 1967, § 25-19-101 et  
3 seq., governing state agencies, including without limitation:

4 (i) The Arkansas Procurement Law, § 19-11-201 et seq.;

5 (ii) The Uniform Classification and Compensation Act, § 21-5-201 et  
6 seq.; and

7 (iii)(a) The Arkansas Administrative Procedure Act, § 25-15-201 et seq.

8 (b) The Arkansas Health Insurance Marketplace shall adopt  
9 policies, procedures, and rules to implement its obligations under this subchapter.

10 ~~(3)(A) Prior to the adoption, amendment, or repeal of any policy, procedure, or rule, the~~  
11 ~~Arkansas Health Insurance Marketplace shall:~~

12 ~~(i)(a) Give at least thirty (30) days' notice of its intended action. The~~  
13 ~~thirty-day period shall begin on the first day of the publication of notice.~~

14 ~~(b) The notice shall include a statement of the terms or~~  
15 ~~substance of the intended action or a description of the subjects and issues involved and the time, the~~  
16 ~~place where, and the manner in which interested persons may present their views on the intended action~~  
17 ~~or the subjects and issues involved.~~

18 ~~(c) The notice shall be mailed to any person specified by law~~  
19 ~~and to all persons who have requested advance notice of rule-making proceedings.~~

20 ~~(d)(1) Unless otherwise provided by law, the notice shall be~~  
21 ~~published in a newspaper of general daily circulation for three (3) consecutive days and, when~~  
22 ~~appropriate, in those trade, industry, or professional publications that the Arkansas Health Insurance~~  
23 ~~Marketplace may select.~~

24 ~~(2) The notice shall be published by the Secretary of~~  
25 ~~State on the Internet for thirty (30) days in accordance with § 25-15-218;~~

26 ~~(ii)(a) Afford all interested persons at least thirty (30) days to submit~~  
27 ~~written data, views, or arguments, orally or in writing. The thirty-day period shall begin on the first day of~~  
28 ~~the publication of notice under subdivision (b)(3)(A)(i)(a) of this section.~~

29 ~~(b) Opportunity for oral hearing shall be granted if requested by~~  
30 ~~twenty-five (25) persons, by a governmental subdivision or agency, or by an association having no fewer~~  
31 ~~than twenty-five (25) members.~~

32 ~~(c) The Arkansas Health Insurance Marketplace shall fully~~  
33 ~~consider all written and oral submissions concerning the proposed rule before finalizing the language of~~  
34 ~~the proposed rule and filing the proposed rule as required by subdivision (b)(3)(E) of this section.~~

35 ~~(d) Upon the adoption, amendment, or repeal of a policy,~~  
36 ~~procedure, or rule, the Arkansas Health Insurance Marketplace, if requested to do so by an interested~~

1 ~~(c) If the purpose of an Arkansas Health Insurance Marketplace~~  
2 ~~policy, procedure, or rule is to implement a federal rule or regulation, the financial impact statement shall~~  
3 ~~be limited to any incremental additional cost of the state policy, procedure, or rule, as opposed to the~~  
4 ~~federal rule or regulation.~~

5 ~~(E)(i)(a) Each policy, procedure, or rule adopted by the Arkansas Health~~  
6 ~~Insurance Marketplace is effective thirty (30) days after the filing of the final policy, procedure, or rule~~  
7 ~~unless a later date is specified by law or in the rule itself.~~

8 ~~(b) A final rule shall not be filed until the thirty-day public~~  
9 ~~comment period required under subdivision (b)(3)(A)(ii)(a) of this section has expired.~~

10 ~~(c)(1) After the expiration of the thirty-day public comment~~  
11 ~~period and before the effective date of the rule, the Arkansas Health Insurance Marketplace shall take~~  
12 ~~appropriate measures to make the final rule known to the persons who may be affected by the rule.~~

13 ~~(2) Appropriate measures shall include without limitation~~  
14 ~~posting the following information on the Arkansas Health Insurance Marketplace's website:~~

15 ~~(A) The final rule;~~

16 ~~(B) Copies of all written comments submitted to~~  
17 ~~the Arkansas Health Insurance Marketplace regarding the rule;~~

18 ~~(C) A summary of all written and oral comments~~  
19 ~~submitted to the Arkansas Health Insurance Marketplace regarding the rule and the Arkansas Health~~  
20 ~~Insurance Marketplace's response to those comments; and~~

21 ~~(D) The proposed effective date of the final rule.~~

22 ~~(ii)(a) However, an emergency rule may become effective immediately~~  
23 ~~upon filing or at a stated time less than thirty (30) days after filing if the Arkansas Health Insurance~~  
24 ~~Marketplace finds that this effective date is necessary because of imminent peril to the public health,~~  
25 ~~safety, or welfare.~~

26 ~~(b) The Arkansas Health Insurance Marketplace's finding and a~~  
27 ~~brief statement of the reasons for the finding shall be filed with the rule.~~

28 ~~(c) The Arkansas Health Insurance Marketplace shall take~~  
29 ~~appropriate measures to make emergency rules known to the persons who may be affected by the~~  
30 ~~emergency rules.~~

31 ~~(F) The Arkansas Health Insurance Marketplace Legislative Oversight~~  
32 ~~Committee shall review the proposed revised or amended policy, procedure, or rule and, if it is believed~~  
33 ~~that the rule or regulation is contrary to legislative intent, shall file a statement thereof with the Legislative~~  
34 ~~Council.~~

1 ~~(B) A member subsequently appointed to the board under subdivision (c)(2) of~~  
2 ~~this section shall serve a term of six (6) years.~~

3 ~~(3)(A) The initial members appointed by the Speaker of the House of Representatives~~  
4 ~~under subdivision (c)(3) of this section shall serve terms as follows:~~

5 ~~(i) One (1) initial member shall be appointed to a term of four (4) years;~~

6 ~~(ii) One (1) initial member shall be appointed to a term of six (6) years;~~

7 and

8 ~~(iii) One (1) initial member shall be appointed to a term of eight (8)~~

9 ~~years.~~

10 ~~(B) A member subsequently appointed to the board under subdivision (c)(3) of~~  
11 ~~this section shall serve a term of six (6) years.~~

12 ~~(e) The appointing authorities under this section shall ensure that a majority of the voting~~  
13 ~~members of the board have relevant experience in:~~

14 ~~(1) Health benefits administration;~~

15 ~~(2) Healthcare finance;~~

16 ~~(3) Health plan purchasing;~~

17 ~~(4) Healthcare delivery system administration; or~~

18 ~~(5) Public health or health policy issues related to the small group and individual markets~~  
19 ~~and the uninsured.~~

20 ~~(f) The board shall select one (1) of its members as chair.~~

21 ~~(g)(1) Subject to review by the Arkansas Health Insurance Marketplace Legislative Oversight~~  
22 ~~Committee, the board may authorize by a majority vote of the total membership of the board cast during~~  
23 ~~its first regularly scheduled meeting of each calendar year:~~

24 ~~(A) Payment to its members of a stipend per day not to exceed one hundred~~  
25 ~~dollars (\$100) for each meeting attended or for any day while performing substantive business of the~~  
26 ~~board; and~~

27 ~~(B) Reimbursement of actual expenses while performing substantive business of~~  
28 ~~the board.~~

29 ~~(2) Members of the board shall receive no other compensation, expense reimbursement,~~  
30 ~~or in-lieu-of payments.~~

31 ~~(h)(1) The board shall hire the Executive Director of the Arkansas Health Insurance Marketplace~~  
32 ~~to:~~

33 ~~(A) Plan and administer the Arkansas Health Insurance Marketplace; and~~

34 ~~(B) Employ necessary staff.~~

35 ~~(2) The board may plan and administer the Arkansas Health Insurance Marketplace and~~  
36 ~~employ necessary staff on an interim basis until the executive director is hired.~~

1                   ~~(4)(A) The board shall establish a competitive bidding process for awarding contracts~~  
2 ~~under this subchapter to an eligible entity.~~

3                   ~~(B) The competitive bidding process for awarding contracts under this~~  
4 ~~subchapter to an eligible entity shall be reviewed by the Arkansas Health Insurance Marketplace~~  
5 ~~Legislative Oversight Committee.~~

6                   ~~(n) The board may enter into information-sharing agreements with federal and state agencies~~  
7 ~~and other state marketplaces to carry out its responsibilities under this subchapter, provided such~~  
8 ~~agreements:~~

9                   ~~(1) Include adequate protections with respect to the confidentiality of the information to~~  
10 ~~be shared; and~~

11                   ~~(2) Comply with all applicable state and federal laws and regulations.~~

12                   ~~(o) As a condition of participating in the Arkansas Health Insurance Marketplace, a health insurer~~  
13 ~~shall pay the assessments, submit the reports, and provide the information required by the board or the~~  
14 ~~Insurance Commissioner to implement this subchapter.~~

15                   ~~(p) The board and any eligible entity under subdivision (m)(1) of this section shall provide claims~~  
16 ~~and other plan and enrollment data to the Department of Human Services and the Insurance~~  
17 ~~Commissioner upon request to:~~

18                   ~~(1) Facilitate compliance with reporting requirements under state and federal law; and~~

19                   ~~(2) Assess the performance of the Health Care Independence Program established by~~  
20 ~~the Health Care Independence Act of 2013, § 20-77-2401 et seq., if enacted, including without limitation~~  
21 ~~the program's quality, cost, and consumer access.~~

22  
23                   ~~23-61-804. Duties of Arkansas Health Insurance Marketplace.~~

24                   ~~The Arkansas Health Insurance Marketplace shall:~~

25                   ~~(1)(A) Implement procedures and criteria for the certification, recertification, and~~  
26 ~~decertification of health benefit plans as qualified health plans in coordination with the Insurance~~  
27 ~~Commissioner and in compliance with state and federal law.~~

28                   ~~(B) The procedures and criteria shall comply with applicable:~~

29                   ~~(i) Federal law;~~

30                   ~~(ii) Federal waivers obtained by the state to implement the Health Care~~  
31 ~~Independence Program established by the Health Care Independence Act of 2013, § 20-77-2401 et seq.,~~  
32 ~~if enacted; and~~

33                   ~~(iii) Rules promulgated by the State Insurance Department and the~~  
34 ~~Department of Human Services under the Health Care Independence Act of 2013, § 20-77-2401 et seq.,~~  
35 ~~if enacted;~~

1                                   (ii) ~~The employer provided the minimum essential coverage, but it was~~  
2 ~~determined under section 36B(c)(2)(C) of the Internal Revenue Code of 1986 as existing on April 23,~~  
3 ~~2013, either to be unaffordable to the employee or not to provide the required minimum actuarial value;~~  
4 ~~and~~

5                                   (C) ~~The name and taxpayer identification number of each individual who:~~

6   (i) ~~Notifies the Arkansas Health Insurance Marketplace under section~~  
7 ~~1411(b)(4) of the federal act that he or she has changed employers; and~~

8   (ii) ~~Ceases coverage under a qualified health plan during a plan year~~  
9 ~~and the effective date of that cessation;~~

10                                   (11) ~~Provide to each employer the name of each employee of the employer described in~~  
11 ~~subdivision (10)(B) of this section who ceases coverage under a qualified health plan during a plan year~~  
12 ~~and the effective date of the cessation;~~

13                                   (12)(A) ~~Select entities qualified to serve as navigators and award grants to enable~~  
14 ~~navigators to:~~

15   (i) ~~Conduct public education activities to raise awareness of the~~  
16 ~~availability of qualified health plans;~~

17   (ii) ~~Distribute fair and impartial information concerning enrollment in~~  
18 ~~qualified health plans and the availability of premium tax credits under section 36B of the Internal~~  
19 ~~Revenue Code of 1986 as existing on April 23, 2013, and cost-sharing reductions under section 1402 of~~  
20 ~~the federal act;~~

21   (iii) ~~Facilitate enrollment in qualified health plans;~~

22   (iv) ~~Provide referrals to any applicable office of health insurance~~  
23 ~~consumer assistance or health insurance ombudsman or to any other appropriate state agency or~~  
24 ~~agencies for any enrollee with a grievance, complaint, or question regarding his or her health benefit plan~~  
25 ~~or health benefit coverage or a determination under his or her health benefit plan or health benefit~~  
26 ~~coverage; and~~

27   (v) ~~Provide information in a manner that is culturally and linguistically~~  
28 ~~appropriate to the needs of the population being served by the Arkansas Health Insurance Marketplace.~~

29                                   (B) ~~The board shall ensure in the navigator selection process that the navigators~~  
30 ~~are geographically, culturally, ethnically, and racially representative of the populations served; and~~

31                                   (13) ~~Otherwise comply with a requirement the board determines is necessary to obtain~~  
32 ~~or maintain the approval to establish or administer a state-based health insurance marketplace.~~

33  
34                   23-61-805. ~~Funding — Publication of costs.~~

35                   (a)(1) ~~The General Assembly shall establish a reasonable initial assessment or user fee and~~  
36 ~~reasonable increases or decreases in the amount of future assessments or user fees and penalties and~~





1 (ii) ~~Benefits for long-term care, nursing home care, home health care,~~  
2 ~~community-based care, or a combination of these; or~~

3 (iii) ~~Other similar limited benefits specified in federal regulations issued~~  
4 ~~under the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and existing~~  
5 ~~on the effective date of this act.~~

6 (D) ~~“Health benefit plan” does not include the following benefits if the benefits~~  
7 ~~are provided under a separate policy, certificate, or contract of insurance, there is no coordination~~  
8 ~~between the provision of the benefits and any exclusion of benefits under any group health plan~~  
9 ~~maintained by the same plan sponsor, and the benefits are paid with respect to an event without regard to~~  
10 ~~whether benefits are provided with respect to such an event under any group health plan maintained by~~  
11 ~~the same plan sponsor:~~

12 (i) ~~Coverage only for a specified disease or illness; or~~

13 (ii) ~~Hospital indemnity or other fixed indemnity insurance.~~

14 (E) ~~“Health benefit plan” does not include the following if offered as a separate~~  
15 ~~policy, certificate, or contract of insurance:~~

16 (i) ~~Medicare supplemental health insurance as defined under section~~  
17 ~~1882(g)(1) of the Social Security Act, Pub. L. No. 74-271, as existing on the effective date of this act;~~

18 (ii) ~~Coverage supplemental to the coverage provided to military~~  
19 ~~personnel and their dependents under Chapter 55 of Title 10 of the United States Code and the Civilian~~  
20 ~~Health and Medical Program of the Uniformed Services, 32 C.F.R. Part 199; or~~

21 (iii) ~~Similar supplemental coverage provided to coverage under a group~~  
22 ~~health plan;~~

23 (9) ~~“Health insurance” means insurance that is primarily for the diagnosis, cure,~~  
24 ~~mitigation, treatment, or prevention of disease or amounts paid for the purpose of affecting any structure~~  
25 ~~of the body, including transportation that is essential to obtaining health insurance, but excluding:~~

26 (A) ~~Coverage only for accident or disability income insurance, or any~~  
27 ~~combination thereof;~~

28 (B) ~~Coverage issued as a supplement to liability insurance;~~

29 (C) ~~Liability insurance, including general liability insurance and automobile~~  
30 ~~liability insurance;~~

31 (D) ~~Workers' compensation or similar insurance;~~

32 (E) ~~Automobile medical payment insurance;~~

33 (F) ~~Credit only insurance;~~

34 (G) ~~Coverage for on-site medical clinics;~~

35 (H) ~~Coverage only for limited scope vision benefits;~~

1                   (16) "Person" means an individual, company, firm, organization, association, corporation,  
2 government entity, nongovernmental entity, or any other type of legal entity; and

3                   (17) "Qualified health plan" means a health benefit plan that has in effect a certification  
4 that the plan meets the criteria for certification described in section 1311(c) of the federal act.

5  
6                   ~~23-64-603. Navigator license required. [Contingent effective date.]~~

7                   ~~(a)(1) A person shall not act as a navigator in this state through a health insurance marketplace  
8 unless licensed under this subchapter as an eligible entity.~~

9                   ~~(2) A health insurer or an affiliate of a health insurer is not an eligible entity.~~

10                  ~~(b) A grant awarded under a navigator contract is contingent on a person's:~~

11                   ~~(1) Being licensed under this subchapter;~~

12                   ~~(2) Becoming licensed under this subchapter by September 30, 2013, or within ninety  
13 (90) days after the receipt of funding; or~~

14                   ~~(3) Employing a licensee that meets the requirements in subdivision (b)(1) or subdivision  
15 (b)(2) of this section.~~

16                  ~~(c) A navigator shall:~~

17                   ~~(1) Conduct public education activities to raise awareness of the availability of qualified  
18 health plans;~~

19                   ~~(2) Distribute fair and impartial information concerning enrollment in qualified health  
20 plans and the availability of premium tax credits under section 36B of the Internal Revenue Code of 1986  
21 as existing on the effective date of this act and cost-sharing reductions under section 1402 of the federal  
22 act;~~

23                   ~~(3) Facilitate enrollment in qualified health plans;~~

24                   ~~(4) Provide referrals to any applicable office of health insurance consumer assistance or  
25 health insurance ombudsman or to any other appropriate state agency or agencies for any enrollee with a  
26 grievance, complaint, or question regarding his or her health benefit plan, coverage, or a determination  
27 under that plan or coverage; and~~

28                   ~~(5) Provide enrollment information in a culturally and linguistically appropriate manner  
29 that meets the needs of the population being served by a health insurance marketplace in this state,  
30 including those individuals with limited English proficiency or who are protected under section 504 of the  
31 Rehabilitation Act of 1973, 29 U.S.C. § 794 and Title II of the Americans with Disabilities Act of 1990, 42  
32 U.S.C. §§ 12131-12165, as they existed on January 1, 2013.~~

33                  ~~(d) A navigator shall not advise a person to select a particular plan.~~

34  
35                  ~~23-64-604. Guide license required. [Contingent effective date.]~~

1           ~~(10) Demonstrate that no conflict of interest exists in providing in-person assistance and~~  
2 ~~the services as stated in 45 C.F.R. § 155.210; and~~

3           ~~(11) Provide resources or avenues for consumers to register complaints and grievances~~  
4 ~~with a service provided through the health insurance marketplace.~~

5  
6           ~~23-64-605. Certified application counselor license required. [Contingent effective date.]~~

7           ~~(a)(1) A person shall not act as a certified application counselor in this state through a health~~  
8 ~~insurance marketplace unless licensed under this subchapter and working for a marketplace-designated~~  
9 ~~organization.~~

10           ~~(2) A health insurer or an affiliate of a health insurer is not an eligible entity.~~

11           ~~(b) A certified application counselor shall assist in enrolling a consumer in a qualified health plan~~  
12 ~~through a health insurance marketplace.~~

13  
14           ~~23-64-606. Licensed producer — Certification required. [Contingent effective date.]~~

15           ~~A person shall not act as a certified licensed producer in this state through a health insurance~~  
16 ~~marketplace unless certified under this subchapter.~~

17  
18           ~~23-64-607. Qualifications for licensure or certification — Issuance. [Contingent effective date.]~~

19           ~~(a) To qualify for a license or certification under this subchapter, a person shall:~~

20           ~~(1) Be at least eighteen (18) years of age;~~

21           ~~(2) Have received a high school diploma or a general education development certificate;~~

22           ~~(3) Be competent, trustworthy, financially responsible, and of good personal and~~  
23 ~~business reputation;~~

24           ~~(4) Continue the qualifications under subdivision (a)(3) of this section while licensed or~~  
25 ~~certified;~~

26           ~~(5)(A) Pass an examination and satisfy the educational requirements the Insurance~~  
27 ~~Commissioner may impose by rule or order.~~

28           ~~(B) The examination required by this section shall be developed and conducted~~  
29 ~~under rules prescribed by the commissioner;~~

30           ~~(6)(A) Have received instruction in health insurance, the provisions of the federal act for~~  
31 ~~a health insurance marketplace in this state, and the medical assistance programs of this state.~~

32           ~~(B) The instruction required by this section shall be developed and conducted~~  
33 ~~under rules prescribed by the commissioner; and~~

34           ~~(7) For a certified licensed producer, be a licensee in good standing under the Producer~~  
35 ~~Licensing Model Act, § 23-64-501 et seq.~~

1  
2 ~~23-64-608. License renewal. [Contingent effective date.]~~

3 ~~(a) A licensee shall submit an application for renewal of a license or certification issued under~~  
4 ~~this subchapter in a form prescribed by the Insurance Commissioner.~~

5 ~~(b) An applicant for a license or certification renewal is required to complete continuing education~~  
6 ~~as prescribed by rule of the commissioner.~~

7 ~~(c) Each licensee shall pay a reasonable annual licensure or certification fee as established by~~  
8 ~~rule of the commissioner.~~

9  
10 ~~23-64-609. Additional licensee duties. [Contingent effective date.]~~

11 ~~(a) A licensee is subject to the insurance laws of this state, including those concerning privacy,~~  
12 ~~market conduct, and unfair trade practices acts.~~

13 ~~(b) A licensee shall:~~

14 ~~(1) Comply with other consumer protection and market conduct standards that the~~  
15 ~~Insurance Commissioner considers necessary; and~~

16 ~~(2) Counsel enrollees in the health insurance marketplace in this state about options in~~  
17 ~~Medicaid, the federal Children's Health Insurance Program, and other health insurance coverage.~~

18  
19 ~~23-64-610. Prohibited activities. [Contingent effective date.]~~

20 ~~(a) Except for a certified licensed producer, a licensee shall not:~~

21 ~~(1) Receive compensation directly or indirectly from any health insurer;~~

22 ~~(2) Engage in an activity that requires licensing as a residential insurance producer~~  
23 ~~under the Producer Licensing Model Act, § 23-64-501 et seq.; or~~

24 ~~(3) Recommend a particular plan or advise consumers about which plan to choose.~~

25 ~~(b) A licensee shall not engage in improper conduct, commit fraud, or violate marketplace and~~  
26 ~~consumer protection requirements of this state.~~

27  
28 ~~23-64-611. Disciplinary authority. [Contingent effective date.]~~

29 ~~(a) The Insurance Commissioner by order may deny, suspend, revoke, or refuse to issue or~~  
30 ~~renew a license of a licensee or applicant under this subchapter or may restrict or limit the activities of a~~  
31 ~~licensee if the commissioner finds that:~~

32 ~~(1) The order is in the public interest; and~~

33 ~~(2) A licensee or applicant:~~

34 ~~(A) Has filed an application for an initial license or a renewal of a license that as~~  
35 ~~of its effective date or as of any date after the filing of the application, contains an omission or statement~~

1                   ~~(J) Has improperly used notes or any other reference material to complete an~~  
2 ~~examination for an insurance license;~~

3                   ~~(K) Has failed to provide a written response within thirty (30) days after receipt of~~  
4 ~~a written inquiry from the commissioner or the commissioner's designee concerning transactions unless~~  
5 ~~the commissioner waives the requirement of a timely response in writing;~~

6                   ~~(L) Has failed to comply with an administrative or court order imposing a child~~  
7 ~~support obligation;~~

8                   ~~(M) Has failed to pay state income tax or comply with an administrative or court~~  
9 ~~order directing payment of state income tax;~~

10                  ~~(N) Has refused to be examined or to produce an account, record, or file for~~  
11 ~~examination at the request of the commissioner or the commissioner's designee; or~~

12                  ~~(O) Has failed to cooperate with the commissioner in an investigation.~~

13                  ~~(b) The commissioner by order may:~~

14                   ~~(1)(A) Impose a civil penalty on a licensee for a violation of this subchapter, the~~  
15 ~~insurance laws of this state, a rule under this subchapter, or an order of the commissioner.~~

16                   ~~(B) The civil penalty shall not exceed ten thousand dollars (\$10,000) for each~~  
17 ~~violation under subdivision (b)(1)(A) of this section by a licensee;~~

18                   ~~(2) Summarily postpone or suspend the license of a licensee pending a final~~  
19 ~~determination of a proceeding under this section; and~~

20                   ~~(3) Change or vacate an order or extend it until a final determination of a proceeding~~  
21 ~~under this section if a hearing is requested or ordered by the commissioner.~~

22                  ~~(c) On entering an order under subdivision (b)(1) or subdivision (b)(2) of this section, the~~  
23 ~~commissioner shall:~~

24                   ~~(1) Promptly notify the licensee by sending notice of the order and the reasons for~~  
25 ~~issuing the order to the address of the licensee on file with the commissioner by first class mail, postage~~  
26 ~~prepaid; and~~

27                   ~~(2)(A) Schedule a hearing under § 23-61-301 et seq. if a licensee contests the order.~~

28                   ~~(B) The licensee may contest an order entered under subdivision (b)(1) or~~  
29 ~~subdivision (b)(2) of this section by delivering a written request for a hearing to the commissioner within~~  
30 ~~thirty (30) days after the date on which notice of the order is sent by the commissioner.~~

31                   ~~(C)(i) The hearing shall be held within thirty (30) days after the commissioner~~  
32 ~~receives a timely written request for a hearing.~~

33                   ~~(ii) At the request of the licensee, the hearing may be postponed for a~~  
34 ~~reasonable amount of time.~~

1                   (B) ~~The commissioner may file an action requesting the civil penalty under~~  
2 ~~subdivision (e)(3)(A) of this section with the Pulaski County Circuit Court or another court of competent~~  
3 ~~jurisdiction.~~

4                   (C) ~~The penalties of this section apply in addition to, but not instead of, other~~  
5 ~~applicable law to a person for the person's failure to comply with an order of the commissioner.~~

6           (f) ~~Unless otherwise provided, an action, hearing, or other proceeding under this subchapter is~~  
7 ~~governed by § 23-61-301 et seq.~~

8           (g) ~~If the commissioner has grounds to believe that a licensee has violated this subchapter or~~  
9 ~~that facts exist that would be the basis for an order against a licensee, the commissioner or the~~  
10 ~~commissioner's designee may investigate or examine the business of the licensee and examine the~~  
11 ~~books, accounts, records, and files of a licensee relating to the complaint or matter under investigation.~~

12           (h)(1) ~~The commissioner or the commissioner's designee may:~~

13                   (A) ~~Administer oaths and affirmations;~~

14                   (B) ~~Issue subpoenas to require the attendance of and to take testimony of a~~  
15 ~~person whose testimony the commissioner considers relevant to the licensee's business; and~~

16                   (C) ~~Issue subpoenas to require the production of the books, papers,~~  
17 ~~correspondence, memoranda, agreements, or other documents or records that the commissioner~~  
18 ~~considers relevant or material to the inquiry.~~

19           (2)(A) ~~When there is contumacy by or refusal to obey a subpoena issued to a licensee or~~  
20 ~~applicant, the Pulaski County Circuit Court, on application by the commissioner, may issue an order~~  
21 ~~requiring the person to appear before the commissioner or the commissioner's designee to produce~~  
22 ~~evidence if so ordered or to give evidence touching the matter under investigation or in question.~~

23                   (B) ~~Failure to obey the order of the court may be punished by the court as a~~  
24 ~~contempt of court.~~

25           (3) ~~The assertion that the testimony or evidence before the commissioner may tend to~~  
26 ~~incriminate or subject a person to a penalty or forfeiture shall not under § 23-61-302 excuse the person~~  
27 ~~from:~~

28                   (A) ~~Attending and testifying;~~

29                   (B) ~~Producing any document or record; or~~

30                   (C) ~~Obeying the subpoena of the commissioner or the commissioner's designee.~~

31  
32           (i) ~~From time to time and with or without cause, the commissioner may conduct examinations of~~  
33 ~~the books and records of a licensee or applicant to determine the compliance with this subchapter and~~  
34 ~~the rules adopted under this subchapter.~~

1                   ~~(3) Continues the qualifications under subdivision (a)(2) of this section during the~~  
2 ~~contract;~~

3                   ~~(4) Requires the members of management of the governmental or nongovernmental~~  
4 ~~entity to complete instruction in health benefit plans or health insurance, the provisions of the federal act~~  
5 ~~for a health insurance marketplace in this state, and the medical assistance programs of this state~~  
6 ~~through a training program approved by the Insurance Commissioner for the required minimum hours;~~  
7 ~~and~~

8                   ~~(5) Furnishes to the commissioner information concerning the identity and background of~~  
9 ~~the members of management of the governmental or nongovernmental entity, including criminal and~~  
10 ~~regulatory background checks.~~

11                   ~~(b) Each nongovernmental business entity shall pay a reasonable annual licensure fee that is~~  
12 ~~established by rule.~~

13                   ~~(c) A grant or contract under this section is not transferable.~~

14  
15                   ~~23-64-613. Rules. [Contingent effective date.]~~

16                   ~~(a) The Insurance Commissioner may promulgate rules to implement this subchapter.~~

17                   ~~(b) Rules promulgated under this section shall not conflict with or prevent the application of~~  
18 ~~regulations promulgated by the Secretary of the United States Department of Health and Human Services~~  
19 ~~under the federal act.~~

20  
21                   ~~23-64-614. Relation to other laws. [Contingent effective date.]~~

22                   ~~(a) This subchapter is amendatory to the Arkansas Insurance Code.~~

23                   ~~(b) Provisions of the Arkansas Insurance Code that are not in conflict with this subchapter apply~~  
24 ~~to this subchapter.~~

25                   ~~(c) This subchapter and actions taken by the health insurance marketplace in this state under~~  
26 ~~this subchapter do not preempt or supersede the authority of the Insurance Commissioner to regulate the~~  
27 ~~business of insurance within this state.~~

28                   ~~(d) Except as expressly provided to the contrary in this subchapter, a health insurer offering a~~  
29 ~~qualified health plan in this state shall comply fully with all applicable health insurance laws of this state~~  
30 ~~and regulations adopted and orders issued by the commissioner.~~

31  
32                   SECTION 5. Uncodified Section 3 of Act 1500 of 2013 is repealed.

33                   SECTION 3. NOT TO BE CODIFIED. ~~(a)(1) The health insurance marketplace developed~~  
34 ~~through a Federally facilitated Exchange Partnership model shall transfer to the control of the Arkansas~~  
35 ~~Health Insurance Marketplace on July 1, 2015, if the Board of Directors of the Arkansas Health Insurance~~



1 (5) "~~Arkansas Health Insurance Marketplace~~" means ~~the vehicle created to help~~  
2 ~~individuals, families, and small businesses in Arkansas shop for and select health insurance coverage in~~  
3 ~~a way that permits comparison of available Qualified Health Plans based upon price, benefits, services,~~  
4 ~~and quality, regardless of the governance structure of the marketplace;~~

5 (6) "Independence accounts" means individual financing structures that operate similar  
6 to a health savings account or a medical savings account;

7 (7)(6) "Premium" means a charge that must be paid as a condition of enrolling in  
8 healthcare coverage;

9 (8)(7) "Program" means the Health Care Independence Program established by this  
10 subchapter; and

11 (9)(8) "Qualified Health Plan" means a State Insurance Department-certified individual  
12 health insurance plan offered by a carrier ~~through the Arkansas Health Insurance Marketplace.~~

13  
14 20-77-2405. Administration of Health Care Independence Program.

15 (a) The Department of Human Services shall:

16 (1) Create and administer the Health Care Independence Program; and

17 (2)(A) Submit and apply for any:

18 (i) Federal waivers necessary to implement the program in a manner  
19 consistent with this subchapter, including without limitation approval for a comprehensive waiver under  
20 section 1115 of the Social Security Act, 42 U.S.C. § 1315; and

21 (ii)(a) Medicaid State Plan Amendments necessary to implement the  
22 program in a manner consistent with this subchapter.

23 (b) The Department of Human Services shall submit only those  
24 Medicaid State Plan Amendments under subdivision (a)(2)(A)(ii)(a) of this section that are optional and  
25 therefore may be revoked by the state at its discretion.

26 (B)(i) As part of its actions under subdivision (a)(2)(A) of this section, the  
27 Department of Human Services shall confirm that employers shall not be subject to the penalties,  
28 including without limitation an assessable payment, under section 1513 of the Patient Protection and  
29 Affordable Care Act, Pub. L. No. 111-148, as existing on January 1, 2013, concerning shared  
30 responsibility, for employees who are eligible individuals if the employees:

31 (a) Are enrolled in the program; and

32 (b) Enroll in a Qualified Health Plan ~~through the Arkansas~~  
33 ~~Health Insurance Marketplace.~~

34 (ii) If the Department of Human Services is unable to confirm provisions  
35 under subdivision (a)(2)(B)(i) of this section, the program shall not be implemented.

- 1 (3) Ninety-four percent (94%) in 2018;
- 2 (4) Ninety-three percent (93%) in 2019; and
- 3 (5) Ninety percent (90%) in 2020 or any year after 2020.

4 (i) An eligible individual enrolled in the program shall affirmatively acknowledge that:

- 5 (1) The program is not a perpetual federal or state right or a guaranteed entitlement;
- 6 (2) The program is subject to cancellation upon appropriate
- 7 notice; and
- 8 (3) The program is not an entitlement program.

9 (j)(1) The Department of Human Services shall develop a model and seek from the Centers for  
10 Medicare and Medicaid Services all necessary waivers and approvals to allow non-aged, non-disabled  
11 program-eligible participants to enroll in a program that will create and utilize independence accounts that  
12 operate similarly to a health savings account or medical savings account during the calendar year 2015.

13 (2) The independence accounts shall:

- 14 (A) Allow a participant to purchase cost-effective high-deductible health
- 15 insurance; and
- 16 (B) Promote independence and self-sufficiency.

17 (3) The state shall implement cost sharing and copays and, as a condition of  
18 participation, earnings shall exceed fifty percent (50%) of the federal poverty level.

19 (4) Participants may receive rewards based on healthy living and self-sufficiency.

20 (5)(A) At the end of each fiscal year, if there are funds remaining in the account, a  
21 majority of the state's contribution will remain in the participant's control as a positive incentive for the  
22 responsible use of the healthcare system and personal responsibility of health maintenance.

23 (B) Uses of the funds may include without limitation rolling the funds into a  
24 private sector health savings account for the participant according to rules promulgated by the  
25 Department of Human Services.

26 (6) The Department of Human Services shall promulgate rules to implement this  
27 subsection.

28 (k)(1) State obligations for uncompensated care shall be projected, tracked, and reported to  
29 identify potential incremental future decreases.

30 (2) The Department of Human Services shall recommend appropriate adjustments to the  
31 General Assembly.

32 (3) Adjustments shall be made by the General Assembly as appropriate.

33 (l) The Department of Human Services shall track the hospital assessment under § 20-77-1902  
34 and report to the General Assembly subsequent decreases based upon reduced uncompensated care.

1 Referred by the Arkansas House of Representatives

2 Prepared by: VJF

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