

ARKANSAS SENATE
89th General Assembly - Regular Session, 2013
Amendment Form

Subtitle of Senate Bill No. 1189

CONCERNING THE HEALTH CARE BENEFIT EXCHANGE NAVIGATOR PROGRAMS.

Amendment No. 1 to Senate Bill No. 1189

Amend Senate Bill No. 1189 as originally introduced:

Page 1, line 9, delete "CARE BENEFIT EXCHANGE" and substitute "INSURANCE MARKETPLACE"

AND

Delete the subtitle in its entirety and substitute:

"CONCERNING THE HEALTH INSURANCE
MARKETPLACE NAVIGATOR PROGRAMS."

AND

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code Title 23, Chapter 64, is amended to add an additional subchapter to read as follows:

Subchapter 6 – Arkansas Health Insurance Marketplace Navigator, Guide, and
Certified Application Counselors Act

23-64-601. Title.

This subchapter shall be known and may be cited as the "Arkansas Health Insurance Marketplace Navigator, Guide, and Certified Application Counselors Act".

23-64-602. Definitions.

As used in this subchapter:

(1) "Applicant" means a person who has applied to become licensed under this subchapter as a navigator, guide, certified application counselor, or certified licensed producer;

(2) "Certified application counselor" means a person who is licensed under this subchapter to assist in enrolling consumers in a variety of marketplace-designated organizations settings, including without limitation a healthcare facility, but is not compensated by federal



marketplace funds;

(3) "Certified licensed producer" means a person who is:

(A) Licensed as an insurance producer as defined in § 23-64-502;

(B) Certified under this subchapter to:

(i) Educate consumers about health insurance marketplaces, Medicaid, tax credits, and other cost-sharing reductions; and
(ii) Assist consumers with enrollment in a health insurance marketplace;

(C) Eligible to receive commissions from health insurers; and

(D) Not compensated under the federal act, federal regulations, or any guidance issued under the federal act or federal regulations;

(4) "Consumer" means an individual, family, or small business located in this state;

(5) "Enrollment" means enrolling in a qualified health plan offered through a health insurance marketplace;

(6) "Federal act" means the federal healthcare laws established by Pub. L. No. 111-148, as amended by Pub. L. No. 111-152, and any amendments to or regulations or guidance issued under those statutes existing on the effective date of this act;

(7) "Guide" means a person who is licensed under this subchapter to provide in-person assistance and services as stated in 45 CFR § 155.210;

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

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

(i) Coverage only for accident or disability income insurance, or both;

(ii) Coverage issued as a supplement to liability insurance;

(iii) Liability insurance, including without limitation general liability insurance and automobile liability insurance;

(iv) Workers' compensation or similar insurance;

(v) Automobile medical payment insurance;

(vi) Credit-only insurance;

(vii) Coverage for on-site medical clinics; or

(viii) Other similar insurance coverage, specified in federal regulations issued under the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and existing on the effective date of this act, under which benefits for healthcare services are secondary or incidental to other insurance benefits.

(C) "Health benefit plan" does not include the following benefits if they are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan:

(i) Limited scope dental or vision benefits;

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

(iii) Other similar limited benefits specified in federal regulations issued under the Health Insurance Portability and

Accountability Act of 1996, Pub. L. No. 104-191, and existing on the effective date of this act.

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

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

(ii) Hospital indemnity or other fixed indemnity insurance.

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

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

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

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

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

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

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

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

(D) Workers' compensation or similar insurance;

(E) Automobile medical payment insurance;

(F) Credit-only insurance;

(G) Coverage for on-site medical clinics;

(H) Coverage only for limited scope vision benefits;

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

(J) Coverage for specified disease or critical illness;

(K) Hospital indemnity or other fixed indemnity insurance;

(L) Medicare supplement policies;

(M) Medicare, Medicaid, or the Federal Employee Health Benefit Program, 5 U.S.C. §§ 8901 - 8914, as it existed on January 1, 2013;

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

(O) Excess or stop-loss insurance; and

(P) Other similar insurance coverage:

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

(ii) Specified in federal regulations issued under the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and existing on the effective date of this act, under which benefits for healthcare services are secondary or incidental to other insurance benefits;

(10) "Health insurance marketplace" means the vehicle created to help consumers in this state shop for and select health insurance coverage in a way that permits comparison of available qualified health plans based on price, benefits, services, and quality, regardless of its governance structure;

(11) "Health insurer" means an entity that provides health insurance or a health benefit plan in this state, including without limitation an insurance company, medical services plan, hospital plan, hospital medical service corporation, health maintenance organization, fraternal benefits society, or any other entity providing a plan of health insurance or health benefits in this state, and is subject to state insurance regulation;

(12) "License" means a document issued by the Insurance Commissioner authorizing a person to act as a navigator, guide, certified application counselor, or certified licensed producer;

(13) "Licensee" means a navigator, guide, certified application counselor, or certified licensed producer who is licensed under this subchapter;

(14) "Navigator" means a person authorized under the federal act to assist consumers to shop for and select health insurance offered through a health insurance marketplace, including providing information to a consumer on a health benefit plan or coverage offered through a health insurance marketplace, or facilitates enrollment in a health insurance marketplace

(15) "Non-Navigator assistance personnel" means a person authorized under the federal act to assist consumers to enroll and understand the health insurance offered through a health insurance marketplace;

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

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

23-64-603. Navigator license required.

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

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

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

(1) Being licensed under this subchapter;

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

(3) Employing a licensee that meets the requirements in

subdivision (b)(1) or subdivision (b)(2) of this section.

(c) A navigator shall:

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

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

(3) Facilitate enrollment in qualified health plans;

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

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

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

23-64-604. Guide license required.

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

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

(b) A contract awarded to a guide is contingent on a person's:

(1) Being licensed under this subchapter;

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

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

(c) A guide shall:

(1) Assist consumers in understanding the available qualified health plans offered through a health insurance marketplace, their differences, premium tax credits, cost-sharing provisions, and the public programs and their eligibility;

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

(3) Ensure that information is provided in a way that simplifies choices and considers the individual needs of consumers;

(4) Maintain expertise in eligibility, enrollment, and public and private insurance specifications and conduct public education activities

to raise awareness about the health insurance marketplace in this state;

(5) Provide information and services in a fair, accurate, and impartial manner that acknowledges other health programs;

(6) Increase awareness of insurance options in a way that does not stigmatize qualified health plans;

(7) Facilitate enrollment in qualified health plans or coverage offered through a health insurance marketplace and with post-enrollment dispute resolution;

(8) Provide referrals to an applicable office of health insurance consumer assistance or health insurance ombudsman established under section 2793 of the Public Health Service Act, 42 U.S.C. § 300gg et seq., as it existed on January 1, 2013, or any other appropriate state agency or agencies, for a consumer participating in enrollment with a grievance, complaint, or question regarding his or her health plan, coverage, or a determination under the plan or coverage;

(9) Not receive any financial consideration directly or indirectly from a health insurer or stop-loss insurance company or qualified health plan;

(10) Demonstrate that no conflict of interest exists in providing in-person assistance and the services as stated in 45 CFR § 155.210; and

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

23-64-605. Certified application counselor license required.

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

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

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

23-64-606. Licensed producer – Certification required.

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

23-64-607. Qualifications for licensure or certification – Issuance.

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

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

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

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

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

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

(B) The examination required by this section shall be

developed and conducted under rules prescribed by the commissioner;

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

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

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

(b) In addition to the other information required under this subchapter or rules adopted by the commissioner, an application for a license or certification under this subchapter shall include:

(1) The applicant's business name, address, and social security number or taxpayer identification number;

(2) A criminal and regulatory background check of the applicant;
and

(3) A description of the applicant's current business operations and its activities, duties, and responsibilities, including without limitation:

(A) The place of organization and a certified copy of the applicant's organizational and governance documents;

(B) If a foreign business, a copy of the certificate of authority from the Secretary of State;

(C) The proposed method of business operation and, if applicable, other locations for doing business; and

(D)(i) The qualifications, business experience and history, and financial condition of the applicant, its affiliates, and its employees.

(ii) Information required under subdivision (b)(3)(D)(i) of this section shall include:

(a) A description of any injunction or administrative order, including a denial to engage in a regulated activity by a state or federal authority that had jurisdiction over the applicant, its affiliates, and its employees;

(b) A conviction of a misdemeanor involving fraudulent dealings or moral turpitude or relating to any aspect of the insurance industry, the mortgage industry, the securities industry, or any other activity pertaining to financial services;

(c) Any felony conviction; and

(d) A beneficial interest in an affiliated industry business.

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

(d) Each license or certification issued by the commissioner under this subchapter expires at the close of business on September 30 of the calendar year unless otherwise surrendered or revoked.

(e) A license or certification issued under this subchapter is not transferable.

(f) To assist in the performance of the commissioner's duties, the commissioner may contract with nongovernmental entities, including the National Association of Insurance Commissioners or any affiliates or subsidiaries that the National Association of Insurance Commissioners oversees, to perform any ministerial functions that the commissioner and the

nongovernmental business may consider appropriate, including the collection of the annual fee for licensure or certification of a navigator, guide, certified application counselor, or certified licensed producer.

23-64-608. License renewal.

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

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

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

23-64-609. Additional licensee duties.

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

(b) A licensee shall:

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

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

23-64-610. Prohibited activities.

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

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

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

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

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

23-64-611. Disciplinary authority.

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

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

(2) A licensee or applicant:

(A) Has filed an application for an initial license or a renewal of a license that as of its effective date or as of any date after the filing of the application, contains an omission or statement that in light of the circumstances under which it was made is false or misleading with respect to any material fact;

(B) Has violated or failed to comply with this subchapter, the insurance laws of this state, any rule adopted by the commissioner, or any order of the commissioner issued under this subchapter;

(C) Has pleaded guilty or nolo contendere to or has been

found guilty in a domestic, foreign, or military court of:

(i) A felony;

(ii) An offense involving breach of trust, moral turpitude, money laundering, or fraudulent or dishonest dealing; or

(iii) An offense involving any aspect of the insurance business, the mortgage industry, the securities industry, or any other activity pertaining to financial services;

(D) Is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the insurance business, the mortgage industry, the securities industry, or any other activity pertaining to financial services;

(E) Is the subject of an order of the commissioner:

(i) Denying, suspending, revoking, restricting, or limiting a license issued under the insurance laws of this state; or

(ii) Directing the licensee or applicant to cease and desist an activity regulated by the commissioner;

(F) Is the subject of an order, including a denial, suspension, or revocation of authority to engage in a regulated activity by another state or federal authority to which the licensee or applicant is, has been, or has sought to be subject, entered in the past five (5) years, including without limitation the insurance industry;

(G)(i) Has failed to pay the proper fees as established by rule of the commissioner.

(ii) The commissioner may enter a denial order against a licensee or applicant under subdivision (a)(2)(G)(i) of this section if the licensee or applicant fails to pay the proper fees as established by rule of the commissioner, but the denial order shall be vacated by the commissioner if the fees are paid;

(H) Has engaged in fraudulent, coercive, or dishonest practices or demonstrated incompetence, untrustworthiness, lack of good personal or business reputation, or financial irresponsibility;

(I) Has forged another's name to an application for insurance or to any document related to an insurance transaction;

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

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

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

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

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

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

(b) The commissioner by order may:

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

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

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

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

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

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

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

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

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

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

(D) If a licensee does not request a hearing and the commissioner does not order a hearing, the order shall remain in effect until the order is modified or vacated by the commissioner.

(d) The commissioner by order may cancel a license or application if the commissioner finds that a licensee or applicant:

(1) Is no longer in existence;

(2) Has stopped doing business as a licensee;

(3) Is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian; or

(4) Cannot be located after a reasonable search by the commissioner.

(e)(1) In addition to other powers under this subchapter, on finding that an action of a person is in violation of this subchapter, the commissioner may summarily order the person to cease and desist the prohibited action.

(2) On entering the order under subdivision (e)(1) of this section, the commissioner shall:

(A) Promptly notify the person by sending notice of the order and the reasons for issuing the order to the last known address of the person by first class mail, postage prepaid; and

(B)(i) Schedule a hearing under § 23-61-301 et seq. if the person contests the order.

(ii) The person may contest an order entered under subdivision (e)(1) of this section by delivering a written request for a hearing to the commissioner within thirty (30) days after the date on which notice of the order is sent by the commissioner.

(iii)(a) The hearing shall be held within thirty (30) days after the commissioner receives a timely written request for a hearing.

(b) At the request of the person, the hearing may be postponed for a reasonable amount of time.

(iv) If a person does not request a hearing and the commissioner does not order a hearing, the order shall remain in effect until it is modified or vacated by the commissioner.

(3)(A) A person is subject to a civil penalty of up to twenty-five thousand dollars (\$25,000) for each violation of the commissioner's cease and desist order committed after entry of the order if:

(i) The person under the cease and desist order fails to appeal the order under § 23-61-307 or if the person appeals and the appeal is denied or dismissed; and

(ii) The person continues to engage in the prohibited action in violation of the commissioner's order.

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

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

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

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

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

(A) Administer oaths and affirmations;

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

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

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

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

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

(A) Attending and testifying;

(B) Producing any document or record; or

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

(i) From time to time and with or without cause, the commissioner may conduct examinations of the books and records of a licensee or applicant to

determine the compliance with this subchapter and the rules adopted under this subchapter.

(j) This section does not prohibit or restrict the informal disposition of a proceeding or allegations that may give rise to a proceeding by stipulation, settlement, consent, or default instead of a formal or informal hearing on the allegations or in place of the sanctions authorized by this section.

(k)(1) If it appears on sufficient grounds or evidence satisfactory to the commissioner that a person has engaged in or is about to engage in an act or practice that violates this subchapter, the commissioner may:

(A) Refer the evidence that is available concerning violations of this subchapter or a rule or order issued under this subchapter to the prosecuting attorney or regulatory agency that with or without the referral may otherwise begin criminal or regulatory proceedings under this subchapter; and

(B)(i) Summarily order the person to stop the act or practice under subsections (b) and (e) of this section and apply to the Pulaski County Circuit Court to enjoin the act or practice or to enforce compliance with this subchapter, rule, or order issued under this subchapter, or both.

(ii) The commissioner, without issuing a cease and desist order, may apply directly to the Pulaski County Circuit Court for injunctive or other relief.

(2) On proper showing, the court shall grant a permanent or temporary injunction, restraining order, or writ of mandamus.

(3) The commissioner may also seek, and on proper showing the appropriate court shall grant, any other ancillary relief that may be in the public interest, including:

(A) The appointment of a receiver, temporary receiver, or conservator;

(B) A declaratory judgment;

(C) An accounting;

(D) Disgorgement;

(E) Assessment of a fine of not more than ten thousand dollars (\$10,000) for each violation; and

(F) Any other relief as may be appropriate in the public interest.

(4) The court shall not require the commissioner to post a bond.

23-64-612. Authority – Grants and contracts.

(a) The health insurance marketplace in this state may accept grants or contract with a governmental or nongovernmental entity that uses navigators or guides on the conditions the health insurance marketplace finds to be in the best interest of the citizens of this state if the governmental or nongovernmental entity:

(1) Has a physical business location to conduct business with this state and its service area;

(2) Is considered to be competent, trustworthy, financially responsible, and of a good business reputation;

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

(4) Requires the members of management of the governmental or

nongovernmental entity to complete instruction in health benefit plans or health insurance, the provisions of the federal act for a health insurance marketplace in this state, and the medical assistance programs of this state through a training program approved by the Insurance Commissioner for the required minimum hours; and

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

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

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

23-64-613. Rules.

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

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

23-64-614. Relation to other laws.

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

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

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

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

SECTION 2. DO NOT CODIFY. Effective date.

This act is effective when:

(1) The United States Department of Health and Human Services or other responsible federal agency or federal official notifies the Governor, the Insurance Commissioner, or other responsible state agency or state official pursuant to the federal healthcare laws established by Pub. L. No. 111-148, as amended by Pub. L. No. 111-152, and any amendments thereto, or regulations or guidance issued under those federal statutes; or

(2) A health insurance marketplace is initiated and is operable in this state."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Rapert
ANS/ANS - 04-11-2013 16:53:15
ANS242

Secretary