

State of Arkansas  
92nd General Assembly  
Regular Session, 2019

# A Bill

HOUSE BILL 1835

By: Representative Dotson  
By: Senator B. Ballinger

## For An Act To Be Entitled

AN ACT TO PLACE RESTRICTIONS ON THE STATE INSURANCE  
DEPARTMENT WHEN OPERATING THE ARKANSAS HEALTH  
INSURANCE MARKETPLACE; TO AMEND THE PROHIBITED  
ACTIVITIES FOR NAVIGATORS, GUIDES, AND CERTIFIED  
APPLICATION COUNSELORS; AND FOR OTHER PURPOSES.

## Subtitle

TO PLACE RESTRICTIONS ON THE STATE  
INSURANCE DEPARTMENT WHEN OPERATING THE  
ARKANSAS HEALTH INSURANCE MARKETPLACE;  
AND TO AMEND THE PROHIBITED ACTIVITIES  
FOR NAVIGATORS, GUIDES, AND CERTIFIED  
APPLICATION COUNSELORS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 23, Chapter 61, Subchapter 8, is  
amended to add an additional section to read as follows:

23-61-809. Restrictions on State Insurance Department.

The State Insurance Department shall not:

(1) Apply for or accept any funds, including without limitation  
federal funds, for the purpose of advertisement, promotion, or other  
activities designed to promote or encourage enrollment in the Arkansas Health  
Insurance Marketplace or the Arkansas Works Program;

(2) Utilize more than one (1) navigator entity to fulfill any  
requirements to operate a marketplace;



1           (3) Utilize a guide, certified application counselor, or  
 2 certified licensed producer under the Arkansas Health Insurance Marketplace  
 3 Navigator, Guide, and Certified Application Counselors Act, § 23-64-601 et  
 4 seq.; or

5           (4) Contract with another state agency or political subdivision  
 6 to perform any prohibited practice under this section, § 23-64-610(a), or any  
 7 other law relating to the Arkansas Health Insurance Marketplace or the  
 8 Arkansas Works Program.

9  
 10           SECTION 2. Arkansas Code § 23-64-602, concerning definitions within  
 11 the Arkansas Health Insurance Marketplace Navigator, Guide, and Certified  
 12 Application Counselors Act, is amended to add an additional subdivision to  
 13 read as follows:

14           (18)(A) "Gift" means a gift item, gift card, cash card, cash, or  
 15 promotional item that markets or promotes the products or services of a third  
 16 party.

17           (B) "Gift" does not include the reimbursement of  
 18 legitimate expenses incurred by a consumer in an effort to receive  
 19 application assistance, such as travel or postage expenses.

20  
 21           SECTION 3. Arkansas Code § 23-64-610(a), concerning prohibited  
 22 activities of a licensee under the Arkansas Health Insurance Marketplace  
 23 Navigator, Guide, and Certified Application Counselors Act, is amended to  
 24 read as follows:

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

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

28                   (2) Engage in an activity that requires licensing as a  
 29 residential insurance producer under the Producer Licensing Model Act, § 23-  
 30 64-501 et seq.; ~~or~~

31                   (3) Recommend a particular plan or advise consumers about which  
 32 plan to choose;

33                   (4) Charge any applicant or enrollee, or request or receive any  
 34 form of remuneration from or on behalf of an applicant or enrollee, for  
 35 application or other assistance related to licensee duties;

36                   (5) Provide to an applicant or potential enrollee a gift of any

1 value as an inducement to enroll in the Arkansas Works Program, the Arkansas  
2 Health Insurance Marketplace, or any other health benefit plan;

3 (6) Use Arkansas Health Insurance Marketplace funds to purchase  
4 a gift with the intent to give the gift to an applicant or potential  
5 enrollee;

6 (7) Solicit any consumer for application or enrollment  
7 assistance by going door-to-door or through other means of direct contact,  
8 including calling a consumer to provide application or enrollment assistance  
9 without the consumer initiating the contact, unless the licensee has a pre-  
10 existing relationship with the consumer and complies with other applicable  
11 state and federal laws; or

12 (8) Initiate a telephone call to a consumer using an automatic  
13 telephone dialing system or an artificial or prerecorded voice technology,  
14 except in cases in which the licensee has a relationship with the consumer  
15 and complies with other applicable state and federal laws.