

SENATE SUBSTITUTE  
FOR  
SENATE BILL NO. 401

AN ACT

To amend chapter 376, RSMo, by adding thereto nine new sections relating to the regulation and licensure of navigators, with penalty provisions and an emergency clause.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

1           Section A. Chapter 376, RSMo, is amended by adding thereto  
2 nine new sections, to be known as sections 376.2000, 376.2002,  
3 376.2004, 376.2006, 376.2008, 376.2010, 376.2011, 376.2012, and  
4 376.2014, to read as follows:

5           376.2000. 1. Sections 376.2000 to 376.2014 shall be known  
6 and may be cited as the "Health Insurance Marketplace Innovation  
7 Act of 2013".

8           2. As used in sections 376.2000 to 376.2014, the following  
9 terms mean:

10           (1) "Department", the department of insurance, financial  
11 institutions and professional registration;

12           (2) "Director", the director of the department of  
13 insurance, financial institutions and professional registration;

14           (3) "Exchange", any health benefit exchange established or  
15 operating in this state, including any exchange established or  
16 operated by the United States Department of Health and Human  
17 Services.

18           (4) "Navigator", a person that, for compensation, provides

1 information or services in connection with eligibility,  
2 enrollment, or program specifications of any health benefit  
3 exchange operating in this state, including any person that is  
4 selected to perform the activities and duties identified in 42  
5 U.S.C. 18031(i) in this state, any person who receives funds from  
6 the United States Department of Health and Human Services to  
7 perform any of the activities and duties identified in 42 U.S.C.  
8 18031(i), or any other person certified by the United states  
9 Department of Health and Human Services, or a health benefit  
10 exchange operating in this state, to perform such defined or  
11 related duties irrespective of whether such person is identified  
12 as a navigator, certified application counselor, in-person  
13 assister, or other title.

14 376.2002. 1. No individual or entity shall perform, offer  
15 to perform, or advertise any service as a navigator in this  
16 state, or receive navigator funding from the state or an exchange  
17 unless licensed as a navigator by the department under sections  
18 376.2000 to 376.2014.

19 2. A navigator may:

20 (1) Provide fair and impartial information and services in  
21 connection with eligibility, enrollment, and program  
22 specifications of any health benefit exchange operating in this  
23 state, including information about the costs of coverage, advance  
24 payments of premium tax credits, and cost sharing reductions;

25 (2) Facilitate the selection of a qualified health plan;

26 (3) Initiate the enrollment process;

27 (4) Provide referrals to any applicable office of health  
28 insurance consumer assistance, ombudsman, or other agency for any

1 enrollee with a grievance, complaint, or question regarding their  
2 health plan, coverage, or determination under the plan; and

3 (5) Use culturally and linguistically appropriate language  
4 to communicate the information authorized in this subsection.

5 3. Unless also properly licensed as an insurance producer  
6 in this state with authority for health under section 375.014, a  
7 navigator shall not:

8 (1) Sell, solicit, or negotiate health insurance;

9 (2) Engage in any activity that would require an insurance  
10 producer license;

11 (3) Provide advice concerning the benefits, terms, and  
12 features of a particular health plan or offer advice about which  
13 exchange health plan is better or worse for a particular  
14 individual or employer;

15 (4) Recommend or endorse a particular health plan or advise  
16 consumers about which health plan to choose; or

17 (5) Provide any information or services related to health  
18 benefit plans or other products not offered in the exchange.

19 4. The following entities or persons are exempt from the  
20 requirement to be licensed as a navigator:

21 (1) An entity or person licensed as an insurance producer  
22 in this state with authority for health under section 375.014;

23 (2) A law firm or licensed attorney in this state; and

24 (3) A "health care provider" as defined in section 376.1350  
25 provided that:

26 (a) The health care provider does not receive any funds  
27 from the United States Department of Health and Human Services or  
28 a health exchange operating in this state to act as a navigator;

1 and

2 (b) The activities or functions performed are related to  
3 advising, assisting, or counseling patients regarding private or  
4 public coverage or financial matters related to medical  
5 treatments or government assistance programs.

6  
7 However, nothing in this section shall prohibit a health care  
8 provider from voluntarily becoming licensed as a navigator.

9 376.2004. 1. An individual applying for a navigator  
10 license shall make application to the department on a form  
11 developed by the director and declare under penalty of refusal,  
12 suspension, or revocation of the license that the statements made  
13 in the application are true, correct, and complete to the best of  
14 the individual's knowledge and belief. Before approving the  
15 application, the director shall find that the individual:

16 (1) Is eighteen years of age or older;

17 (2) Resides in this state or maintains his or her principal  
18 place of business in the state;

19 (3) Is not disqualified for having committed any act that  
20 would be grounds for refusal to issue, renew, suspend, or revoke  
21 an insurance producer license under section 375.141;

22 (4) Has successfully passed the written examination  
23 prescribed by the director;

24 (5) When applicable, has the written consent of the  
25 director under 18 U.S.C. 1033 or any successor statute regulating  
26 crimes by or affecting persons engaged in the business of  
27 insurance whose activities affect interstate commerce;

28 (6) Has identified the entity with which he or she is

1 affiliated and supervised; and

2 (7) Has paid the fees prescribed by the director.

3 2. An entity that acts as a navigator, supervises the  
4 activities of individual navigators, or receives funding to  
5 perform such activities shall obtain a navigator entity license.  
6 An entity applying for an entity navigator license shall make  
7 application on a form containing the information prescribed by  
8 the director.

9 3. The director may require any documents deemed necessary  
10 to verify the information contained in an application submitted  
11 in accordance with subsections 1 and 2 of this section.

12 4. Entities licensed as navigators shall, in a manner  
13 prescribed by the director, provide a list of all individual  
14 navigators that are employed by or in any manner affiliated with  
15 the navigator entity and shall report any changes in employment  
16 or affiliation within twenty days of such change.

17 5. The director shall require that each navigator obtain a  
18 surety bond in an amount acceptable to the director or otherwise  
19 demonstrate a level of financial responsibility capable of  
20 protecting all persons against the wrongful acts,  
21 misrepresentations, errors, omissions, or negligence of the  
22 navigator. The director may ask for a copy of the bond or other  
23 evidence of financial responsibility at any time.

24 6. Prior to any exchange becoming operational in this  
25 state, the director shall prescribe initial training, continuing  
26 education, and written examination standards and requirements for  
27 navigators.

28 376.2006. 1. A navigator license shall be valid for two

1 years.

2 2. A navigator may file an application for renewal of a  
3 license and pay the renewal fee as prescribed by the director.  
4 Any navigator who fails to timely file for license renewal shall  
5 be charged a late fee in an amount prescribed by the director.

6 3. Prior to the filing date for an application for renewal  
7 of a license, an individual licensee shall comply with any  
8 ongoing training and continuing education requirements  
9 established by the director. Such navigator shall file with the  
10 director, by a method prescribed by the director, proof of  
11 satisfactory certification of completion of the continuing  
12 education requirements. Any failure to fulfill the ongoing  
13 training and continuing education requirements shall result in  
14 the expiration of the license.

15 376.2008. Upon contact with a person who acknowledges  
16 having existing health insurance coverage obtained through an  
17 insurance producer, a navigator shall advise the person to  
18 consult with a licensed insurance producer regarding coverage in  
19 the private market.

20 376.2010. 1. The director may place on probation, suspend,  
21 revoke, or refuse to issue, renew, or reinstate a navigator  
22 license or may levy a fine not to exceed one thousand dollars for  
23 each violation, or any combination of actions, for any one or  
24 more of the causes listed in section 375.141, 375.936 or for  
25 other good cause. In the event that the action by the director  
26 is not to renew or to deny an application for a license, the  
27 director shall notify the applicant or licensee in writing and  
28 shall advise the applicant or licensee of the reason for the

1 denial or nonrenewal. Appeal of the nonrenewal or denial of the  
2 application for a navigator license shall be made under the  
3 provisions of chapter 621.

4 2. In addition to imposing the penalties authorized by  
5 subsection 1 of this section, the director may require that  
6 restitution be made to any person who has suffered financial  
7 injury because of a violation of this section.

8 3. The director shall have the power to examine and  
9 investigate the business affairs and records of any navigator to  
10 determine whether the individual or entity has engaged or is  
11 engaging in any violation of this section.

12 4. The navigator license held by an entity may be suspended  
13 or revoked, renewal or reinstatement thereof may be refused, or a  
14 fine may be levied, with or without a suspension, revocation, or  
15 refusal to renew a license, if the director finds that an  
16 individual licensee's violation was known or should have been  
17 known by the employing or supervising entity and the violation  
18 was not reported to the director and no corrective action was  
19 undertaken on a timely basis.

20 376.2011. 1. If the director determines that a person has  
21 engaged, is engaging, or has taken a substantial step toward  
22 engaging in an act, practice, omission, or course of business  
23 constituting a violation of sections 376.2000 to 376.2014 or a  
24 rule adopted or order issued pursuant thereto, or a person has  
25 materially aided or is materially aiding an act, practice,  
26 omission, or course of business constituting a violation in  
27 sections 376.2000 to 376.2014 or a rule adopted or order issued  
28 pursuant thereto, the director may issue such administrative

1 orders as authorized under section 374.046.

2 2. If the director believes that a person has engaged, is  
3 engaging, or has taken a substantial step toward engaging in an  
4 act, practice, omission, or course of business constituting a  
5 violation of sections 376.2000 to 376.2014 or a rule adopted or  
6 order issued pursuant thereto, or that a person has materially  
7 aided or is materially aiding an act, practice, omission, or  
8 course of business constituting a violation in sections 376.2000  
9 to 376.2014 or a rule adopted or order issued pursuant thereto,  
10 the director may maintain a civil action for relief authorized  
11 under section 374.048.

12 3. A violation of sections 376.2000 to 376.2014 is a level  
13 two violation under section 374.049.

14 376.2012. 1. Each licensed navigator shall report to the  
15 director within thirty calendar days of the final disposition of  
16 the matter of any administrative action taken against him or her  
17 in another jurisdiction or by another governmental agency in this  
18 state. This report shall include a copy of the order, consent to  
19 order, or other relevant legal documents.

20 2. Within thirty days of the initial pretrial hearing date,  
21 a navigator shall report to the director any criminal prosecution  
22 of the navigator in any jurisdiction. The report shall include a  
23 copy of the initial complaint filed, the order resulting from the  
24 hearing, and any other relevant legal documents.

25 3. An entity that acts as a navigator that terminates the  
26 employment, engagement, affiliation, or other relationship with  
27 an individual navigator shall notify the director within twenty  
28 days following the effective date of the termination, using a



1 format prescribed by the director if the reason for termination  
2 is one of the reasons set forth in section 375.141 or 375.936 or  
3 if the entity has knowledge that the navigator was found by a  
4 court or governmental body to have engaged in any such  
5 activities. Upon the written request of the director, the entity  
6 shall provide additional information, documents, records, or  
7 other data pertaining to the termination or activity of the  
8 individual.

9 376.2014. 1. The requirements of sections 379.930 to  
10 379.952 and chapters 375, 376, 407 and any related rules shall  
11 apply to navigators. The activities and duties of a navigator  
12 shall be deemed to constitute transacting the business of  
13 insurance.

14 2. If any provision of sections 376.2000 to 376.2014 or its  
15 application to any person or circumstance is held invalid by a  
16 court of competent jurisdiction or by federal law, the invalidity  
17 does not affect other provisions or applications of sections  
18 376.2000 to 376.2014 that can be given effect without the invalid  
19 provision or application. The provisions of sections 376.2000 to  
20 376.2014 are severable, and the valid provisions or applications  
21 shall remain in full force and effect.

22 3. The director may promulgate rules and regulations to  
23 implement and administer the provisions of sections 376.2000 to  
24 376.2014. Any rule or portion of a rule, as that term is defined  
25 in section 536.010, that is created under the authority delegated  
26 in sections 376.2000 to 376.2014 shall become effective only if  
27 it complies with and is subject to all of the provisions of  
28 chapter 536 and, if applicable, section 536.028. Sections

1 376.2000 to 376.2014 and chapter 536 are nonseverable and if any  
2 of the powers vested with the general assembly pursuant to  
3 chapter 536 to review, to delay the effective date, or to  
4 disapprove and annul a rule are subsequently held  
5 unconstitutional, then the grant of rulemaking authority and any  
6 rule proposed or adopted after August 28, 2013, shall be invalid  
7 and void.

8       Section B. Because of the need to ensure that navigators  
9 are adequately trained to provide essential health insurance  
10 information to the public, section A of this act is deemed  
11 necessary for the immediate preservation of the public health,  
12 welfare, peace and safety, and is hereby declared to be an  
13 emergency act within the meaning of the constitution, and section  
14 A of this act shall be in full force and effect upon its passage  
15 and approval.