



January 25, 2013

HOUSE BILL No. 1319

DIGEST OF HB 1319 (Updated January 23, 2013 12:09 pm - DI 97)

Citations Affected: IC 12-15; IC 27-1; IC 27-4; IC 27-8; IC 27-19.

Synopsis: Health benefit exchange provisions. Provides for implementation of the federal Patient Protection and Affordable Care Act with respect to a health benefit exchange in Indiana. Specifies requirements for health plans issued through a health benefit exchange. Requires a navigator or an assister to be certified or registered before providing services with respect to a health benefit exchange. Provides for dissolution of the Indiana comprehensive health insurance association.

Effective: Upon passage; July 1, 2013.

Lehman

January 17, 2013, read first time and referred to Committee on Insurance.
January 24, 2013, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

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HB 1319—LS 7172/DI 97+



January 25, 2013

First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1319

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 12-15-44.2-9, AS AMENDED BY P.L.160-2011,
2 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 9. (a) An individual is eligible for participation in
4 the plan if the individual meets the following requirements:
5 (1) The individual is at least eighteen (18) years of age and less
6 than sixty-five (65) years of age.
7 (2) The individual is a United States citizen and has been a
8 resident of Indiana for at least twelve (12) months.
9 (3) The individual has an annual household income of not more
10 than the following:
11 (A) Effective through December 31, 2013, two hundred
12 percent (200%) of the federal income poverty level.
13 (B) Beginning January 1, 2014, one hundred thirty-three
14 percent (133%) of the federal income poverty level, based on
15 the adjusted gross income provisions set forth in Section
16 2001(a)(1) of the federal Patient Protection and Affordable
17 Care Act.

HB 1319—LS 7172/DI 97+



- 1 (4) Effective through December 31, 2013, the individual is not
- 2 eligible for health insurance coverage through the individual's
- 3 employer.
- 4 (5) Effective through December 31, 2013, the individual has:
- 5 (A) not had health insurance coverage for at least six (6)
- 6 months; or
- 7 (B) had coverage under the Indiana comprehensive health
- 8 insurance association (IC 27-8-10) within the immediately
- 9 preceding six (6) months and the coverage no longer
- 10 applies under IC 27-8-10-0.5.
- 11 (b) The following individuals are not eligible for the plan:
- 12 (1) An individual who participates in the federal Medicare
- 13 program (42 U.S.C. 1395 et seq.).
- 14 (2) A pregnant woman for purposes of pregnancy related services.
- 15 (3) An individual who is otherwise eligible for medical assistance.
- 16 (c) The eligibility requirements specified in subsection (a) are
- 17 subject to approval for federal financial participation by the United
- 18 States Department of Health and Human Services.
- 19 SECTION 2. IC 27-1-3-7 IS AMENDED TO READ AS FOLLOWS
- 20 [EFFECTIVE JULY 1, 2013]: Sec. 7. (a) The department may
- 21 promulgate rules and regulations for any of the following enumerated
- 22 purposes:
- 23 (1) For the conduct of the work of the department.
- 24 (2) Prescribing the methods and standards to be used in making
- 25 the examinations and prescribing the forms of reports of the
- 26 several insurance companies to which IC 27-1 is applicable.
- 27 (3) Defining what is a safe or an unsafe manner and a safe or an
- 28 unsafe condition for conducting business by any insurance
- 29 company to which IC 27-1 is applicable.
- 30 (4) For the establishment of safe and sound methods for the
- 31 transaction of business by such insurance companies and for the
- 32 purpose of safeguarding the interests of policyholders, creditors,
- 33 and shareholders respecting the withdrawal or payment of funds
- 34 by any life insurance company in times of emergency. Any rule or
- 35 regulation promulgated under this subdivision may apply to one
- 36 (1) or more insurance companies as the department may
- 37 determine.
- 38 (5) For the administration and termination of the affairs of any
- 39 such insurance company which is in involuntary liquidation or
- 40 whose business and property have been taken possession of by the
- 41 department for the purpose of rehabilitation, liquidation,
- 42 conservation, or dissolution under IC 27-1.

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1 (6) For the regulation of the solicitation or use of proxies, in
 2 general and as they concern consents or authorizations, in respect
 3 of securities issued by any domestic stock company for the
 4 purpose of protecting investors by prescribing the form of proxies,
 5 including such consents or authorizations, and by requiring
 6 adequate disclosure of information relevant to such proxies,
 7 including such consents or authorizations, and relevant to the
 8 business to be transacted at any meeting of shareholders with
 9 respect to which such proxies, including such consents or
 10 authorizations, may be used, which regulations may, in general,
 11 conform to those prescribed by the National Association of
 12 Insurance Commissioners.

13 **(7) For regulation related to a health benefit exchange**
 14 **established under the federal Patient Protection and**
 15 **Affordable Care Act (P.L. 111-148), as amended by the**
 16 **federal Health Care and Education Reconciliation Act of 2010**
 17 **(P.L. 111-152), and operating in Indiana.**

18 (b) The department may adopt a rule under IC 4-22-2 to provide
 19 reasonable simplification of the terms and coverage of individual and
 20 group Medicare supplement accident and sickness insurance policies
 21 and individual and group Medicare supplement subscriber contracts in
 22 order to facilitate public understanding and comparison and to
 23 eliminate provisions contained in those policies or contracts which may
 24 be misleading or confusing in connection either with the purchase of
 25 those coverages or with the settlement of claims and to provide for full
 26 disclosure in the sale of those coverages.

27 SECTION 3. IC 27-1-3-10.5 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10.5. (a) As used in this
 29 section, "confidential information" means information that has been
 30 designated as confidential by statute, rule, or regulation issued under
 31 a statute.

32 (b) The commissioner may not:
 33 (1) disclose; or
 34 (2) subject to subpoena;
 35 financial information regarding material transactions disclosed by an
 36 insurer under IC 27-2-18.

37 (c) The commissioner may not disclose any information, including
 38 any document or report received from:
 39 (1) the National Association of Insurance Commissioners; or
 40 (2) an insurance department of another state;
 41 if the information is designated as confidential information in the other
 42 jurisdiction.

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1 (d) The commissioner may share confidential information with:

2 (1) the National Association of Insurance Commissioners; or

3 (2) an insurance department of another state;

4 on the condition that the National Association of Insurance
5 Commissioners and the other state agree to maintain the same level of
6 confidentiality that is provided to the information under Indiana law.

7 **(e) The commissioner may share confidential information**
8 **related to a health benefit exchange established under the federal**
9 **Patient Protection and Affordable Care Act (P.L. 111-148), as**
10 **amended by the federal Health Care and Education Reconciliation**
11 **Act of 2010 (P.L. 111-152), with the health benefit exchange if the**
12 **health benefit exchange:**

13 **(1) agrees to maintain the same level of confidentiality that is**
14 **provided to the confidential information under Indiana law;**
15 **and**

16 **(2) complies with all applicable confidentiality requirements**
17 **under federal law.**

18 SECTION 4. IC 27-1-15.7-2, AS AMENDED BY P.L.81-2012,
19 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2013]: Sec. 2. (a) Except as provided in subsection (b), to
21 renew a license issued under IC 27-1-15.6, a resident insurance
22 producer must complete at least twenty-four (24) hours of credit in
23 continuing education courses. An attorney in good standing who is
24 admitted to the practice of law in Indiana and holds a license issued
25 under IC 27-1-15.6 may complete all or any number of hours of
26 continuing education required by this subsection by completing an
27 equivalent number of hours in continuing legal education courses that
28 are related to the business of insurance.

29 (b) Except as provided in subsection (c), to renew a license issued
30 under IC 27-1-15.6, a limited lines producer with a title qualification
31 under IC 27-1-15.6-7(a)(8) must complete at least seven (7) hours of
32 credit in continuing education courses related to the business of title
33 insurance with at least one (1) hour of instruction in a structured setting
34 or comparable self-study in each of the following:

35 (1) Ethical practices in the marketing and selling of title
36 insurance.

37 (2) Title insurance underwriting.

38 (3) Escrow issues.

39 (4) Principles of the federal Real Estate Settlement Procedures
40 Act (12 U.S.C. 2608).

41 An attorney in good standing who is admitted to the practice of law in
42 Indiana and holds a license issued under IC 27-1-15.6 with a title

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1 qualification under IC 27-1-15.6-7(a)(8) may complete all or any
 2 number of hours of continuing education required by this subsection by
 3 completing an equivalent number of hours in continuing legal
 4 education courses related to the business of title insurance or any
 5 aspect of real property law.

6 (c) The following insurance producers are not required to complete
 7 continuing education courses to renew a license under this chapter:

8 (1) A limited lines producer who is licensed without examination
 9 under IC 27-1-15.6-18(1) or IC 27-1-15.6-18(2).

10 (2) A limited line credit insurance producer.

11 (3) A nonresident limited lines producer with a title qualification:

12 (A) whose home state requires continuing education for a title
 13 qualification; and

14 (B) who has met the continuing education requirements
 15 described in clause (A).

16 (d) To satisfy the requirements of subsection (a) or (b), a licensee
 17 may use only those credit hours earned in continuing education courses
 18 completed by the licensee:

19 (1) after the effective date of the licensee's last renewal of a
 20 license under this chapter; or

21 (2) if the licensee is renewing a license for the first time, after the
 22 date on which the licensee was issued the license under this
 23 chapter.

24 (e) If an insurance producer receives qualification for a license in
 25 more than one (1) line of authority under IC 27-1-15.6, the insurance
 26 producer may not be required to complete a total of more than
 27 twenty-four (24) hours of credit in continuing education courses to
 28 renew the license.

29 (f) Except as provided in subsection (g), a licensee may receive
 30 credit only for completing **the following** continuing education courses:

31 **(1) Continuing education courses** that have been approved by
 32 the commissioner under section 4 of this chapter.

33 **(2) Continuing education courses that are required for the**
 34 **licensee under IC 27-19-4-14.**

35 (g) A licensee who teaches a course approved by the commissioner
 36 under section 4 of this chapter shall receive continuing education credit
 37 for teaching the course.

38 (h) When a licensee renews a license issued under this chapter, the
 39 licensee must submit:

40 (1) a continuing education statement that:

41 (A) is in a format authorized by the commissioner;

42 (B) is signed by the licensee under oath; and

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- 1 (C) lists the continuing education courses completed by the
- 2 licensee to satisfy the continuing education requirements of
- 3 this section; and
- 4 (2) any other information required by the commissioner.
- 5 (i) A continuing education statement submitted under subsection (h)
- 6 may be reviewed and audited by the department.
- 7 (j) A licensee shall retain a copy of the original certificate of
- 8 completion received by the licensee for completion of a continuing
- 9 education course.
- 10 (k) A licensee who completes a continuing education course that:
- 11 (1) is approved by the commissioner under section 4 of this
- 12 chapter;
- 13 (2) is held in a classroom setting; and
- 14 (3) concerns ethics;
- 15 shall receive continuing education credit not to exceed four (4) hours
- 16 in a renewal period.
- 17 SECTION 5. IC 27-4-1-4, AS AMENDED BY P.L.67-2011,
- 18 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 19 JULY 1, 2013]: Sec. 4. (a) The following are hereby defined as unfair
- 20 methods of competition and unfair and deceptive acts and practices in
- 21 the business of insurance:
- 22 (1) Making, issuing, circulating, or causing to be made, issued, or
- 23 circulated, any estimate, illustration, circular, or statement:
- 24 (A) misrepresenting the terms of any policy issued or to be
- 25 issued or the benefits or advantages promised thereby or the
- 26 dividends or share of the surplus to be received thereon;
- 27 (B) making any false or misleading statement as to the
- 28 dividends or share of surplus previously paid on similar
- 29 policies;
- 30 (C) making any misleading representation or any
- 31 misrepresentation as to the financial condition of any insurer,
- 32 or as to the legal reserve system upon which any life insurer
- 33 operates;
- 34 (D) using any name or title of any policy or class of policies
- 35 misrepresenting the true nature thereof; or
- 36 (E) making any misrepresentation to any policyholder insured
- 37 in any company for the purpose of inducing or tending to
- 38 induce such policyholder to lapse, forfeit, or surrender the
- 39 policyholder's insurance.
- 40 (2) Making, publishing, disseminating, circulating, or placing
- 41 before the public, or causing, directly or indirectly, to be made,
- 42 published, disseminated, circulated, or placed before the public,

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1 in a newspaper, magazine, or other publication, or in the form of
 2 a notice, circular, pamphlet, letter, or poster, or over any radio or
 3 television station, or in any other way, an advertisement,
 4 announcement, or statement containing any assertion,
 5 representation, or statement with respect to any person in the
 6 conduct of the person's insurance business, which is untrue,
 7 deceptive, or misleading.

8 (3) Making, publishing, disseminating, or circulating, directly or
 9 indirectly, or aiding, abetting, or encouraging the making,
 10 publishing, disseminating, or circulating of any oral or written
 11 statement or any pamphlet, circular, article, or literature which is
 12 false, or maliciously critical of or derogatory to the financial
 13 condition of an insurer, and which is calculated to injure any
 14 person engaged in the business of insurance.

15 (4) Entering into any agreement to commit, or individually or by
 16 a concerted action committing any act of boycott, coercion, or
 17 intimidation resulting or tending to result in unreasonable
 18 restraint of, or a monopoly in, the business of insurance.

19 (5) Filing with any supervisory or other public official, or making,
 20 publishing, disseminating, circulating, or delivering to any person,
 21 or placing before the public, or causing directly or indirectly, to
 22 be made, published, disseminated, circulated, delivered to any
 23 person, or placed before the public, any false statement of
 24 financial condition of an insurer with intent to deceive. Making
 25 any false entry in any book, report, or statement of any insurer
 26 with intent to deceive any agent or examiner lawfully appointed
 27 to examine into its condition or into any of its affairs, or any
 28 public official to which such insurer is required by law to report,
 29 or which has authority by law to examine into its condition or into
 30 any of its affairs, or, with like intent, willfully omitting to make a
 31 true entry of any material fact pertaining to the business of such
 32 insurer in any book, report, or statement of such insurer.

33 (6) Issuing or delivering or permitting agents, officers, or
 34 employees to issue or deliver, agency company stock or other
 35 capital stock, or benefit certificates or shares in any common law
 36 corporation, or securities or any special or advisory board
 37 contracts or other contracts of any kind promising returns and
 38 profits as an inducement to insurance.

39 (7) Making or permitting any of the following:

40 (A) Unfair discrimination between individuals of the same
 41 class and equal expectation of life in the rates or assessments
 42 charged for any contract of life insurance or of life annuity or

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1 in the dividends or other benefits payable thereon, or in any
 2 other of the terms and conditions of such contract. However,
 3 in determining the class, consideration may be given to the
 4 nature of the risk, plan of insurance, the actual or expected
 5 expense of conducting the business, or any other relevant
 6 factor.

7 (B) Unfair discrimination between individuals of the same
 8 class involving essentially the same hazards in the amount of
 9 premium, policy fees, assessments, or rates charged or made
 10 for any policy or contract of accident or health insurance or in
 11 the benefits payable thereunder, or in any of the terms or
 12 conditions of such contract, or in any other manner whatever.
 13 However, in determining the class, consideration may be given
 14 to the nature of the risk, the plan of insurance, the actual or
 15 expected expense of conducting the business, or any other
 16 relevant factor.

17 (C) Excessive or inadequate charges for premiums, policy
 18 fees, assessments, or rates, or making or permitting any unfair
 19 discrimination between persons of the same class involving
 20 essentially the same hazards, in the amount of premiums,
 21 policy fees, assessments, or rates charged or made for:

22 (i) policies or contracts of reinsurance or joint reinsurance,
 23 or abstract and title insurance;

24 (ii) policies or contracts of insurance against loss or damage
 25 to aircraft, or against liability arising out of the ownership,
 26 maintenance, or use of any aircraft, or of vessels or craft,
 27 their cargoes, marine builders' risks, marine protection and
 28 indemnity, or other risks commonly insured under marine,
 29 as distinguished from inland marine, insurance; or

30 (iii) policies or contracts of any other kind or kinds of
 31 insurance whatsoever.

32 However, nothing contained in clause (C) shall be construed to
 33 apply to any of the kinds of insurance referred to in clauses (A)
 34 and (B) nor to reinsurance in relation to such kinds of insurance.
 35 Nothing in clause (A), (B), or (C) shall be construed as making or
 36 permitting any excessive, inadequate, or unfairly discriminatory
 37 charge or rate or any charge or rate determined by the department
 38 or commissioner to meet the requirements of any other insurance
 39 rate regulatory law of this state.

40 (8) Except as otherwise expressly provided by law, knowingly
 41 permitting or offering to make or making any contract or policy
 42 of insurance of any kind or kinds whatsoever, including but not in

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1 limitation, life annuities, or agreement as to such contract or
 2 policy other than as plainly expressed in such contract or policy
 3 issued thereon, or paying or allowing, or giving or offering to pay,
 4 allow, or give, directly or indirectly, as inducement to such
 5 insurance, or annuity, any rebate of premiums payable on the
 6 contract, or any special favor or advantage in the dividends,
 7 savings, or other benefits thereon, or any valuable consideration
 8 or inducement whatever not specified in the contract or policy; or
 9 giving, or selling, or purchasing or offering to give, sell, or
 10 purchase as inducement to such insurance or annuity or in
 11 connection therewith, any stocks, bonds, or other securities of any
 12 insurance company or other corporation, association, limited
 13 liability company, or partnership, or any dividends, savings, or
 14 profits accrued thereon, or anything of value whatsoever not
 15 specified in the contract. Nothing in this subdivision and
 16 subdivision (7) shall be construed as including within the
 17 definition of discrimination or rebates any of the following
 18 practices:

- 19 (A) Paying bonuses to policyholders or otherwise abating their
 20 premiums in whole or in part out of surplus accumulated from
 21 nonparticipating insurance, so long as any such bonuses or
 22 abatement of premiums are fair and equitable to policyholders
 23 and for the best interests of the company and its policyholders.
- 24 (B) In the case of life insurance policies issued on the
 25 industrial debit plan, making allowance to policyholders who
 26 have continuously for a specified period made premium
 27 payments directly to an office of the insurer in an amount
 28 which fairly represents the saving in collection expense.
- 29 (C) Readjustment of the rate of premium for a group insurance
 30 policy based on the loss or expense experience thereunder, at
 31 the end of the first year or of any subsequent year of insurance
 32 thereunder, which may be made retroactive only for such
 33 policy year.
- 34 (D) Paying by an insurer or insurance producer thereof duly
 35 licensed as such under the laws of this state of money,
 36 commission, or brokerage, or giving or allowing by an insurer
 37 or such licensed insurance producer thereof anything of value,
 38 for or on account of the solicitation or negotiation of policies
 39 or other contracts of any kind or kinds, to a broker, an
 40 insurance producer, or a solicitor duly licensed under the laws
 41 of this state, but such broker, insurance producer, or solicitor
 42 receiving such consideration shall not pay, give, or allow

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1 credit for such consideration as received in whole or in part,
 2 directly or indirectly, to the insured by way of rebate.
 3 (9) Requiring, as a condition precedent to loaning money upon the
 4 security of a mortgage upon real property, that the owner of the
 5 property to whom the money is to be loaned negotiate any policy
 6 of insurance covering such real property through a particular
 7 insurance producer or broker or brokers. However, this
 8 subdivision shall not prevent the exercise by any lender of the
 9 lender's right to approve or disapprove of the insurance company
 10 selected by the borrower to underwrite the insurance.
 11 (10) Entering into any contract, combination in the form of a trust
 12 or otherwise, or conspiracy in restraint of commerce in the
 13 business of insurance.
 14 (11) Monopolizing or attempting to monopolize or combining or
 15 conspiring with any other person or persons to monopolize any
 16 part of commerce in the business of insurance. However,
 17 participation as a member, director, or officer in the activities of
 18 any nonprofit organization of insurance producers or other
 19 workers in the insurance business shall not be interpreted, in
 20 itself, to constitute a combination in restraint of trade or as
 21 combining to create a monopoly as provided in this subdivision
 22 and subdivision (10). The enumeration in this chapter of specific
 23 unfair methods of competition and unfair or deceptive acts and
 24 practices in the business of insurance is not exclusive or
 25 restrictive or intended to limit the powers of the commissioner or
 26 department or of any court of review under section 8 of this
 27 chapter.
 28 (12) Requiring as a condition precedent to the sale of real or
 29 personal property under any contract of sale, conditional sales
 30 contract, or other similar instrument or upon the security of a
 31 chattel mortgage, that the buyer of such property negotiate any
 32 policy of insurance covering such property through a particular
 33 insurance company, insurance producer, or broker or brokers.
 34 However, this subdivision shall not prevent the exercise by any
 35 seller of such property or the one making a loan thereon of the
 36 right to approve or disapprove of the insurance company selected
 37 by the buyer to underwrite the insurance.
 38 (13) Issuing, offering, or participating in a plan to issue or offer,
 39 any policy or certificate of insurance of any kind or character as
 40 an inducement to the purchase of any property, real, personal, or
 41 mixed, or services of any kind, where a charge to the insured is
 42 not made for and on account of such policy or certificate of

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- 1 insurance. However, this subdivision shall not apply to any of the
- 2 following:
- 3 (A) Insurance issued to credit unions or members of credit
- 4 unions in connection with the purchase of shares in such credit
- 5 unions.
- 6 (B) Insurance employed as a means of guaranteeing the
- 7 performance of goods and designed to benefit the purchasers
- 8 or users of such goods.
- 9 (C) Title insurance.
- 10 (D) Insurance written in connection with an indebtedness and
- 11 intended as a means of repaying such indebtedness in the
- 12 event of the death or disability of the insured.
- 13 (E) Insurance provided by or through motorists service clubs
- 14 or associations.
- 15 (F) Insurance that is provided to the purchaser or holder of an
- 16 air transportation ticket and that:
 - 17 (i) insures against death or nonfatal injury that occurs during
 - 18 the flight to which the ticket relates;
 - 19 (ii) insures against personal injury or property damage that
 - 20 occurs during travel to or from the airport in a common
 - 21 carrier immediately before or after the flight;
 - 22 (iii) insures against baggage loss during the flight to which
 - 23 the ticket relates; or
 - 24 (iv) insures against a flight cancellation to which the ticket
 - 25 relates.
- 26 (14) Refusing, because of the for-profit status of a hospital or
- 27 medical facility, to make payments otherwise required to be made
- 28 under a contract or policy of insurance for charges incurred by an
- 29 insured in such a for-profit hospital or other for-profit medical
- 30 facility licensed by the state department of health.
- 31 (15) Refusing to insure an individual, refusing to continue to issue
- 32 insurance to an individual, limiting the amount, extent, or kind of
- 33 coverage available to an individual, or charging an individual a
- 34 different rate for the same coverage, solely because of that
- 35 individual's blindness or partial blindness, except where the
- 36 refusal, limitation, or rate differential is based on sound actuarial
- 37 principles or is related to actual or reasonably anticipated
- 38 experience.
- 39 (16) Committing or performing, with such frequency as to
- 40 indicate a general practice, unfair claim settlement practices (as
- 41 defined in section 4.5 of this chapter).
- 42 (17) Between policy renewal dates, unilaterally canceling an

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- 1 individual's coverage under an individual or group health
- 2 insurance policy solely because of the individual's medical or
- 3 physical condition.
- 4 (18) Using a policy form or rider that would permit a cancellation
- 5 of coverage as described in subdivision (17).
- 6 (19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1
- 7 concerning motor vehicle insurance rates.
- 8 (20) Violating IC 27-8-21-2 concerning advertisements referring
- 9 to interest rate guarantees.
- 10 (21) Violating IC 27-8-24.3 concerning insurance and health plan
- 11 coverage for victims of abuse.
- 12 (22) Violating IC 27-8-26 concerning genetic screening or testing.
- 13 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
- 14 insurance producers.
- 15 (24) Violating IC 27-1-38 concerning depository institutions.
- 16 (25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning
- 17 the resolution of an appealed grievance decision.
- 18 (26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) (expired
- 19 July 1, 2007, and removed) or IC 27-8-5-19.2 (expired July 1,
- 20 2007, and repealed).
- 21 (27) Violating IC 27-2-21 concerning use of credit information.
- 22 (28) Violating IC 27-4-9-3 concerning recommendations to
- 23 consumers.
- 24 (29) Engaging in dishonest or predatory insurance practices in
- 25 marketing or sales of insurance to members of the United States
- 26 Armed Forces as:
 - 27 (A) described in the federal Military Personnel Financial
 - 28 Services Protection Act, P.L.109-290; or
 - 29 (B) defined in rules adopted under subsection (b).
- 30 (30) Violating IC 27-8-19.8-20.1 concerning stranger originated
- 31 life insurance.
- 32 (31) Violating IC 27-2-22 concerning retained asset accounts.
- 33 **(32) Violating IC 27-8-5-29 concerning health plans offered**
- 34 **through a health benefit exchange (as defined in**
- 35 **IC 27-19-2-8).**
- 36 **(33) Violating a requirement of the federal Patient Protection**
- 37 **and Affordable Care Act (P.L. 111-148), as amended by the**
- 38 **federal Health Care and Education Reconciliation Act of 2010**
- 39 **(P.L. 111-152), that is enforceable by the state.**
- 40 (b) Except with respect to federal insurance programs under
- 41 Subchapter III of Chapter 19 of Title 38 of the United States Code, the
- 42 commissioner may, consistent with the federal Military Personnel

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1 Financial Services Protection Act (P.L.109-290), adopt rules under
2 IC 4-22-2 to:

- 3 (1) define; and
- 4 (2) while the members are on a United States military installation
- 5 or elsewhere in Indiana, protect members of the United States
- 6 Armed Forces from;
- 7 dishonest or predatory insurance practices.

8 SECTION 6. IC 27-8-5-1, AS AMENDED BY P.L.160-2011,
9 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2013]: Sec. 1. (a) The term "policy of accident and sickness
11 insurance", as used in this chapter, includes any policy or contract
12 covering one (1) or more of the kinds of insurance described in Class
13 1(b) or 2(a) of IC 27-1-5-1. Such policies may be on the individual
14 basis under this section and sections 2 through 9 of this chapter, on the
15 group basis under this section and sections 16 through 19 of this
16 chapter, on the franchise basis under this section and section 11 of this
17 chapter, or on a blanket basis under section 15 of this chapter and
18 (except as otherwise expressly provided in this chapter) shall be
19 exclusively governed by this chapter.

20 (b) No policy of accident and sickness insurance may be issued or
21 delivered to any person in this state, nor may any application, rider, or
22 endorsement be used in connection with an accident and sickness
23 insurance policy, until a copy of the form of the policy and of the
24 classification of risks and the premium rates, or, in the case of
25 assessment companies, the estimated cost pertaining thereto, have been
26 filed with and reviewed by the commissioner under section 1.5 of this
27 chapter. This section is applicable also to assessment companies and
28 fraternal benefit associations or societies.

29 (c) This chapter shall be applied in conformity with the
30 requirements of the federal Patient Protection and Affordable Care Act
31 (P.L. 111-148), as amended by the federal Health Care and Education
32 Reconciliation Act of 2010 (P.L. 111-152), as in effect on September
33 23, 2010.

34 **(d) A policy of accident and sickness insurance that is issued or**
35 **delivered through a health benefit exchange established under the**
36 **federal Patient Protection and Affordable Care Act (P.L. 111-148),**
37 **as amended by the federal Health Care and Education**
38 **Reconciliation Act of 2010 (P.L. 111-152), is subject to the**
39 **requirements of this chapter. The commissioner may adopt rules**
40 **under IC 4-22-2 to implement this subsection, including rules**
41 **concerning:**

- 42 (1) certification or decertification of a qualified health plan

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(as defined in IC 27-19-2-15); and
 (2) open enrollment.

SECTION 7. IC 27-8-5-1.5, AS AMENDED BY P.L.111-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1.5. (a) This section applies to a policy of accident and sickness insurance issued on an individual, a group, a franchise, or a blanket basis, including a policy issued by an assessment company or a fraternal benefit society.

(b) As used in this section, "commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

(c) As used in this section, "grossly inadequate filing" means a policy form filing:

- (1) that fails to provide key information, including state specific information, regarding a product, policy, or rate; or
- (2) that demonstrates an insufficient understanding of applicable legal requirements.

(d) As used in this section, "policy form" means a policy, a contract, a certificate, a rider, an endorsement, an evidence of coverage, or any amendment that is required by law to be filed with the commissioner for approval before use in Indiana.

(e) As used in this section, "type of insurance" refers to a type of coverage listed on the National Association of Insurance Commissioners Uniform Life, Accident and Health, Annuity and Credit Product Coding Matrix, or a successor document, under the heading "Continuing Care Retirement Communities", "Health", "Long Term Care", or "Medicare Supplement".

(f) Each person having a role in the filing process described in subsection (i) shall act in good faith and with due diligence in the performance of the person's duties.

(g) A policy form, **including a policy form of a policy, contract, certificate, rider, endorsement, evidence of coverage, or amendment that is issued through a health benefit exchange (as defined in IC 27-19-2-8)**, may not be issued or delivered in Indiana unless the policy form has been filed with and approved by the commissioner.

(h) The commissioner shall do the following:

- (1) Create a document containing a list of all product filing requirements for each type of insurance, with appropriate citations to the law, administrative rule, or bulletin that specifies the requirement, including the citation for the type of insurance to which the requirement applies.
- (2) Make the document described in subdivision (1) available on

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1 the department of insurance Internet site.
2 (3) Update the document described in subdivision (1) at least
3 annually and not more than thirty (30) days following any change
4 in a filing requirement.
5 (i) The filing process is as follows:
6 (1) A filer shall submit a policy form filing that:
7 (A) includes a copy of the document described in subsection
8 (h);
9 (B) indicates the location within the policy form or supplement
10 that relates to each requirement contained in the document
11 described in subsection (h); and
12 (C) certifies that the policy form meets all requirements of
13 state law.
14 (2) The commissioner shall review a policy form filing and, not
15 more than thirty (30) days after the commissioner receives the
16 filing under subdivision (1):
17 (A) approve the filing; or
18 (B) provide written notice of a determination:
19 (i) that deficiencies exist in the filing; or
20 (ii) that the commissioner disapproves the filing.
21 A written notice provided by the commissioner under clause (B)
22 must be based only on the requirements set forth in the document
23 described in subsection (h) and must cite the specific
24 requirements not met by the filing. A written notice provided by
25 the commissioner under clause (B)(i) must state the reasons for
26 the commissioner's determination in sufficient detail to enable the
27 filer to bring the policy form into compliance with the
28 requirements not met by the filing.
29 (3) A filer may resubmit a policy form that:
30 (A) was determined deficient under subdivision (2) and has
31 been amended to correct the deficiencies; or
32 (B) was disapproved under subdivision (2) and has been
33 revised.
34 A policy form resubmitted under this subdivision must meet the
35 requirements set forth as described in subdivision (1) and must be
36 resubmitted not more than thirty (30) days after the filer receives
37 the commissioner's written notice of deficiency or disapproval. If
38 a policy form is not resubmitted within thirty (30) days after
39 receipt of the written notice, the commissioner's determination
40 regarding the policy form is final.
41 (4) The commissioner shall review a policy form filing
42 resubmitted under subdivision (3) and, not more than thirty (30)

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days after the commissioner receives the resubmission:
(A) approve the resubmitted policy form; or
(B) provide written notice that the commissioner disapproves the resubmitted policy form.

A written notice of disapproval provided by the commissioner under clause (B) must be based only on the requirements set forth in the document described in subsection (h), must cite the specific requirements not met by the filing, and must state the reasons for the commissioner's determination in detail. The commissioner's approval or disapproval of a resubmitted policy form under this subdivision is final, except that the commissioner may allow the filer to resubmit a further revised policy form if the filer, in the filer's resubmission under subdivision (3), introduced new provisions or materially modified a substantive provision of the policy form. If the commissioner allows a filer to resubmit a further revised policy form under this subdivision, the filer must resubmit the further revised policy form not more than thirty (30) days after the filer receives notice under clause (B), and the commissioner shall issue a final determination on the further revised policy form not more than thirty (30) days after the commissioner receives the further revised policy form.

(5) If the commissioner disapproves a policy form filing under this subsection, the commissioner shall notify the filer, in writing, of the filer's right to a hearing as described in subsection (m). A disapproved policy form filing may not be used for a policy of accident and sickness insurance unless the disapproval is overturned in a hearing conducted under this subsection.

(6) If the commissioner does not take any action on a policy form that is filed or resubmitted under this subsection in accordance with any applicable period specified in subdivision (2), (3), or (4), the policy form filing is considered to be approved.

(j) Except as provided in this subsection, the commissioner may not disapprove a policy form resubmitted under subsection (i)(3) or (i)(4) for a reason other than a reason specified in the original notice of determination under subsection (i)(2)(B). The commissioner may disapprove a resubmitted policy form for a reason other than a reason specified in the original notice of determination under subsection (i)(2) if:

- (1) the filer has introduced a new provision in the resubmission;
- (2) the filer has materially modified a substantive provision of the policy form in the resubmission;
- (3) there has been a change in requirements applying to the policy

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1 form; or
 2 (4) there has been reviewer error and the written disapproval fails
 3 to state a specific requirement with which the policy form does
 4 not comply.
 5 (k) The commissioner may return a grossly inadequate filing to the
 6 filer without triggering a deadline set forth in this section.
 7 (l) The commissioner may disapprove a policy form if:
 8 (1) the benefits provided under the policy form are not reasonable
 9 in relation to the premium charged; or
 10 (2) the policy form contains provisions that are unjust, unfair,
 11 inequitable, misleading, or deceptive, or that encourage
 12 misrepresentation of the policy.
 13 (m) Upon disapproval of a filing under this section, the
 14 commissioner shall provide written notice to the filer or insurer of the
 15 right to a hearing within twenty (20) days of a request for a hearing.
 16 (n) Unless a policy form approved under this chapter contains a
 17 material error or omission, the commissioner may not:
 18 (1) retroactively disapprove the policy form; or
 19 (2) examine the filer of the policy form during a routine or
 20 targeted market conduct examination for compliance with a policy
 21 form filing requirement that was not in existence at the time the
 22 policy form was filed.
 23 SECTION 8. IC 27-8-5-29 IS ADDED TO THE INDIANA CODE
 24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 25 1, 2013]: **Sec. 29. (a) The definitions in IC 27-19-2 apply throughout**
 26 **this section.**
 27 **(b) A health plan may not be offered to any person in Indiana**
 28 **through a health benefit exchange unless:**
 29 **(1) the form of the policy, classification of risks, and premium**
 30 **rates that apply to the health plan have been filed with and**
 31 **reviewed and approved by the commissioner under this**
 32 **chapter; and**
 33 **(2) the insurer is authorized under this title to engage in the**
 34 **business of insurance in Indiana.**
 35 **(c) An insurer that offers a multistate health plan under Section**
 36 **1334 of PPACA through a health benefit exchange shall file, for**
 37 **review and approval, the form of the policy, classification of risks,**
 38 **and premium rates that apply to the multistate health plan with the**
 39 **commissioner and the federal government on the same business**
 40 **day.**
 41 SECTION 9. IC 27-8-10-0.5 IS ADDED TO THE INDIANA CODE
 42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE

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1 UPON PASSAGE]: Sec. 0.5. (a) Except as provided in this section,
 2 the insurance operations of the association cease on the later of:
 3 (1) the date on which a health benefit exchange (as defined in
 4 IC 27-19-2-8) begins operating in Indiana; or
 5 (2) December 31, 2013.
 6 (b) A claim for payment under an association policy must be
 7 made to the association not later than the later of:
 8 (1) sixty (60) days after the date on which the insurance
 9 operations cease under subsection (a); or
 10 (2) March 1, 2014.
 11 (c) An appeal or grievance under this chapter must be resolved
 12 not later than ninety (90) days after the date on which the
 13 insurance operations cease under subsection (a).
 14 (d) Balance billing under this chapter by a health care provider
 15 that is not a member of a health care provider network
 16 arrangement used by the association is prohibited after the later
 17 of:
 18 (1) ninety (90) days after the date on which the insurance
 19 operations cease under subsection (a); or
 20 (2) March 30, 2014.
 21 (e) The association shall, not later than June 30, 2013, submit to
 22 the commissioner a plan of dissolution for the association. The
 23 following apply to a plan of dissolution submitted under this
 24 subsection:
 25 (1) The plan of dissolution must provide for the following:
 26 (A) Continuity of care for an individual who is covered
 27 under an association policy and is an inpatient on the date
 28 on which the insurance operations cease under subsection
 29 (a).
 30 (B) A final accounting described in section 2.1(g) of this
 31 chapter of the:
 32 (i) assessments; and
 33 (ii) cessation of the liability;
 34 of members of the association.
 35 (C) Resolution of any net asset deficiency.
 36 (D) Cessation of all liability of the association.
 37 (E) Final dissolution of the association.
 38 (2) The plan of dissolution may provide that, with the
 39 approval of the board and the commissioner, a power or duty
 40 of the association may be delegated to a person that is to
 41 perform functions similar to the functions of the association.
 42 (f) The commissioner shall, after notice and hearing, approve a

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1 plan of dissolution submitted under subsection (e) if the
 2 commissioner determines that the plan:
 3 (1) is suitable to assure the fair, reasonable, and equitable
 4 dissolution of the association; and
 5 (2) complies with subsection (e).
 6 (g) A plan of dissolution submitted under subsection (e) is
 7 effective upon the written approval of the commissioner.
 8 (h) An action by or against the association must be filed not
 9 more than one (1) year after the date on which the insurance
 10 operations cease under subsection (a).
 11 (i) This chapter expires on the date on which final dissolution of
 12 the association occurs under the plan of dissolution approved by
 13 the commissioner under subsection (f).
 14 (j) Funds remaining in the association on the date on which final
 15 dissolution of the association occurs must be transferred into the
 16 state general fund.
 17 (k) The association, or the person to which the association
 18 delegates powers under subsection (e), may implement this section
 19 in accordance with the plan of dissolution approved by the
 20 commissioner under subsection (f).
 21 SECTION 10. IC 27-19 IS ADDED TO THE INDIANA CODE AS
 22 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 23 2013]:
 24 **ARTICLE 19. HEALTH BENEFIT EXCHANGE**
 25 **Chapter 1. General Provisions**
 26 **Sec. 1. Except as otherwise provided in this title, a reference to**
 27 **a federal law in this article is a reference to the federal law as in**
 28 **effect on January 1, 2012.**
 29 **Sec. 2. This article applies to a state agency with respect to the**
 30 **state agency's interactions with a health benefit exchange operated**
 31 **in Indiana.**
 32 **Sec. 3. This article expires immediately upon the occurrence of**
 33 **any of the following events:**
 34 **(1) The complete repeal of PPACA.**
 35 **(2) The repeal of the PPACA requirement that one (1) or**
 36 **more health benefit exchanges be established in each state.**
 37 **(3) Any other congressional action, or federal court decision,**
 38 **rendering the establishment of a health benefit exchange**
 39 **unnecessary.**
 40 **(4) The issuance of an executive order by the governor**
 41 **specifying that the establishment of a health benefit exchange**
 42 **in Indiana is unnecessary or inappropriate.**

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Sec. 4. The commissioner may do the following to implement this article:

- (1) Adopt rules under IC 4-22-2.**
- (2) Enter into a contract, agreement, or memorandum of understanding with the following:**
 - (A) A health benefit exchange.**
 - (B) An entity that contracts with, or is a subcontractor of, a health benefit exchange.**
 - (C) A federal or state agency.**
 - (D) A health benefit exchange operating in another state.**
 - (E) An agency of another state.**
 - (F) A health plan.**
 - (G) Another person, for purposes of the performance of necessary functions, as determined by the commissioner.**
- (3) Enter with a person described in subdivision (2) into an information sharing agreement:**
 - (A) that concerns the disclosure and receiving of data necessary to implement this article or PPACA; and**
 - (B) that:**
 - (i) includes adequate protections with respect to confidentiality of the shared information; and**
 - (ii) complies with applicable state and federal law.**

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Administrator" refers to the administrator of the office of Medicaid policy and planning appointed under IC 12-8-6.5-2.

Sec. 3. (a) "Assister" means a person that:

- (1) does not meet the standards established for a navigator under Section 1311(i) of PPACA (42 U.S.C. 18031(i)); and**
- (2) performs the functions of a navigator with respect to a health benefit exchange as established by the commissioner.**

(b) The term does not include the following:

- (1) A Medicaid authorized representative.**
- (2) A person that only provides assistance to consumers regarding public assistance that is unrelated to an application for participation in:**
 - (A) Medicaid; or**
 - (B) a health benefit exchange.**

Sec. 4. "CHIP office" refers to the office of the children's health insurance program established by IC 12-17.6-2-1.

Sec. 5. "Commissioner" refers to the insurance commissioner

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appointed under IC 27-1-1-2.

Sec. 6. "Department" refers to the department of insurance created by IC 27-1-1-1.

Sec. 7. "Group health plan" means a group health plan (as defined in Section 2791 of the federal Public Health Service Act (42 U.S.C. 300gg-91)) that provides health insurance coverage.

Sec. 8. "Health benefit exchange" means an American health benefit exchange operating in Indiana under PPACA.

Sec. 9. "Health insurance coverage" has the meaning set forth in Section 2791 of the federal Public Health Service Act (42 U.S.C. 300gg-91).

Sec. 10. (a) "Health plan" means a policy or contract that provides health insurance coverage.

(b) The term includes a group health plan.

Sec. 11. (a) "Navigator" means a person that:

- (1) meets the grant funding requirements of Section 1311(i) of PPACA (42 U.S.C. 18031(i)); and
- (2) performs the functions of a navigator with respect to a health benefit exchange as established by the commissioner.

(b) The term does not include the following:

- (1) A Medicaid authorized representative.
- (2) A person that only provides assistance to consumers regarding public assistance that is unrelated to an application for participation in:
 - (A) Medicaid; or
 - (B) a health benefit exchange.

Sec. 12. "Person" means an individual or an entity.

Sec. 13. "PPACA" refers to the federal Patient Protection and Affordable Care Act (P.L. 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (P.L. 111-152).

Sec. 14. (a) "Public health insurance program" refers to health coverage provided under a state or federal government program.

(b) The term includes the following:

- (1) Medicaid (42 U.S.C. 1396 et seq.).
- (2) The Indiana check-up plan established by IC 12-15-44.2-3.
- (3) The children's health insurance program established under IC 12-17.6.

Sec. 15. "Qualified health plan" means a health plan that has been certified under Section 1301 of PPACA (42 U.S.C. 18021(a)) to meet the criteria for availability through a health benefit exchange operated in Indiana.

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1 **Sec. 16. "Secretary"** refers to the secretary of family and social
2 services appointed under IC 12-8-1.5-2.

3 **Chapter 3. Health Benefit Exchange Authority**

4 **Sec. 1. This chapter applies to a health benefit exchange**
5 **operating in Indiana.**

6 **Sec. 2. (a) The commissioner and department may implement**
7 **and enforce the insurance law of this state in connection with a**
8 **health benefit exchange.**

9 **(b) A law of this state concerning a health benefit exchange does**
10 **not preempt or supersede the authority of the commissioner or**
11 **department to regulate the business of insurance in Indiana.**

12 **(c) This section does not require the department to perform any**
13 **function related to a health benefit exchange without being**
14 **appropriately compensated for the performance of the function.**

15 **Sec. 3. (a) The secretary, the administrator, and the CHIP office**
16 **may implement and enforce the social services law of this state in**
17 **connection with a health benefit exchange.**

18 **(b) A law of this state concerning a health benefit exchange does**
19 **not preempt or supersede the authority of the secretary, the**
20 **administrator, or the CHIP office to administer and regulate social**
21 **services in Indiana.**

22 **(c) This section does not require the secretary, the**
23 **administrator, or the CHIP office to perform any function related**
24 **to a health benefit exchange without being appropriately**
25 **compensated for the performance of the function.**

26 **(d) The secretary may adopt rules under IC 4-22-2 to implement**
27 **this section.**

28 **(e) The administrator and the CHIP office may do the following**
29 **to implement this section:**

30 **(1) Enter into a contract, agreement, or memorandum of**
31 **understanding with the following:**

32 **(A) A health benefit exchange.**

33 **(B) An entity that contracts with, or is a subcontractor of,**
34 **a health benefit exchange.**

35 **(C) A federal or state agency.**

36 **(D) A health benefit exchange operating in another state.**

37 **(E) An agency of another state.**

38 **(F) A health plan.**

39 **(2) Enter with a person described in subdivision (1) into an**
40 **information sharing agreement:**

41 **(A) that concerns the disclosure and receiving of data**
42 **necessary to implement this section or PPACA; and**

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1 (B) that:

2 (i) includes adequate protections with respect to
3 confidentiality of the shared information; and

4 (ii) complies with applicable state and federal law.

5 Chapter 4. Health Benefit Exchange Navigators and Assisters

6 Sec. 1. (a) This chapter applies to a person that acts as a
7 navigator or an assister for a health benefit exchange in Indiana.
8 This chapter must be applied in conformity with PPACA.

9 (b) An individual who intends to act as a navigator or an assister
10 shall obtain certification under this chapter before acting as a
11 navigator or an assister.

12 (c) An entity that intends to act as a navigator or an assister
13 shall obtain registration under this chapter before acting as a
14 navigator or an assister.

15 (d) An individual or entity that is a navigator or an assister is
16 subject to regulation by the commissioner and the secretary.

17 Sec. 2. A navigator or an assister is not subject to the licensing
18 requirements of IC 27-1-15.6.

19 Sec. 3. (a) A navigator or an assister must meet all of the
20 following:

21 (1) Shall not provide incorrect, misleading, incomplete, or
22 materially untrue information in an application for
23 certification or registration.

24 (2) Shall not violate any of the following:

25 (A) An insurance law.

26 (B) A regulation.

27 (C) A subpoena of the commissioner.

28 (D) An order of the commissioner.

29 (E) A rule of a health benefit exchange operating in
30 Indiana.

31 (F) A rule adopted under IC 27-19-3-3(d).

32 (3) Shall not intentionally misrepresent the terms of an actual
33 or proposed insurance contract or application for insurance.

34 (4) Must not have had:

35 (A) an insurance producer or consultant license;

36 (B) a navigator or an assister certification or registration;
37 or

38 (C) an equivalent to a license, certification, or registration
39 described in clause (A) or (B);

40 denied, suspended, or revoked in any state, province, district,
41 or territory.

42 (5) If the navigator or assister is an individual, shall not fail to

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- 1 satisfy the continuing education requirements established
- 2 under section 12 of this chapter.
- 3 (6) Shall not obtain or attempt to obtain a license,
- 4 certification, or registration through misrepresentation or
- 5 fraud.
- 6 (7) Shall not fail to disclose a conflict of interest to the
- 7 commissioner:
- 8 (A) in an application under this chapter; or
- 9 (B) arising after application is made under this chapter.
- 10 (8) If the navigator or assister is an individual, must not have
- 11 been convicted of a felony or other crimes determined by the
- 12 commissioner or secretary.
- 13 (9) Must not have admitted to committing or have been found
- 14 to have committed an unfair trade practice or fraud in the
- 15 business of insurance.
- 16 (10) Shall not use fraudulent, coercive, or dishonest practices,
- 17 or demonstrate incompetence or untrustworthiness, in acting
- 18 as a navigator or an assister.
- 19 (11) Shall not improperly use notes or other reference
- 20 material to complete an examination for certification as a
- 21 navigator or an assister.
- 22 (12) If the navigator or assister is an individual, must not have
- 23 failed, and shall not fail, to comply with an administrative or
- 24 court order imposing a child support obligation.
- 25 (13) Must not have failed, and shall not fail, to pay state
- 26 income tax or comply with any administrative or court order
- 27 directing payment of state income tax.
- 28 (14) Shall not fail to timely inform the commissioner of a
- 29 change in legal name or address.
- 30 (15) If the navigator or assister is an entity, shall not fail to
- 31 verify that each navigator and assister who is an individual
- 32 working for the entity meets the following requirements:
- 33 (A) The navigator or assister is certified under this
- 34 chapter.
- 35 (B) The navigator or assister has not committed an act that
- 36 would be grounds for denial, suspension, or revocation of
- 37 certification under this chapter.
- 38 (b) The commissioner may:
- 39 (1) reprimand a navigator or an assister;
- 40 (2) levy a civil penalty against a navigator or an assister;
- 41 (3) place a navigator or an assister on probation;
- 42 (4) suspend a navigator's or an assister's certificate or

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- 1 registration;
- 2 (5) revoke a navigator's or an assister's certificate or
- 3 registration for a period of years;
- 4 (6) permanently revoke a navigator's or an assister's
- 5 certificate or registration;
- 6 (7) issue a cease and desist order to a navigator or an assister;
- 7 or
- 8 (8) take any combination of the actions described in
- 9 subdivisions (1) through (7);
- 10 for a violation described in subsection (a).

11 Sec. 4. The commissioner shall, in consultation with the
 12 secretary, do the following to implement this chapter:

- 13 (1) Develop a policy concerning conflicts of interest affecting
- 14 navigators and assisters, including conflicts of interest
- 15 involving financial and nonfinancial considerations.
- 16 (2) Develop a consumer complaint procedure and applicable
- 17 forms for filing a complaint.
- 18 (3) Define a reasonable period for the duration of navigator
- 19 or assister certification, after which the navigator or assister
- 20 must pay a renewal fee, complete continuing education, and
- 21 reapply for certification.

22 Sec. 5. (a) Before acting as a navigator or an assister in Indiana,
 23 an individual must:

- 24 (1) apply for certification as a navigator or an assister on a
- 25 form prescribed by the commissioner; and
- 26 (2) declare, under penalty of denial, suspension, or revocation
- 27 of the certification, that the statements made in the
- 28 application are true, correct, and complete to the best of the
- 29 individual's knowledge and belief.

30 (b) Before approving an application submitted under subsection
 31 (a), the commissioner shall determine whether the individual meets
 32 the following requirements:

- 33 (1) The individual is at least eighteen (18) years of age.
- 34 (2) The individual has not committed any act described in
- 35 section 3 of this chapter that would be grounds for denial,
- 36 suspension, or revocation of certification.
- 37 (3) The individual has completed a precertification course of
- 38 study prescribed by the commissioner.
- 39 (4) The individual has paid the nonrefundable fees established
- 40 under section 7 of this chapter.
- 41 (5) The individual has successfully passed the examination
- 42 required by section 11 of this chapter.

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1 **Sec. 6. (a) Before acting as a navigator or assister in Indiana, an**
2 **entity must be registered as a navigator or an assister as follows:**

3 **(1) The entity must apply for registration as a navigator or an**
4 **assister on a form prescribed by the commissioner.**

5 **(2) The entity's application for registration:**

6 **(A) must be signed by an individual who is an owner,**
7 **partner, officer, director, member, or manager of the**
8 **entity, under penalty of denial, suspension, or revocation**
9 **of registration; and**

10 **(B) must declare that the statements made in the**
11 **application are true, correct, and complete to the best of the**
12 **signing individual's knowledge and belief.**

13 **(b) Before approving an application submitted under subsection**
14 **(a), the commissioner shall:**

15 **(1) verify that the entity is in good standing with the Indiana**
16 **secretary of state; and**

17 **(2) determine whether the entity meets the following**
18 **requirements:**

19 **(A) The entity has paid the nonrefundable fees established**
20 **under section 7 of this chapter.**

21 **(B) The entity has designated a certified individual**
22 **navigator or assister to be responsible for the entity's**
23 **compliance with this chapter.**

24 **(C) The entity has not committed any act described in**
25 **section 3 of this chapter that would be grounds for denial,**
26 **suspension, or revocation of registration.**

27 **(D) No owner, partner, officer, director, member, or**
28 **manager of the entity has committed an act described in**
29 **clause (C).**

30 **Sec. 7. (a) The commissioner may require the production of any**
31 **document that is reasonably necessary to verify the information**
32 **contained in an application submitted under section 5 or 6 of this**
33 **chapter.**

34 **(b) The commissioner shall collect from each applicant for**
35 **certification or registration under this chapter a nonrefundable**
36 **application fee established by the commissioner in an amount**
37 **expected to generate revenue sufficient to cover the costs incurred**
38 **by the commissioner in implementing this chapter.**

39 **Sec. 8. (a) An individual navigator or assister who works for an**
40 **entity that is a navigator or an assister must be appointed by the**
41 **entity in writing.**

42 **(b) If an entity, because of a violation described in section 3 of**

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1 this chapter, revokes the appointment of an individual navigator
2 or assister described in subsection (a) who works for the entity, the
3 entity shall, not more than thirty (30) days after the revocation
4 occurs:

5 (1) submit a written report to the commissioner concerning
6 the revocation; and

7 (2) provide a copy of the report to the individual at the
8 individual's last known address by:

9 (A) certified mail, return receipt requested, postage
10 prepaid; or

11 (B) overnight delivery using a nationally recognized
12 carrier.

13 **Sec. 9.** A certified individual navigator or assister who is unable
14 to comply with the certification renewal procedures under this
15 chapter due to military service or another extenuating
16 circumstance may request from the commissioner:

17 (1) a temporary waiver of:

18 (A) the renewal procedure; or

19 (B) an examination requirement; or

20 (2) a waiver of a penalty or sanction that might otherwise be
21 imposed for failure to comply with the renewal procedures.

22 **Sec. 10.** (a) A navigator or an assister certification or
23 registration must contain the navigator's or assister's name and
24 address, the date of issuance, the expiration date, and any other
25 information the commissioner considers necessary.

26 (b) A navigator or an assister shall inform the commissioner of
27 a change of address or legal name:

28 (1) not more than thirty (30) days after the change occurs;
29 and

30 (2) by any means acceptable to the commissioner.

31 **Sec. 11.** (a) An individual who applies for certification as a
32 navigator or an assister in Indiana must complete a course of study
33 and pass a written examination as prescribed by the commissioner
34 in consultation with the secretary.

35 (b) The course of study required under subsection (a) must
36 provide instruction in:

37 (1) the functions of a health benefit exchange;

38 (2) the duties and responsibilities of a navigator or an assister;
39 and

40 (3) the insurance laws of Indiana that apply to the functions
41 of a navigator or an assister with respect to a health benefit
42 exchange, including rules related to public health insurance

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- 1 **programs.**
- 2 **(c) The examination required by subsection (a) must test the**
- 3 **knowledge of the individual concerning the applicable:**
- 4 **(1) functions of a health benefit exchange;**
- 5 **(2) duties and responsibilities of a navigator or assister; and**
- 6 **(3) insurance laws of Indiana that apply to the functions of a**
- 7 **navigator or an assister with respect to a health benefit**
- 8 **exchange, including rules related to public health insurance**
- 9 **programs.**
- 10 **(d) The commissioner:**
- 11 **(1) in consultation with the secretary, shall develop a**
- 12 **curriculum for a course of study for navigators and assisters;**
- 13 **and**
- 14 **(2) may contract with a third party organization to:**
- 15 **(A) develop examinations and course materials;**
- 16 **(B) administer examinations and courses of study; and**
- 17 **(C) collect nonrefundable course and examination fees;**
- 18 **for the course of study for navigators and assisters.**
- 19 **(e) All examinations, course materials, and examination fees**
- 20 **referred to in subsection (d)(2) must be approved in advance by the**
- 21 **commissioner in consultation with the secretary.**
- 22 **Sec. 12. (a) The commissioner:**
- 23 **(1) in consultation with the secretary, shall develop continuing**
- 24 **education requirements for navigators and assisters; and**
- 25 **(2) may contract with a third party organization to:**
- 26 **(A) develop continuing education materials to meet the**
- 27 **requirements developed under subdivision (1);**
- 28 **(B) administer continuing education programs; and**
- 29 **(C) collect nonrefundable continuing education program**
- 30 **fees.**
- 31 **(b) All continuing education materials, programs, and fees**
- 32 **referred to in subsection (a)(2) must be approved in advance by the**
- 33 **commissioner in consultation with the secretary.**
- 34 **(c) The commissioner may require a navigator or an assister to**
- 35 **complete specific continuing education requirements, as prescribed**
- 36 **by the commissioner in consultation with the secretary, as a**
- 37 **prerequisite to the authority to perform specific functions with**
- 38 **respect to a health benefit exchange.**
- 39 **Sec. 13. An individual who fails to:**
- 40 **(1) appear for a scheduled examination required under**
- 41 **section 11(a) of this chapter; or**
- 42 **(2) pass the examination;**

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1 may not be rescheduled for the examination unless the individual
2 reapplies for the examination and remits all required fees and
3 forms.

4 **Sec. 14. (a) An insurance producer or insurance consultant:**
5 (1) may not act as a navigator or an assister unless the
6 insurance producer or insurance consultant has completed the
7 continuing education requirements that apply to a navigator
8 or an assister; and
9 (2) shall receive a designation from the commissioner as a
10 navigator or an assister upon completion of the continuing
11 education requirements;
12 under this chapter.

13 (b) The commissioner may require an insurance producer or
14 insurance consultant to complete specific continuing education
15 requirements, as prescribed by the commissioner in consultation
16 with the secretary, as a prerequisite to the authority to perform
17 specific functions with respect to a health benefit exchange.

18 (c) An insurance producer or insurance consultant is not
19 required to complete continuing education hours of credit in excess
20 of the required number of hours of credit in continuing education
21 that apply to the insurance producer or insurance consultant under
22 IC 27-1-15.7.

23 SECTION 11. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1319, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 4. IC 27-1-15.7-2, AS AMENDED BY P.L.81-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) Except as provided in subsection (b), to renew a license issued under IC 27-1-15.6, a resident insurance producer must complete at least twenty-four (24) hours of credit in continuing education courses. An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses that are related to the business of insurance.

(b) Except as provided in subsection (c), to renew a license issued under IC 27-1-15.6, a limited lines producer with a title qualification under IC 27-1-15.6-7(a)(8) must complete at least seven (7) hours of credit in continuing education courses related to the business of title insurance with at least one (1) hour of instruction in a structured setting or comparable self-study in each of the following:

- (1) Ethical practices in the marketing and selling of title insurance.
- (2) Title insurance underwriting.
- (3) Escrow issues.
- (4) Principles of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2608).

An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 with a title qualification under IC 27-1-15.6-7(a)(8) may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses related to the business of title insurance or any aspect of real property law.

(c) The following insurance producers are not required to complete continuing education courses to renew a license under this chapter:

- (1) A limited lines producer who is licensed without examination under IC 27-1-15.6-18(1) or IC 27-1-15.6-18(2).
- (2) A limited line credit insurance producer.

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- (3) A nonresident limited lines producer with a title qualification:
- (A) whose home state requires continuing education for a title qualification; and
 - (B) who has met the continuing education requirements described in clause (A).
- (d) To satisfy the requirements of subsection (a) or (b), a licensee may use only those credit hours earned in continuing education courses completed by the licensee:
- (1) after the effective date of the licensee's last renewal of a license under this chapter; or
 - (2) if the licensee is renewing a license for the first time, after the date on which the licensee was issued the license under this chapter.
- (e) If an insurance producer receives qualification for a license in more than one (1) line of authority under IC 27-1-15.6, the insurance producer may not be required to complete a total of more than twenty-four (24) hours of credit in continuing education courses to renew the license.
- (f) Except as provided in subsection (g), a licensee may receive credit only for completing **the following** continuing education courses:
- (1) Continuing education courses** that have been approved by the commissioner under section 4 of this chapter.
 - (2) Continuing education courses that are required for the licensee under IC 27-19-4-14.**
- (g) A licensee who teaches a course approved by the commissioner under section 4 of this chapter shall receive continuing education credit for teaching the course.
- (h) When a licensee renews a license issued under this chapter, the licensee must submit:
- (1) a continuing education statement that:
 - (A) is in a format authorized by the commissioner;
 - (B) is signed by the licensee under oath; and
 - (C) lists the continuing education courses completed by the licensee to satisfy the continuing education requirements of this section; and
 - (2) any other information required by the commissioner.
- (i) A continuing education statement submitted under subsection (h) may be reviewed and audited by the department.
- (j) A licensee shall retain a copy of the original certificate of completion received by the licensee for completion of a continuing education course.
- (k) A licensee who completes a continuing education course that:

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(1) is approved by the commissioner under section 4 of this chapter;

(2) is held in a classroom setting; and

(3) concerns ethics;

shall receive continuing education credit not to exceed four (4) hours in a renewal period."

Page 16, delete lines 7 through 8.

Page 16, line 9, delete "(c)" and insert "**(b)**".

Page 16, line 14, delete "(d)" and insert "**(c)**".

Page 16, line 17, delete "(e)" and insert "**(d)**".

Page 16, line 24, delete "(f)" and insert "**(e)**".

Page 17, line 3, delete "(g)" and insert "**(f)**".

Page 17, line 4, delete "(f)" and insert "**(e)**".

Page 17, line 8, delete "(f)." and insert "**(e)**".

Page 17, line 9, delete "(h)" and insert "**(g)**".

Page 17, line 9, delete "(f)" and insert "**(e)**".

Page 17, line 11, delete "(i)" and insert "**(h)**".

Page 17, line 14, delete "(j)" and insert "**(i)**".

Page 17, line 16, delete "(g)." and insert "**(f)**".

Page 17, line 17, delete "(k)" and insert "**(j)**".

Page 17, line 20, delete "(l)" and insert "**(k)**".

Page 17, line 21, delete "(f)," and insert "**(e)**".

Page 17, line 23, delete "(g)." and insert "**(f)**".

Page 22, line 3, delete "Shall" and insert "**If the navigator or assister is an individual, shall**".

Page 22, line 12, delete "Must" and insert "**If the navigator or assister is an individual, must**".

Page 22, line 23, delete "Must" and insert "**If the navigator or assister is an individual, must**".

Page 27, between lines 18 and 19, begin a new paragraph and insert:

"(c) An insurance producer or insurance consultant is not required to complete continuing education hours of credit in excess of the required number of hours of credit in continuing education that apply to the insurance producer or insurance consultant under IC 27-1-15.7."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1319 as introduced.)

LEHMAN, Chair

Committee Vote: yeas 13, nays 0.

HB 1319—LS 7172/DI 97+



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