

SENATE BILL No. 551

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-15; IC 27-1-3; IC 27-4-1-4; IC 27-8; IC 27-19.

Synopsis: Federal health care reform. Defines populations that may be subject to Medicaid resource requirements. Eliminates resource requirements in determining Medicaid eligibility for specified populations. 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.

Miller Patricia

January 14, 2013, read first time and referred to Committee on Health and Provider Services.

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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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SENATE BILL No. 551



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

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

1 SECTION 1. IC 12-15-2-13, AS AMENDED BY P.L.218-2007,
2 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 13. (a) A pregnant woman:
4 (1) who is not described in 42 U.S.C. 1396a(a)(10)(A)(i); and
5 (2) whose family income does not exceed the income level
6 established in subsection (b);
7 is eligible to receive Medicaid.
8 (b) A pregnant woman described in this section is eligible to receive
9 Medicaid, subject to subsections (c) and (d) and 42 U.S.C. 1396a et
10 seq., if her family income does not exceed two hundred percent (200%)
11 of the federal income poverty level for the same size family.
12 (c) Medicaid made available to a pregnant woman described in this
13 section is limited to medical assistance for services related to
14 pregnancy, including prenatal, delivery, and postpartum services, and
15 to other conditions that may complicate pregnancy.
16 (d) Medicaid is available to a pregnant woman described in this
17 section for the duration of the pregnancy and for the sixty (60) day



1 postpartum period that begins on the last day of the pregnancy, without
 2 regard to any change in income of the family of which she is a member
 3 during that time.

4 (e) The office may apply a resource standard in determining the
 5 eligibility of a pregnant woman described in this section. **This**
 6 **subsection expires December 31, 2013.**

7 SECTION 2. IC 12-15-2-17, AS AMENDED BY P.L.196-2011,
 8 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2013]: Sec. 17. **(a) Beginning January 1, 2014, the office**
 10 **may apply this section only to the following Medicaid applicants or**
 11 **Medicaid recipients:**

12 **(1) An individual whose eligibility for Medicaid does not**
 13 **require a determination of income by the office.**

14 **(2) An individual who is at least sixty-five (65) years of age**
 15 **when age is a condition of eligibility.**

16 **(3) An individual whose eligibility is being determined on the**
 17 **basis of being blind or disabled, or on the basis of being**
 18 **treated as blind or disabled.**

19 **(4) An individual who requests coverage for long term care**
 20 **services and supports for the purpose of being evaluated for**
 21 **an eligibility group under which long term care services or**
 22 **supports are covered, including the following:**

23 **(A) Nursing facility services.**

24 **(B) Nursing facility level of care services provided in an**
 25 **institution.**

26 **(C) Home and community based services.**

27 **(D) Home health services.**

28 **(E) Personal care services.**

29 **(5) An individual applying for Medicare cost sharing**
 30 **assistance.**

31 **(a) (b) Except as provided in subsections ~~(b)~~ (c) and ~~(d)~~ (e), if an**
 32 **applicant for or a recipient of Medicaid:**

33 (1) establishes one (1) irrevocable trust that has a value of not
 34 more than ten thousand dollars (\$10,000), exclusive of interest,
 35 and is established for the sole purpose of providing money for the
 36 burial of the applicant or recipient;

37 (2) enters into an irrevocable prepaid funeral agreement having a
 38 value of not more than ten thousand dollars (\$10,000); or

39 (3) owns a life insurance policy with a face value of not more than
 40 ten thousand dollars (\$10,000) and with respect to which
 41 provision is made to pay not more than ten thousand dollars
 42 (\$10,000) toward the applicant's or recipient's funeral expenses;

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1 the value of the trust, prepaid funeral agreement, or life insurance
 2 policy may not be considered as a resource in determining the
 3 applicant's or recipient's eligibility for Medicaid.

4 ~~(b)~~ **(c)** Subject to subsection ~~(d)~~, **(e)**, if an applicant for or a
 5 recipient of Medicaid establishes an irrevocable trust or escrow under
 6 IC 30-2-13, the entire value of the trust or escrow may not be
 7 considered as a resource in determining the applicant's or recipient's
 8 eligibility for Medicaid.

9 ~~(e)~~ **(d)** Except as provided in IC 12-15-3-7, if an applicant for or a
 10 recipient of Medicaid owns resources described in subsection ~~(a)~~ **(b)**
 11 and the total value of those resources is more than ten thousand dollars
 12 (\$10,000), the value of those resources that is more than ten thousand
 13 dollars (\$10,000) may be considered as a resource in determining the
 14 applicant's or recipient's eligibility for Medicaid.

15 ~~(d)~~ **(e)** In order for a trust, an escrow, a life insurance policy, or a
 16 prepaid funeral agreement to be exempt as a resource in determining
 17 an applicant's or a recipient's eligibility for Medicaid under this section,
 18 the applicant or recipient must designate the office or the applicant's or
 19 recipient's estate to receive any remaining amounts after delivery of all
 20 services and merchandise under the contract as reimbursement for
 21 Medicaid assistance provided to the applicant or recipient after
 22 fifty-five (55) years of age. The office may receive funds under this
 23 subsection only to the extent permitted by 42 U.S.C. 1396p. The
 24 computation of remaining amounts shall be made as of the date of
 25 delivery of services and merchandise under the contract and must be
 26 the excess, if any, derived from:

- 27 (1) growth in principal;
- 28 (2) accumulation and reinvestment of dividends;
- 29 (3) accumulation and reinvestment of interest; and
- 30 (4) accumulation and reinvestment of distributions;

31 on the applicant's or recipient's trust, escrow, life insurance policy, or
 32 prepaid funeral agreement over and above the seller's current retail
 33 price of all services, merchandise, and cash advance items set forth in
 34 the applicant's or recipient's contract.

35 SECTION 3. IC 12-15-44.2-9, AS AMENDED BY P.L.160-2011,
 36 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2013]: Sec. 9. (a) An individual is eligible for participation in
 38 the plan if the individual meets the following requirements:

- 39 (1) The individual is at least eighteen (18) years of age and less
 40 than sixty-five (65) years of age.
- 41 (2) The individual is a United States citizen and has been a
 42 resident of Indiana for at least twelve (12) months.

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- 1 (3) The individual has an annual household income of not more
 2 than the following:
- 3 (A) Effective through December 31, 2013, two hundred
 4 percent (200%) of the federal income poverty level.
- 5 (B) Beginning January 1, 2014, one hundred thirty-three
 6 percent (133%) of the federal income poverty level, based on
 7 the adjusted gross income provisions set forth in Section
 8 2001(a)(1) of the federal Patient Protection and Affordable
 9 Care Act.
- 10 (4) Effective through December 31, 2013, the individual is not
 11 eligible for health insurance coverage through the individual's
 12 employer.
- 13 (5) Effective through December 31, 2013, the individual has:
- 14 (A) not had health insurance coverage for at least six (6)
 15 months; or
- 16 (B) **had coverage under the Indiana comprehensive health**
 17 **insurance association (IC 27-8-10) within the immediately**
 18 **preceding six (6) months and the coverage no longer**
 19 **applies under IC 27-8-10-0.5.**
- 20 (b) The following individuals are not eligible for the plan:
- 21 (1) An individual who participates in the federal Medicare
 22 program (42 U.S.C. 1395 et seq.).
- 23 (2) A pregnant woman for purposes of pregnancy related services.
- 24 (3) An individual who is otherwise eligible for medical assistance.
- 25 (c) The eligibility requirements specified in subsection (a) are
 26 subject to approval for federal financial participation by the United
 27 States Department of Health and Human Services.
- 28 SECTION 4. IC 12-15-46-1, AS ADDED BY P.L.6-2012,
 29 SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2013]: Sec. 1. (a) As used in this section, "family planning
 31 services" does not include the performance of abortions or the use of
 32 a drug or device intended to terminate fertilization.
- 33 (b) As used in this section, "fertilization" means the joining of a
 34 human egg cell with a human sperm cell.
- 35 (c) As used in this section, "state plan amendment" refers to an
 36 amendment to Indiana's Medicaid State Plan as authorized by Section
 37 1902(a)(10)(A)(ii)(XXI) of the federal Social Security Act (42 U.S.C.
 38 1315).
- 39 (d) Before January 1, ~~2012~~, **2014**, the office shall do the following:
- 40 (1) Apply to the United States Department of Health and Human
 41 Services for approval of a state plan amendment to ~~expand the~~
 42 ~~population eligible~~ for family planning services and supplies as

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1 permitted by Section 1902(a)(10)(A)(ii)(XXI) of the federal
 2 Social Security Act (42 U.S.C. 1315). In determining what
 3 population is eligible, ~~for this expansion~~, the state must
 4 incorporate the following:

5 (A) Inclusion of women and men.

6 (B) Setting income eligibility at one hundred thirty-three
 7 percent (133%) of the federal income poverty level.

8 (C) Adopting presumptive eligibility for services to this
 9 population.

10 (2) Consider the inclusion of additional:

11 (A) medical diagnosis; and

12 (B) treatment services;

13 that are provided for family planning services in a family planning
 14 setting for the population designated in subdivision (1) in the state
 15 plan amendment.

16 ~~(e) The office shall report concerning its proposed state plan
 17 amendment to the select joint commission on Medicaid oversight
 18 established by IC 2-5-26-3 during the commission's 2011 interim
 19 meetings. The select joint commission on Medicaid oversight shall
 20 review the proposed state plan amendment and may make an advisory
 21 recommendation to the office concerning the proposed state plan
 22 amendment.~~

23 ~~(f) (e) The office may adopt rules under IC 4-22-2 to implement this
 24 section.~~

25 ~~(g) This section expires January 1, 2016.~~

26 SECTION 5. IC 27-1-3-7 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. (a) The department
 28 may promulgate rules and regulations for any of the following
 29 enumerated purposes:

30 (1) For the conduct of the work of the department.

31 (2) Prescribing the methods and standards to be used in making
 32 the examinations and prescribing the forms of reports of the
 33 several insurance companies to which IC 27-1 is applicable.

34 (3) Defining what is a safe or an unsafe manner and a safe or an
 35 unsafe condition for conducting business by any insurance
 36 company to which IC 27-1 is applicable.

37 (4) For the establishment of safe and sound methods for the
 38 transaction of business by such insurance companies and for the
 39 purpose of safeguarding the interests of policyholders, creditors,
 40 and shareholders respecting the withdrawal or payment of funds
 41 by any life insurance company in times of emergency. Any rule or
 42 regulation promulgated under this subdivision may apply to one

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- 1 (1) or more insurance companies as the department may
 2 determine.
- 3 (5) For the administration and termination of the affairs of any
 4 such insurance company which is in involuntary liquidation or
 5 whose business and property have been taken possession of by the
 6 department for the purpose of rehabilitation, liquidation,
 7 conservation, or dissolution under IC 27-1.
- 8 (6) For the regulation of the solicitation or use of proxies, in
 9 general and as they concern consents or authorizations, in respect
 10 of securities issued by any domestic stock company for the
 11 purpose of protecting investors by prescribing the form of proxies,
 12 including such consents or authorizations, and by requiring
 13 adequate disclosure of information relevant to such proxies,
 14 including such consents or authorizations, and relevant to the
 15 business to be transacted at any meeting of shareholders with
 16 respect to which such proxies, including such consents or
 17 authorizations, may be used, which regulations may, in general,
 18 conform to those prescribed by the National Association of
 19 Insurance Commissioners.
- 20 **(7) For regulation related to a health benefit exchange**
 21 **established under the federal Patient Protection and**
 22 **Affordable Care Act (P.L. 111-148), as amended by the**
 23 **federal Health Care and Education Reconciliation Act of 2010**
 24 **(P.L. 111-152), and operating in Indiana.**
- 25 (b) The department may adopt a rule under IC 4-22-2 to provide
 26 reasonable simplification of the terms and coverage of individual and
 27 group Medicare supplement accident and sickness insurance policies
 28 and individual and group Medicare supplement subscriber contracts in
 29 order to facilitate public understanding and comparison and to
 30 eliminate provisions contained in those policies or contracts which may
 31 be misleading or confusing in connection either with the purchase of
 32 those coverages or with the settlement of claims and to provide for full
 33 disclosure in the sale of those coverages.
- 34 SECTION 6. IC 27-1-3-10.5 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10.5. (a) As used in this
 36 section, "confidential information" means information that has been
 37 designated as confidential by statute, rule, or regulation issued under
 38 a statute.
- 39 (b) The commissioner may not:
 40 (1) disclose; or
 41 (2) subject to subpoena;
 42 financial information regarding material transactions disclosed by an

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1 insurer under IC 27-2-18.

2 (c) The commissioner may not disclose any information, including
3 any document or report received from:

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

5 (2) an insurance department of another state;

6 if the information is designated as confidential information in the other
7 jurisdiction.

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

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

10 (2) an insurance department of another state;

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

14 **(e) The commissioner may share confidential information**
15 **related to a health benefit exchange established under the federal**
16 **Patient Protection and Affordable Care Act (P.L. 111-148), as**
17 **amended by the federal Health Care and Education Reconciliation**
18 **Act of 2010 (P.L. 111-152), with the health benefit exchange if the**
19 **health benefit exchange:**

20 (1) **agrees to maintain the same level of confidentiality that is**
21 **provided to the confidential information under Indiana law;**
22 **and**

23 (2) **complies with all applicable confidentiality requirements**
24 **under federal law.**

25 SECTION 7. IC 27-4-1-4, AS AMENDED BY P.L.67-2011,
26 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2013]: Sec. 4. (a) The following are hereby defined as unfair
28 methods of competition and unfair and deceptive acts and practices in
29 the business of insurance:

30 (1) Making, issuing, circulating, or causing to be made, issued, or
31 circulated, any estimate, illustration, circular, or statement:

32 (A) misrepresenting the terms of any policy issued or to be
33 issued or the benefits or advantages promised thereby or the
34 dividends or share of the surplus to be received thereon;

35 (B) making any false or misleading statement as to the
36 dividends or share of surplus previously paid on similar
37 policies;

38 (C) making any misleading representation or any
39 misrepresentation as to the financial condition of any insurer,
40 or as to the legal reserve system upon which any life insurer
41 operates;

42 (D) using any name or title of any policy or class of policies

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- 1 misrepresenting the true nature thereof; or
- 2 (E) making any misrepresentation to any policyholder insured
- 3 in any company for the purpose of inducing or tending to
- 4 induce such policyholder to lapse, forfeit, or surrender the
- 5 policyholder's insurance.
- 6 (2) Making, publishing, disseminating, circulating, or placing
- 7 before the public, or causing, directly or indirectly, to be made,
- 8 published, disseminated, circulated, or placed before the public,
- 9 in a newspaper, magazine, or other publication, or in the form of
- 10 a notice, circular, pamphlet, letter, or poster, or over any radio or
- 11 television station, or in any other way, an advertisement,
- 12 announcement, or statement containing any assertion,
- 13 representation, or statement with respect to any person in the
- 14 conduct of the person's insurance business, which is untrue,
- 15 deceptive, or misleading.
- 16 (3) Making, publishing, disseminating, or circulating, directly or
- 17 indirectly, or aiding, abetting, or encouraging the making,
- 18 publishing, disseminating, or circulating of any oral or written
- 19 statement or any pamphlet, circular, article, or literature which is
- 20 false, or maliciously critical of or derogatory to the financial
- 21 condition of an insurer, and which is calculated to injure any
- 22 person engaged in the business of insurance.
- 23 (4) Entering into any agreement to commit, or individually or by
- 24 a concerted action committing any act of boycott, coercion, or
- 25 intimidation resulting or tending to result in unreasonable
- 26 restraint of, or a monopoly in, the business of insurance.
- 27 (5) Filing with any supervisory or other public official, or making,
- 28 publishing, disseminating, circulating, or delivering to any person,
- 29 or placing before the public, or causing directly or indirectly, to
- 30 be made, published, disseminated, circulated, delivered to any
- 31 person, or placed before the public, any false statement of
- 32 financial condition of an insurer with intent to deceive. Making
- 33 any false entry in any book, report, or statement of any insurer
- 34 with intent to deceive any agent or examiner lawfully appointed
- 35 to examine into its condition or into any of its affairs, or any
- 36 public official to which such insurer is required by law to report,
- 37 or which has authority by law to examine into its condition or into
- 38 any of its affairs, or, with like intent, willfully omitting to make a
- 39 true entry of any material fact pertaining to the business of such
- 40 insurer in any book, report, or statement of such insurer.
- 41 (6) Issuing or delivering or permitting agents, officers, or
- 42 employees to issue or deliver, agency company stock or other

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1 capital stock, or benefit certificates or shares in any common law
 2 corporation, or securities or any special or advisory board
 3 contracts or other contracts of any kind promising returns and
 4 profits as an inducement to insurance.

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

6 (A) Unfair discrimination between individuals of the same
 7 class and equal expectation of life in the rates or assessments
 8 charged for any contract of life insurance or of life annuity or
 9 in the dividends or other benefits payable thereon, or in any
 10 other of the terms and conditions of such contract. However,
 11 in determining the class, consideration may be given to the
 12 nature of the risk, plan of insurance, the actual or expected
 13 expense of conducting the business, or any other relevant
 14 factor.

15 (B) Unfair discrimination between individuals of the same
 16 class involving essentially the same hazards in the amount of
 17 premium, policy fees, assessments, or rates charged or made
 18 for any policy or contract of accident or health insurance or in
 19 the benefits payable thereunder, or in any of the terms or
 20 conditions of such contract, or in any other manner whatever.
 21 However, in determining the class, consideration may be given
 22 to the nature of the risk, the plan of insurance, the actual or
 23 expected expense of conducting the business, or any other
 24 relevant factor.

25 (C) Excessive or inadequate charges for premiums, policy
 26 fees, assessments, or rates, or making or permitting any unfair
 27 discrimination between persons of the same class involving
 28 essentially the same hazards, in the amount of premiums,
 29 policy fees, assessments, or rates charged or made for:

30 (i) policies or contracts of reinsurance or joint reinsurance,
 31 or abstract and title insurance;

32 (ii) policies or contracts of insurance against loss or damage
 33 to aircraft, or against liability arising out of the ownership,
 34 maintenance, or use of any aircraft, or of vessels or craft,
 35 their cargoes, marine builders' risks, marine protection and
 36 indemnity, or other risks commonly insured under marine,
 37 as distinguished from inland marine, insurance; or

38 (iii) policies or contracts of any other kind or kinds of
 39 insurance whatsoever.

40 However, nothing contained in clause (C) shall be construed to
 41 apply to any of the kinds of insurance referred to in clauses (A)
 42 and (B) nor to reinsurance in relation to such kinds of insurance.

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1 Nothing in clause (A), (B), or (C) shall be construed as making or
2 permitting any excessive, inadequate, or unfairly discriminatory
3 charge or rate or any charge or rate determined by the department
4 or commissioner to meet the requirements of any other insurance
5 rate regulatory law of this state.

6 (8) Except as otherwise expressly provided by law, knowingly
7 permitting or offering to make or making any contract or policy
8 of insurance of any kind or kinds whatsoever, including but not in
9 limitation, life annuities, or agreement as to such contract or
10 policy other than as plainly expressed in such contract or policy
11 issued thereon, or paying or allowing, or giving or offering to pay,
12 allow, or give, directly or indirectly, as inducement to such
13 insurance, or annuity, any rebate of premiums payable on the
14 contract, or any special favor or advantage in the dividends,
15 savings, or other benefits thereon, or any valuable consideration
16 or inducement whatever not specified in the contract or policy; or
17 giving, or selling, or purchasing or offering to give, sell, or
18 purchase as inducement to such insurance or annuity or in
19 connection therewith, any stocks, bonds, or other securities of any
20 insurance company or other corporation, association, limited
21 liability company, or partnership, or any dividends, savings, or
22 profits accrued thereon, or anything of value whatsoever not
23 specified in the contract. Nothing in this subdivision and
24 subdivision (7) shall be construed as including within the
25 definition of discrimination or rebates any of the following
26 practices:

27 (A) Paying bonuses to policyholders or otherwise abating their
28 premiums in whole or in part out of surplus accumulated from
29 nonparticipating insurance, so long as any such bonuses or
30 abatement of premiums are fair and equitable to policyholders
31 and for the best interests of the company and its policyholders.

32 (B) In the case of life insurance policies issued on the
33 industrial debit plan, making allowance to policyholders who
34 have continuously for a specified period made premium
35 payments directly to an office of the insurer in an amount
36 which fairly represents the saving in collection expense.

37 (C) Readjustment of the rate of premium for a group insurance
38 policy based on the loss or expense experience thereunder, at
39 the end of the first year or of any subsequent year of insurance
40 thereunder, which may be made retroactive only for such
41 policy year.

42 (D) Paying by an insurer or insurance producer thereof duly

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1 licensed as such under the laws of this state of money,
 2 commission, or brokerage, or giving or allowing by an insurer
 3 or such licensed insurance producer thereof anything of value,
 4 for or on account of the solicitation or negotiation of policies
 5 or other contracts of any kind or kinds, to a broker, an
 6 insurance producer, or a solicitor duly licensed under the laws
 7 of this state, but such broker, insurance producer, or solicitor
 8 receiving such consideration shall not pay, give, or allow
 9 credit for such consideration as received in whole or in part,
 10 directly or indirectly, to the insured by way of rebate.

11 (9) Requiring, as a condition precedent to loaning money upon the
 12 security of a mortgage upon real property, that the owner of the
 13 property to whom the money is to be loaned negotiate any policy
 14 of insurance covering such real property through a particular
 15 insurance producer or broker or brokers. However, this
 16 subdivision shall not prevent the exercise by any lender of the
 17 lender's right to approve or disapprove of the insurance company
 18 selected by the borrower to underwrite the insurance.

19 (10) Entering into any contract, combination in the form of a trust
 20 or otherwise, or conspiracy in restraint of commerce in the
 21 business of insurance.

22 (11) Monopolizing or attempting to monopolize or combining or
 23 conspiring with any other person or persons to monopolize any
 24 part of commerce in the business of insurance. However,
 25 participation as a member, director, or officer in the activities of
 26 any nonprofit organization of insurance producers or other
 27 workers in the insurance business shall not be interpreted, in
 28 itself, to constitute a combination in restraint of trade or as
 29 combining to create a monopoly as provided in this subdivision
 30 and subdivision (10). The enumeration in this chapter of specific
 31 unfair methods of competition and unfair or deceptive acts and
 32 practices in the business of insurance is not exclusive or
 33 restrictive or intended to limit the powers of the commissioner or
 34 department or of any court of review under section 8 of this
 35 chapter.

36 (12) Requiring as a condition precedent to the sale of real or
 37 personal property under any contract of sale, conditional sales
 38 contract, or other similar instrument or upon the security of a
 39 chattel mortgage, that the buyer of such property negotiate any
 40 policy of insurance covering such property through a particular
 41 insurance company, insurance producer, or broker or brokers.
 42 However, this subdivision shall not prevent the exercise by any

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1 seller of such property or the one making a loan thereon of the
2 right to approve or disapprove of the insurance company selected
3 by the buyer to underwrite the insurance.

4 (13) Issuing, offering, or participating in a plan to issue or offer,
5 any policy or certificate of insurance of any kind or character as
6 an inducement to the purchase of any property, real, personal, or
7 mixed, or services of any kind, where a charge to the insured is
8 not made for and on account of such policy or certificate of
9 insurance. However, this subdivision shall not apply to any of the
10 following:

11 (A) Insurance issued to credit unions or members of credit
12 unions in connection with the purchase of shares in such credit
13 unions.

14 (B) Insurance employed as a means of guaranteeing the
15 performance of goods and designed to benefit the purchasers
16 or users of such goods.

17 (C) Title insurance.

18 (D) Insurance written in connection with an indebtedness and
19 intended as a means of repaying such indebtedness in the
20 event of the death or disability of the insured.

21 (E) Insurance provided by or through motorists service clubs
22 or associations.

23 (F) Insurance that is provided to the purchaser or holder of an
24 air transportation ticket and that:

25 (i) insures against death or nonfatal injury that occurs during
26 the flight to which the ticket relates;

27 (ii) insures against personal injury or property damage that
28 occurs during travel to or from the airport in a common
29 carrier immediately before or after the flight;

30 (iii) insures against baggage loss during the flight to which
31 the ticket relates; or

32 (iv) insures against a flight cancellation to which the ticket
33 relates.

34 (14) Refusing, because of the for-profit status of a hospital or
35 medical facility, to make payments otherwise required to be made
36 under a contract or policy of insurance for charges incurred by an
37 insured in such a for-profit hospital or other for-profit medical
38 facility licensed by the state department of health.

39 (15) Refusing to insure an individual, refusing to continue to issue
40 insurance to an individual, limiting the amount, extent, or kind of
41 coverage available to an individual, or charging an individual a
42 different rate for the same coverage, solely because of that

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- 1 individual's blindness or partial blindness, except where the
 2 refusal, limitation, or rate differential is based on sound actuarial
 3 principles or is related to actual or reasonably anticipated
 4 experience.
- 5 (16) Committing or performing, with such frequency as to
 6 indicate a general practice, unfair claim settlement practices (as
 7 defined in section 4.5 of this chapter).
- 8 (17) Between policy renewal dates, unilaterally canceling an
 9 individual's coverage under an individual or group health
 10 insurance policy solely because of the individual's medical or
 11 physical condition.
- 12 (18) Using a policy form or rider that would permit a cancellation
 13 of coverage as described in subdivision (17).
- 14 (19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1
 15 concerning motor vehicle insurance rates.
- 16 (20) Violating IC 27-8-21-2 concerning advertisements referring
 17 to interest rate guarantees.
- 18 (21) Violating IC 27-8-24.3 concerning insurance and health plan
 19 coverage for victims of abuse.
- 20 (22) Violating IC 27-8-26 concerning genetic screening or testing.
- 21 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
 22 insurance producers.
- 23 (24) Violating IC 27-1-38 concerning depository institutions.
- 24 (25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning
 25 the resolution of an appealed grievance decision.
- 26 (26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) (expired
 27 July 1, 2007, and removed) or IC 27-8-5-19.2 (expired July 1,
 28 2007, and repealed).
- 29 (27) Violating IC 27-2-21 concerning use of credit information.
- 30 (28) Violating IC 27-4-9-3 concerning recommendations to
 31 consumers.
- 32 (29) Engaging in dishonest or predatory insurance practices in
 33 marketing or sales of insurance to members of the United States
 34 Armed Forces as:
- 35 (A) described in the federal Military Personnel Financial
 36 Services Protection Act, P.L.109-290; or
- 37 (B) defined in rules adopted under subsection (b).
- 38 (30) Violating IC 27-8-19.8-20.1 concerning stranger originated
 39 life insurance.
- 40 (31) Violating IC 27-2-22 concerning retained asset accounts.
- 41 **(32) Violating IC 27-8-5-29 concerning health plans offered**
 42 **through a health benefit exchange (as defined in**

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**IC 27-19-2-8).
(33) Violating a requirement of 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), that is enforceable by the state.**

(b) Except with respect to federal insurance programs under Subchapter III of Chapter 19 of Title 38 of the United States Code, the commissioner may, consistent with the federal Military Personnel Financial Services Protection Act (P.L.109-290), adopt rules under IC 4-22-2 to:

- (1) define; and
- (2) while the members are on a United States military installation or elsewhere in Indiana, protect members of the United States Armed Forces from;

dishonest or predatory insurance practices.

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

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

(c) This chapter shall be applied in conformity with the requirements of 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), as in effect on September 23, 2010.

(d) A policy of accident and sickness insurance that is issued or

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1 delivered through a health benefit exchange established under the
 2 federal Patient Protection and Affordable Care Act (P.L. 111-148),
 3 as amended by the federal Health Care and Education
 4 Reconciliation Act of 2010 (P.L. 111-152), is subject to the
 5 requirements of this chapter. The commissioner may adopt rules
 6 under IC 4-22-2 to implement this subsection, including rules
 7 concerning:

8 (1) certification or decertification of a qualified health plan
 9 (as defined in IC 27-19-2-15); and

10 (2) open enrollment.

11 SECTION 9. IC 27-8-5-1.5, AS AMENDED BY P.L.111-2008,
 12 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2013]: Sec. 1.5. (a) This section applies to a policy of accident
 14 and sickness insurance issued on an individual, a group, a franchise, or
 15 a blanket basis, including a policy issued by an assessment company or
 16 a fraternal benefit society.

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

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

21 (1) that fails to provide key information, including state specific
 22 information, regarding a product, policy, or rate; or

23 (2) that demonstrates an insufficient understanding of applicable
 24 legal requirements.

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

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

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

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

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

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1 requirements set forth as described in subdivision (1) and must be
 2 resubmitted not more than thirty (30) days after the filer receives
 3 the commissioner's written notice of deficiency or disapproval. If
 4 a policy form is not resubmitted within thirty (30) days after
 5 receipt of the written notice, the commissioner's determination
 6 regarding the policy form is final.

7 (4) The commissioner shall review a policy form filing
 8 resubmitted under subdivision (3) and, not more than thirty (30)
 9 days after the commissioner receives the resubmission:

10 (A) approve the resubmitted policy form; or

11 (B) provide written notice that the commissioner disapproves
 12 the resubmitted policy form.

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

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

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

40 (j) Except as provided in this subsection, the commissioner may not
 41 disapprove a policy form resubmitted under subsection (i)(3) or (i)(4)
 42 for a reason other than a reason specified in the original notice of

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1 determination under subsection (i)(2)(B). The commissioner may
 2 disapprove a resubmitted policy form for a reason other than a reason
 3 specified in the original notice of determination under subsection (i)(2)
 4 if:

- 5 (1) the filer has introduced a new provision in the resubmission;
- 6 (2) the filer has materially modified a substantive provision of the
 7 policy form in the resubmission;
- 8 (3) there has been a change in requirements applying to the policy
 9 form; or
- 10 (4) there has been reviewer error and the written disapproval fails to
 11 state a specific requirement with which the policy form does
 12 not comply.

13 (k) The commissioner may return a grossly inadequate filing to the
 14 filer without triggering a deadline set forth in this section.

15 (l) The commissioner may disapprove a policy form if:

- 16 (1) the benefits provided under the policy form are not reasonable
 17 in relation to the premium charged; or
- 18 (2) the policy form contains provisions that are unjust, unfair,
 19 inequitable, misleading, or deceptive, or that encourage
 20 misrepresentation of the policy.

21 (m) Upon disapproval of a filing under this section, the
 22 commissioner shall provide written notice to the filer or insurer of the
 23 right to a hearing within twenty (20) days of a request for a hearing.

24 (n) Unless a policy form approved under this chapter contains a
 25 material error or omission, the commissioner may not:

- 26 (1) retroactively disapprove the policy form; or
- 27 (2) examine the filer of the policy form during a routine or
 28 targeted market conduct examination for compliance with a policy
 29 form filing requirement that was not in existence at the time the
 30 policy form was filed.

31 SECTION 10. IC 27-8-5-29 IS ADDED TO THE INDIANA CODE
 32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 33 1, 2013]: **Sec. 29. (a) The definitions in IC 27-19-2 apply throughout
 34 this section.**

35 **(b) A health plan may not be offered to any person in Indiana
 36 through a health benefit exchange unless:**

- 37 **(1) the form of the policy, classification of risks, and premium
 38 rates that apply to the health plan have been filed with and
 39 reviewed and approved by the commissioner under this
 40 chapter; and**
- 41 **(2) the insurer is authorized under this title to engage in the
 42 business of insurance in Indiana.**

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1 (c) An insurer that offers a multistate health plan under Section
2 1334 of PPACA through a health benefit exchange shall file, for
3 review and approval, the form of the policy, classification of risks,
4 and premium rates that apply to the multistate health plan with the
5 commissioner and the federal government on the same business
6 day.

7 SECTION 11. IC 27-8-10-0.5 IS ADDED TO THE INDIANA
8 CODE AS A NEW SECTION TO READ AS FOLLOWS
9 [EFFECTIVE UPON PASSAGE]: Sec. 0.5. (a) Except as provided in
10 this section, the insurance operations of the association cease on the
11 later of:

12 (1) the date on which a health benefit exchange (as defined in
13 IC 27-19-2-8) begins operating in Indiana; or

14 (2) December 31, 2013.

15 (b) Coverage under an association policy does not apply to a
16 service provided after November 30, 2013.

17 (c) A claim for payment under an association policy must be
18 made to the association not later than the later of:

19 (1) sixty (60) days after the date on which the insurance
20 operations cease under subsection (a); or

21 (2) March 1, 2014.

22 (d) An appeal or grievance under this chapter must be resolved
23 not later than ninety (90) days after the date on which the
24 insurance operations cease under subsection (a).

25 (e) Balance billing under this chapter by a health care provider
26 that is not a member of a health care provider network
27 arrangement used by the association is prohibited after the later
28 of:

29 (1) ninety (90) days after the date on which the insurance
30 operations cease under subsection (a); or

31 (2) March 30, 2014.

32 (f) The association shall, not later than June 30, 2013, submit to
33 the commissioner a plan of dissolution for the association. The
34 following apply to a plan of dissolution submitted under this
35 subsection:

36 (1) The plan of dissolution must provide for the following:

37 (A) Continuity of care for an individual who is covered
38 under an association policy and is an inpatient on the date
39 on which the insurance operations cease under subsection
40 (a).

41 (B) A final accounting described in section 2.1(g) of this
42 chapter of the:

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1 (i) assessments; and
 2 (ii) cessation of the liability;
 3 of members of the association.
 4 (C) Resolution of any net asset deficiency.
 5 (D) Cessation of all liability of the association.
 6 (E) Final dissolution of the association.
 7 (2) The plan of dissolution may provide that, with the
 8 approval of the board and the commissioner, a power or duty
 9 of the association may be delegated to a person that is to
 10 perform functions similar to the functions of the association.
 11 (g) The commissioner shall, after notice and hearing, approve
 12 a plan of dissolution submitted under subsection (f) if the
 13 commissioner determines that the plan:
 14 (1) is suitable to assure the fair, reasonable, and equitable
 15 dissolution of the association; and
 16 (2) complies with subsection (f).
 17 (h) A plan of dissolution submitted under subsection (f) is
 18 effective upon the written approval of the commissioner.
 19 (i) An action by or against the association must be filed not more
 20 than one (1) year after the date on which the insurance operations
 21 cease under subsection (a).
 22 (j) This chapter expires on the date on which final dissolution of
 23 the association occurs under the plan of dissolution approved by
 24 the commissioner under subsection (g).
 25 (k) Funds remaining in the association on the date on which
 26 final dissolution of the association occurs must be transferred into
 27 the state general fund.
 28 (l) The association, or the person to which the association
 29 delegates powers under subsection (f), may implement this section
 30 in accordance with the plan of dissolution approved by the
 31 commissioner under subsection (g).
 32 SECTION 12. IC 27-19 IS ADDED TO THE INDIANA CODE AS
 33 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 34 2013]:
 35 **ARTICLE 19. HEALTH BENEFIT EXCHANGE**
 36 **Chapter 1. General Provisions**
 37 **Sec. 1. Except as otherwise provided in this title, a reference to**
 38 **a federal law in this article is a reference to the federal law as in**
 39 **effect on January 1, 2012.**
 40 **Sec. 2. This article applies to a state agency with respect to the**
 41 **state agency's interactions with a health benefit exchange operated**
 42 **in Indiana.**

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1 **Sec. 3. This article expires immediately upon the occurrence of**
 2 **any of the following events:**

- 3 **(1) The complete repeal of PPACA.**
 4 **(2) The repeal of the PPACA requirement that one (1) or**
 5 **more health benefit exchanges be established in each state.**
 6 **(3) Any other congressional action, or federal court decision,**
 7 **rendering the establishment of a health benefit exchange**
 8 **unnecessary.**
 9 **(4) The issuance of an executive order by the governor**
 10 **specifying that the establishment of a health benefit exchange**
 11 **in Indiana is unnecessary or inappropriate.**

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

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

34 **Chapter 2. Definitions**

35 **Sec. 1. The definitions in this chapter apply throughout this**
 36 **article.**

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

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

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

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1 health benefit exchange as established by the commissioner.

2 (b) The term does not include the following:

3 (1) A Medicaid authorized representative.

4 (2) A person that only provides assistance to consumers
5 regarding public assistance that is unrelated to an application
6 for participation in:

7 (A) Medicaid; or

8 (B) a health benefit exchange.

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

11 Sec. 5. "Commissioner" refers to the insurance commissioner
12 appointed under IC 27-1-1-2.

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

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

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

20 Sec. 9. "Health insurance coverage" has the meaning set forth
21 in Section 2791 of the federal Public Health Service Act (42 U.S.C.
22 300gg-91).

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

25 (b) The term includes a group health plan.

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

27 (1) meets the grant funding requirements of Section 1311(i) of
28 PPACA (42 U.S.C. 18031(i)); and

29 (2) performs the functions of a navigator with respect to a
30 health benefit exchange as established by the commissioner.

31 (b) The term does not include the following:

32 (1) A Medicaid authorized representative.

33 (2) A person that only provides assistance to consumers
34 regarding public assistance that is unrelated to an application
35 for participation in:

36 (A) Medicaid; or

37 (B) a health benefit exchange.

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

39 Sec. 13. "PPACA" refers to the federal Patient Protection and
40 Affordable Care Act (P.L. 111-148), as amended by the federal
41 Health Care and Education Reconciliation Act of 2010 (P.L.
42 111-152).

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

3 **(b) The term includes the following:**

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

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

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

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

15 **Sec. 1. This chapter applies to a health benefit exchange**
16 **operating in Indiana.**

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

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

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

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

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

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

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

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

- 41 **(1) Enter into a contract, agreement, or memorandum of**
42 **understanding with the following:**

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- 1 (A) A health benefit exchange.
- 2 (B) An entity that contracts with, or is a subcontractor of,
- 3 a health benefit exchange.
- 4 (C) A federal or state agency.
- 5 (D) A health benefit exchange operating in another state.
- 6 (E) An agency of another state.
- 7 (F) A health plan.
- 8 (2) Enter with a person described in subdivision (1) into an
- 9 information sharing agreement:
- 10 (A) that concerns the disclosure and receiving of data
- 11 necessary to implement this section or PPACA; and
- 12 (B) that:
- 13 (i) includes adequate protections with respect to
- 14 confidentiality of the shared information; and
- 15 (ii) complies with applicable state and federal law.
- 16 **Chapter 4. Health Benefit Exchange Navigators and Assistors**
- 17 **Sec. 1. (a) This chapter applies to a person that acts as a**
- 18 **navigator or an assister for a health benefit exchange in Indiana.**
- 19 **This chapter must be applied in conformity with PPACA.**
- 20 (b) An individual who intends to act as a navigator or an assister
- 21 shall obtain certification under this chapter before acting as a
- 22 navigator or an assister.
- 23 (c) An entity that intends to act as a navigator or an assister
- 24 shall obtain registration under this chapter before acting as a
- 25 navigator or an assister.
- 26 (d) An individual or entity that is a navigator or an assister is
- 27 subject to regulation by the commissioner and the secretary.
- 28 **Sec. 2. A navigator or an assister is not subject to the licensing**
- 29 **requirements of IC 27-1-15.6.**
- 30 **Sec. 3. (a) A navigator or an assister must meet all of the**
- 31 **following:**
- 32 (1) Shall not provide incorrect, misleading, incomplete, or
- 33 materially untrue information in an application for
- 34 certification or registration.
- 35 (2) Shall not violate any of the following:
- 36 (A) An insurance law.
- 37 (B) A regulation.
- 38 (C) A subpoena of the commissioner.
- 39 (D) An order of the commissioner.
- 40 (E) A rule of a health benefit exchange operating in
- 41 Indiana.
- 42 (F) A rule adopted under IC 27-19-3-3(d).

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- 1 **(3) Shall not intentionally misrepresent the terms of an actual**
- 2 **or proposed insurance contract or application for insurance.**
- 3 **(4) Must not have had:**
- 4 **(A) an insurance producer or consultant license;**
- 5 **(B) a navigator or an assister certification or registration;**
- 6 **or**
- 7 **(C) an equivalent to a license, certification, or registration**
- 8 **described in clause (A) or (B);**
- 9 **denied, suspended, or revoked in any state, province, district,**
- 10 **or territory.**
- 11 **(5) Shall not fail to satisfy the continuing education**
- 12 **requirements established under section 12 of this chapter.**
- 13 **(6) Shall not obtain or attempt to obtain a license,**
- 14 **certification, or registration through misrepresentation or**
- 15 **fraud.**
- 16 **(7) Shall not fail to disclose a conflict of interest to the**
- 17 **commissioner:**
- 18 **(A) in an application under this chapter; or**
- 19 **(B) arising after application is made under this chapter.**
- 20 **(8) Must not have been convicted of a felony or other crimes**
- 21 **determined by the commissioner or secretary.**
- 22 **(9) Must not have admitted to committing or have been found**
- 23 **to have committed an unfair trade practice or fraud in the**
- 24 **business of insurance.**
- 25 **(10) Shall not use fraudulent, coercive, or dishonest practices,**
- 26 **or demonstrate incompetence or untrustworthiness, in acting**
- 27 **as a navigator or an assister.**
- 28 **(11) Shall not improperly use notes or other reference**
- 29 **material to complete an examination for certification as a**
- 30 **navigator or an assister.**
- 31 **(12) Must not have failed, and shall not fail, to comply with an**
- 32 **administrative or court order imposing a child support**
- 33 **obligation.**
- 34 **(13) Must not have failed, and shall not fail, to pay state**
- 35 **income tax or comply with any administrative or court order**
- 36 **directing payment of state income tax.**
- 37 **(14) Shall not fail to timely inform the commissioner of a**
- 38 **change in legal name or address.**
- 39 **(15) If the navigator or assister is an entity, shall not fail to**
- 40 **verify that each navigator and assister who is an individual**
- 41 **working for the entity meets the following requirements:**
- 42 **(A) The navigator or assister is certified under this**

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- 1 chapter.
- 2 (B) The navigator or assister has not committed an act that
- 3 would be grounds for denial, suspension, or revocation of
- 4 certification under this chapter.
- 5 (b) The commissioner may:
- 6 (1) reprimand a navigator or an assister;
- 7 (2) levy a civil penalty against a navigator or an assister;
- 8 (3) place a navigator or an assister on probation;
- 9 (4) suspend a navigator's or an assister's certificate or
- 10 registration;
- 11 (5) revoke a navigator's or an assister's certificate or
- 12 registration for a period of years;
- 13 (6) permanently revoke a navigator's or an assister's
- 14 certificate or registration;
- 15 (7) issue a cease and desist order to a navigator or an assister;
- 16 or
- 17 (8) take any combination of the actions described in
- 18 subdivisions (1) through (7);
- 19 for a violation described in subsection (a).
- 20 Sec. 4. The commissioner shall, in consultation with the
- 21 secretary, do the following to implement this chapter:
- 22 (1) Develop a policy concerning conflicts of interest affecting
- 23 navigators and assisters, including conflicts of interest
- 24 involving financial and nonfinancial considerations.
- 25 (2) Develop a consumer complaint procedure and applicable
- 26 forms for filing a complaint.
- 27 (3) Define a reasonable period for the duration of navigator
- 28 or assister certification, after which the navigator or assister
- 29 must pay a renewal fee, complete continuing education, and
- 30 reapply for certification.
- 31 Sec. 5. (a) Before acting as a navigator or an assister in Indiana,
- 32 an individual must:
- 33 (1) apply for certification as a navigator or an assister on a
- 34 form prescribed by the commissioner; and
- 35 (2) declare, under penalty of denial, suspension, or revocation
- 36 of the certification, that the statements made in the
- 37 application are true, correct, and complete to the best of the
- 38 individual's knowledge and belief.
- 39 (b) Before approving an application submitted under subsection
- 40 (a), the commissioner shall determine whether the individual meets
- 41 the following requirements:
- 42 (1) The individual is at least eighteen (18) years of age.

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1 (2) The individual has not committed any act described in
 2 section 3 of this chapter that would be grounds for denial,
 3 suspension, or revocation of certification.

4 (3) The individual has completed a precertification course of
 5 study prescribed by the commissioner.

6 (4) The individual has paid the nonrefundable fees established
 7 under section 7 of this chapter.

8 (5) The individual has successfully passed the examination
 9 required by section 11 of this chapter.

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

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

14 (2) The entity's application for registration:

15 (A) must be signed by an individual who is an owner,
 16 partner, officer, director, member, or manager of the
 17 entity, under penalty of denial, suspension, or revocation
 18 of registration; and

19 (B) must declare that the statements made in the
 20 application are true, correct, and complete to the best of
 21 the signing individual's knowledge and belief.

22 (b) Before approving an application submitted under subsection
 23 (a), the commissioner shall:

24 (1) verify that the entity is in good standing with the Indiana
 25 secretary of state; and

26 (2) determine whether the entity meets the following
 27 requirements:

28 (A) The entity has paid the nonrefundable fees established
 29 under section 7 of this chapter.

30 (B) The entity has designated a certified individual
 31 navigator or assister to be responsible for the entity's
 32 compliance with this chapter.

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

36 (D) No owner, partner, officer, director, member, or
 37 manager of the entity has committed an act described in
 38 clause (C).

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

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1 (b) The commissioner shall collect from each applicant for
 2 certification or registration under this chapter a nonrefundable
 3 application fee established by the commissioner in an amount
 4 expected to generate revenue sufficient to cover the costs incurred
 5 by the commissioner in implementing this chapter.

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

9 (b) If an entity, because of a violation described in section 3 of
 10 this chapter, revokes the appointment of an individual navigator
 11 or assister described in subsection (a) who works for the entity, the
 12 entity shall, not more than thirty (30) days after the revocation
 13 occurs:

14 (1) submit a written report to the commissioner concerning
 15 the revocation; and

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

18 (A) certified mail, return receipt requested, postage
 19 prepaid; or

20 (B) overnight delivery using a nationally recognized
 21 carrier.

22 Sec. 9. A certified individual navigator or assister who is unable
 23 to comply with the certification renewal procedures under this
 24 chapter due to military service or another extenuating
 25 circumstance may request from the commissioner:

26 (1) a temporary waiver of:

27 (A) the renewal procedure; or

28 (B) an examination requirement; or

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

31 Sec. 10. (a) A navigator or an assister certification or
 32 registration must contain the navigator's or assister's name and
 33 address, the date of issuance, the expiration date, and any other
 34 information the commissioner considers necessary.

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

37 (1) not more than thirty (30) days after the change occurs;
 38 and

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

40 Sec. 11. (a) An individual who applies for certification as a
 41 navigator or an assister in Indiana must complete a course of study
 42 and pass a written examination as prescribed by the commissioner

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

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1 (c) The commissioner may require a navigator or an assister to
2 complete specific continuing education requirements, as prescribed
3 by the commissioner in consultation with the secretary, as a
4 prerequisite to the authority to perform specific functions with
5 respect to a health benefit exchange.

6 Sec. 13. An individual who fails to:

7 (1) appear for a scheduled examination required under
8 section 11(a) of this chapter; or

9 (2) pass the examination;

10 may not be rescheduled for the examination unless the individual
11 reapplies for the examination and remits all required fees and
12 forms.

13 Sec. 14. (a) An insurance producer or insurance consultant:

14 (1) may not act as a navigator or an assister unless the
15 insurance producer or insurance consultant has completed the
16 continuing education requirements that apply to a navigator
17 or an assister; and

18 (2) shall receive a designation from the commissioner as a
19 navigator or an assister upon completion of the continuing
20 education requirements;

21 under this chapter.

22 (b) The commissioner may require an insurance producer or
23 insurance consultant to complete specific continuing education
24 requirements, as prescribed by the commissioner in consultation
25 with the secretary, as a prerequisite to the authority to perform
26 specific functions with respect to a health benefit exchange.

27 SECTION 13. An emergency is declared for this act.

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