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SENATE BILL NO. 1261

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on February 4, 2013)

(Patron Prior to Substitute—Senator Puckett)

A BILL to amend the Code of Virginia by adding in Chapter 34 of Title 38.2 an article numbered 7, consisting of sections numbered 38.2-3447 and 38.2-3448, relating to accident and sickness insurance; health benefit exchange navigators.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 34 of Title 38.2 an article numbered 7, consisting of sections numbered 38.2-3447 and 38.2-3448, as follows:

Article 7.
Navigators.

§ 38.2-3447. Definitions.

As used in this article, unless the context requires otherwise:

"Exchange" means a health benefit exchange established or operated in the Commonwealth, including a health benefit exchange established or operated by the U.S. Secretary of Health and Human Services, pursuant to § 1311(b) of the Patient Protection and Affordable Care Act, P.L. 111-148, as amended.

"Qualified dental plan" means a limited scope dental plan that has in effect a certification that the plan meets the as criteria for certification described in § 1311(d)(2)(B)(ii) of the Patient Protection and Affordable Care Act, P.L. 111-148, as amended.

"Qualified health plan" means a health benefit plan that has in effect a certification that the plan meets the criteria for certification described in § 1311(c) of the Patient Protection and Affordable Care Act, P.L. 111-148, as amended.

"Navigator" means an individual or entity described in 42 U.S.C. § 1311(i)(2) that is selected to perform the activities and duties identified in 42 U.S.C. § 18031(i) in the Commonwealth. "Navigator" does not include an individual or entity licensed as an agent under Chapter 18 (§ 38.2-1800 et seq.) of this title to sell, solicit, or negotiate contracts of insurance or annuity in the Commonwealth.

"Other affordable care options" means the programs provided under the state plan for medical assistance services pursuant to Title XIX of the Social Security Act, as amended, and the Family Access to Medical Insurance Security (FAMIS) Plan developed pursuant to Title XXI of the Social Security Act, as amended.

"Secretary" means the Secretary of the U.S. Department of Health and Human Services.

§ 38.2-3448. Prohibited activities.

A. A navigator shall not:

1. Engage in any activity that would require an insurance agent license under this title;
2. Offer advice about which qualified health plan or qualified dental plan is better or worse for a particular individual or employer;

3. Act as an intermediary between an employer and an insurer that offers a qualified health plan or qualified dental plan offered through an exchange; or

4. Violate any unfair trade practice and privacy requirements in §§ 38.2-502, 38.2-503, 38.2-506, 38.2-509, 38.2-512, 38.2-515, 38.2-612.1, 38.2-613, and 38.2-614 to the extent such requirements are applicable to the activities of navigators.

B. An individual or entity shall not claim to be, or otherwise hold himself or itself out as, a navigator or conduct business as a navigator in the Commonwealth without having been selected as a navigator in accordance with applicable federal law and without having evidence of successful completion of all navigator requirements prescribed by the Secretary.

C. If an individual or entity has engaged in the Commonwealth in one or more of the prohibited activities identified in this section, a complaint may be filed with the Commission. The Commission, upon investigation and verification of the prohibited activity or activities, may order such individual or entity to cease and desist such prohibited conduct.

2. That the State Corporation Commission, through its review of complaints concerning activities of navigators pursuant to subsection C of § 38.2-3448, shall monitor the activities of navigators in the Commonwealth to determine whether and to what extent navigators operating in the Commonwealth have engaged in prohibited practices. The Commission shall report its findings to the Governor and the chairs of the Senate and House Commerce and Labor Committees annually on November 15, 2014, and November 15, 2015.