

SENATE BILL NO. 350

INTRODUCED BY C. SMITH

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A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING OR REQUIRING ACTION BY THE COMMISSIONER OF INSURANCE WHEN AN INSURANCE NAVIGATOR OR AN APPLICANT TO BECOME AN INSURANCE NAVIGATOR COMMITS CERTAIN ACTS; EXPANDING ACTIONS THAT AN INSURANCE NAVIGATOR MAY NOT ENGAGE IN; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 33-17-220 AND 33-17-241, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-17-220, MCA, is amended to read:

"33-17-220. Licensing background examination -- ~~entity registry criteria~~ action by commissioner.

(1) (a) Each applicant for a producer's license or navigator certification shall obtain a complete background examination. The applicant or insurer shall pay the cost of the background examination. The background examination report must provide information to confirm:

(i) the applicant's:

- (A) identity;
- (B) current address;
- (C) professional license certification; and
- (D) military service; and

(ii) (A) existing or ongoing criminal investigations and court records relating to the applicant; and
(B) regulatory agencies' disciplinary actions concerning the applicant.

(b) The background examination is confidential and may not be held as part of the licensee's or navigator's public file.

(c) (i) The commissioner may, when initially making a decision regarding an applicant's navigator certification, consider the findings obtained from the background examination, including an existing or ongoing criminal investigation or any disciplinary action taken by a regulatory agency against the applicant that relates to the applicant's suitability for navigator certification.

(ii) The commissioner may not issue navigator certification to an applicant if the background examination



1 discloses an act by the applicant that, under 33-17-1001, would allow the commissioner to suspend, revoke,
 2 refuse to renew, or refuse to issue an insurance producer's license.

3 (iii) If the commissioner initially approves an applicant's navigator certification while the applicant is the
 4 subject of a criminal investigation or is potentially subject to disciplinary action and the applicant is subsequently
 5 found to have committed an act that, under 33-17-1001, would allow the commissioner to suspend, revoke, refuse
 6 to renew, or refuse to issue an insurance producer's license, the commissioner may suspend or, pursuant to
 7 subsection (1)(c)(iv), shall revoke the navigator certification.

8 (iv) The commissioner shall immediately revoke a navigator's certification if the commissioner discovers
 9 that the navigator has committed an act that, under 33-17-1001, would allow the commissioner to suspend,
 10 revoke, refuse to renew, or refuse to issue an insurance producer's license.

11 (2) For the purpose of obtaining a state and a federal criminal records check pursuant to subsection (1),
 12 the commissioner may require a person applying for a license or navigator certification to submit a full set of
 13 fingerprints to the commissioner. The commissioner shall submit the fingerprints to the Montana department of
 14 justice. The Montana department of justice may exchange this fingerprint data with the federal bureau of
 15 investigation.

16 (3) The commissioner may require fingerprints to be collected and remitted in an electronic format to
 17 facilitate periodic resubmission of fingerprints.

18 (4) The commissioner may contract for the collection, transmission, and retention of fingerprints and may
 19 agree to a reasonable fee charged by a contractor for these services. If the commissioner contracts for services,
 20 the fee for collecting, transmitting, and retaining of fingerprints must be paid directly to the contractor by the
 21 applicant or insurer.

22 (5) The commissioner is authorized to receive criminal history record information in lieu of the Montana
 23 department of justice relating to fingerprints submitted to the federal bureau of investigation.

24 (6) The commissioner may adopt rules to further implement this section, including but not limited to rules
 25 on the length of time that a background examination is valid and rules for the electronic filing of fingerprints."
 26

27 **Section 2.** Section 33-17-241, MCA, is amended to read:

28 **"33-17-241. Navigator certification -- duties -- prohibitions.** (1) An individual or an individual
 29 performing navigator duties on behalf of an organization serving as a navigator may not act in the capacity of a
 30 navigator unless the individual has met all of the following requirements, as applicable:

- 1 (a) is at least 18 years of age;
- 2 (b) has completed and submitted the application form provided for in 33-17-242 and has declared, under
3 penalty of refusal, suspension, or revocation of the navigator's certification, that the statements made in the form
4 are true, correct, and complete to the best of the applicant's knowledge and belief;
- 5 (c) has completed a background examination as described in 33-17-220;
- 6 (d) has successfully completed the navigator certification and training requirements adopted by the
7 commissioner, as provided in 33-17-242; and
- 8 (e) has paid all fees required by 33-2-708.
- 9 (2) A navigator's duties may include any of the following:
- 10 (a) conducting public education activities to raise awareness of the availability of qualified health plans;
- 11 (b) distributing fair and impartial general information concerning how to enroll in any qualified health plan
12 offered within the exchange and the availability of the premium tax credits under 26 U.S.C. 36B and the
13 cost-sharing reductions provided under 42 U.S.C. 18071;
- 14 (c) assisting consumers in understanding how to enroll in a qualified health plan through an exchange
15 or appropriate public programs offering health care coverage, without suggesting that the consumer purchase
16 any particular plan; and
- 17 (d) referring consumers to the commissioner's office for assistance with complaints, appeals, or
18 grievances or for general information about health insurance.
- 19 (3) A navigator may not do any of the following unless the navigator is otherwise licensed or authorized
20 to do so under this chapter:
- 21 (a) sell, solicit, or negotiate health insurance; or
- 22 (b) recommend, endorse, or offer opinions about the benefits, terms, or features of a particular health
23 benefit plan or offer an opinion about which health benefit plan is better or worse for a particular individual or
24 employer;
- 25 (c) provide any information or services related to a health benefit plan or another product not offered in
26 the exchange;
- 27 (d) engage in any unfair method of competition or any fraudulent, deceptive, or dishonest act or practice;
28 or
- 29 ~~(b)~~(e) enroll an individual or an employee in a qualified health plan offered through an exchange."

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