

Part 2 Licensing

31A-23b-201 Requirement of license.

- (1)
 - (a) Except as provided in Section 31A-23b-211, a person may not perform, offer to perform, or advertise any service as a navigator in the state, without:
 - (i) a valid navigator license issued under this chapter; or
 - (ii) a valid producer license under Subsection 31A-23a-106(2)(a) with a line of authority that permits the person to sell, negotiate, or solicit accident and health insurance.
 - (b) A person may not utilize the services of another as a navigator if that person knows or should know that the other person does not have a license as required by law.
- (2) An insurance contract is not invalid as a result of a violation of this section.

Enacted by Chapter 341, 2013 General Session

31A-23b-202 Qualifications for a license.

- (1)
 - (a) The commissioner shall issue or renew a license to a person to act as a navigator if the person:
 - (i) satisfies the:
 - (A) application requirements under Section 31A-23b-203;
 - (B) character requirements under Section 31A-23b-204;
 - (C) examination and training requirements under Section 31A-23b-205; and
 - (D) continuing education requirements under Section 31A-23b-206;
 - (ii) certifies that, to the extent applicable, the applicant:
 - (A) is in compliance with the surety bond requirements of Section 31A-23b-207; and
 - (B) will maintain compliance with Section 31A-23b-207 during the period for which the license is issued or renewed; and
 - (iii) has not committed an act that is a ground for denial, suspension, or revocation as provided in Section 31A-23b-401.
 - (b) A license issued under this chapter is valid for one year.
- (2)
 - (a) A person shall report to the commissioner:
 - (i) an administrative action taken against the person, including a denial of a new or renewal license application:
 - (A) in another jurisdiction; or
 - (B) by another regulatory agency in this state; and
 - (ii) a criminal prosecution taken against the person in any jurisdiction.
 - (b) The report required by Subsection (2)(a) shall be filed:
 - (i) at the time the person files the application for an individual or agency license; and
 - (ii) for an action or prosecution that occurs on or after the day on which the person files the application:
 - (A) for an administrative action, within 30 days of the final disposition of the administrative action; or
 - (B) for a criminal prosecution, within 30 days of the initial appearance before a court.

- (c) The report required by Subsection (2)(a) shall include a copy of the complaint or other relevant legal documents related to the action or prosecution described in Subsection (2)(a).
- (3)
- (a) The department may:
 - (i) require a person applying for a license to submit to a criminal background check as a condition of receiving a license; or
 - (ii) accept a background check conducted by another organization.
 - (b) A person, if required to submit to a criminal background check under Subsection (3)(a), shall:
 - (i) submit a fingerprint card in a form acceptable to the department; and
 - (ii) consent to a fingerprint background check by:
 - (A) the Utah Bureau of Criminal Identification; and
 - (B) the Federal Bureau of Investigation.
 - (c) For a person who submits a fingerprint card and consents to a fingerprint background check under Subsection (3)(b), the department may request:
 - (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and
 - (ii) complete Federal Bureau of Investigation criminal background checks through the national criminal history system.
 - (d) Information obtained by the department from the review of criminal history records received under this Subsection (3) shall be used by the department for the purposes of:
 - (i) determining if a person satisfies the character requirements under Section 31A-23b-204 for issuance or renewal of a license;
 - (ii) determining if a person failed to maintain the character requirements under Section 31A-23b-204; and
 - (iii) preventing a person who violates the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033, from engaging in the business of a navigator or in-person assistor in the state.
 - (e) If the department requests the criminal background information, the department shall:
 - (i) pay to the Department of Public Safety the costs incurred by the Department of Public Safety in providing the department criminal background information under Subsection (3)(c)(i);
 - (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of Investigation in providing the department criminal background information under Subsection (3)(c)(ii); and
 - (iii) charge the person applying for a license a fee equal to the aggregate of Subsections (3)(e)(i) and (ii).
- (4) The commissioner may deny an application for a license under this chapter if the person applying for the license:
- (a) fails to satisfy the requirements of this section; or
 - (b) commits an act that is grounds for denial, suspension, or revocation as set forth in Section 31A-23b-401.

Amended by Chapter 290, 2014 General Session

Amended by Chapter 300, 2014 General Session

31A-23b-202.5 License types.

- (1) A license issued under this chapter shall be issued under the license types described in Subsection (2).

- (2) A license type under this chapter shall be a navigator line of authority or a certified application counselor line of authority. A license type is intended to describe the matters to be considered under any education, examination, and training required of an applicant under this chapter.
- (3)
 - (a) A navigator line of authority includes the enrollment process as described in Subsection 31A-23b-102(4)(a).
 - (b)
 - (i) A certified application counselor line of authority is limited to providing information and assistance to individuals and employees about public programs and premium subsidies available through the exchange.
 - (ii) A certified application counselor line of authority does not allow the certified application counselor to assist a person with the selection of or enrollment in a qualified health plan offered on an exchange.

Enacted by Chapter 425, 2014 General Session

31A-23b-203 Application for individual license -- Application for agency license.

- (1) This section applies to an initial or renewal license as a navigator.
- (2)
 - (a) Subject to Subsection (2)(b), to obtain or renew an individual license, an individual shall:
 - (i) file an application for an initial or renewal individual license with the commissioner on forms and in a manner the commissioner prescribes; and
 - (ii) pay a license fee that is not refunded if the application:
 - (A) is denied; or
 - (B) is incomplete when filed and is never completed by the applicant.
 - (b) An application described in this Subsection (2) shall provide:
 - (i) information about the applicant's identity;
 - (ii) the applicant's Social Security number;
 - (iii) the applicant's personal history, experience, education, and business record;
 - (iv) whether the applicant is 18 years of age or older;
 - (v) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section 31A-23b-401 or 31A-23b-402;
 - (vi) that the applicant complies with the surety bond requirements of Section 31A-23b-207;
 - (vii) that the applicant completed the training requirements in Section 31A-23b-205; and
 - (viii) any other information the commissioner reasonably requires.
- (3) The commissioner may require a document reasonably necessary to verify the information contained in an application filed under this section.
- (4) An applicant's Social Security number contained in an application filed under this section is a private record under Section 63G-2-302.
- (5)
 - (a) Subject to Subsection (5)(b), to obtain or renew a navigator agency license, a person shall:
 - (i) file an application for an initial or renewal navigator agency license with the commissioner on forms and in a manner the commissioner prescribes; and
 - (ii) pay a license fee that is not refunded if the application:
 - (A) is denied; or
 - (B) is incomplete when filed and is never completed by the applicant.
 - (b) An application described in Subsection (5)(a) shall provide:
 - (i) information about the applicant's identity;

- (ii) the applicant's federal employer identification number;
- (iii) the designated responsible licensed individual;
- (iv) the identity of the owners, partners, officers, and directors;
- (v) whether the applicant, or individual identified in Subsections (5)(b)(iii) and (iv), has committed an act that is a ground for denial, suspension, or revocation as set forth in Section 31A-23b-401; and
- (vi) any other information the commissioner reasonably requires.

Enacted by Chapter 341, 2013 General Session

31A-23b-204 Character requirements.

An applicant for a license under this chapter shall demonstrate to the commissioner that:

- (1) the applicant has the intent, in good faith, to engage in the practice of a navigator as the license would permit;
- (2)
 - (a) if a natural person, the applicant is competent and trustworthy; or
 - (b) if the applicant is an agency:
 - (i) the partners, directors, or principal officers or persons having comparable powers are trustworthy; and
 - (ii) that it will transact business in a way that the acts that may only be performed by a licensed navigator are performed only by a natural person who is licensed under this chapter, or Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;
- (3) the applicant intends to comply with the surety bond requirements of Section 31A-23b-207;
- (4) if a natural person, the applicant is at least 18 years of age; and
- (5) the applicant does not have a conflict of interest as defined by regulations issued under PPACA.

Enacted by Chapter 341, 2013 General Session

31A-23b-205 Examination and training requirements.

- (1) The commissioner may require an applicant for a license to pass an examination and complete a training program as a requirement for a license.
- (2) The examination described in Subsection (1) shall reasonably relate to:
 - (a) the duties and functions of a navigator;
 - (b) requirements for navigators as established by federal regulation under PPACA; and
 - (c) other requirements that may be established by the commissioner by administrative rule.
- (3) The examination may be administered by the commissioner or as otherwise specified by administrative rule.
- (4) The training required by Subsection (1) shall be approved by the commissioner and shall include:
 - (a) accident and health insurance plans;
 - (b) qualifications for and enrollment in public programs;
 - (c) qualifications for and enrollment in premium subsidies;
 - (d) cultural and linguistic competence;
 - (e) conflict of interest standards;
 - (f) exchange functions; and
 - (g) other requirements that may be adopted by the commissioner by administrative rule.

- (5)
 - (a) For the navigator line of authority, the training required by Subsection (1) shall consist of at least 21 credit hours of training before obtaining the license, which shall include:
 - (i) at least two hours of training on defined contribution arrangements and the small employer health insurance exchange; and
 - (ii) the navigator training and certification program developed by the Centers for Medicare and Medicaid Services.
 - (b) For the certified application counselor line of authority, the training required by Subsection (1) shall consist of at least six hours of training before obtaining a license, which shall include:
 - (i) at least one hour of training on defined contribution arrangements and the small employer health insurance exchange; and
 - (ii) the certified application counselor training and certification program developed by the Centers for Medicare and Medicaid Services.
- (6) This section applies only to an applicant who is a natural person.

Amended by Chapter 290, 2014 General Session

Amended by Chapter 300, 2014 General Session, (Coordination Clause)

Amended by Chapter 300, 2014 General Session

Amended by Chapter 425, 2014 General Session

Amended by Chapter 425, 2014 General Session, (Coordination Clause)

31A-23b-206 Continuing education requirements.

- (1) The commissioner shall, by rule, prescribe continuing education requirements for a navigator.
- (2)
 - (a) The commissioner may not require a degree from an institution of higher education as part of continuing education.
 - (b) The commissioner may state a continuing education requirement in terms of hours of instruction received in:
 - (i) accident and health insurance;
 - (ii) qualification for and enrollment in public programs;
 - (iii) qualification for and enrollment in premium subsidies;
 - (iv) cultural competency;
 - (v) conflict of interest standards; and
 - (vi) other exchange functions.
- (3)
 - (a) For a navigator line of authority, continuing education requirements shall require:
 - (i) that a licensee complete 12 credit hours of continuing education for every one-year licensing period;
 - (ii) that at least two of the 12 credit hours described in Subsection (3)(a)(i) be ethics courses;
 - (iii) that at least one of the 12 credit hours described in Subsection (3)(a)(i) be training on defined contribution arrangements and the use of the small employer health insurance exchange; and
 - (iv) that a licensee complete the annual navigator training and certification program developed by the Centers for Medicare and Medicaid Services.
 - (b) For a certified application counselor, the continuing education requirements shall require:
 - (i) that a licensee complete six credit hours of continuing education for every one-year licensing period;

- (ii) that at least two of the six credit hours described in Subsection (3)(b)(i) be on ethics courses;
 - (iii) that at least one of the six credit hours described in Subsection (3)(b)(i) be training on defined contribution arrangements and the use of the small employer health insurance exchange; and
 - (iv) that a licensee complete the annual certified application counselor training and certification program developed by the Centers for Medicare and Medicaid Services.
- (c) An hour of continuing education in accordance with Subsections (3)(a)(i) and (b)(i) may be obtained through:
- (i) classroom attendance;
 - (ii) home study;
 - (iii) watching a video recording; or
 - (iv) another method approved by rule.
- (d) A licensee may obtain continuing education hours at any time during the one-year license period.
- (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall, by rule, authorize one or more continuing education providers, including a state or national professional producer or consultant associations, to:
- (i) offer a qualified program on a geographically accessible basis; and
 - (ii) collect a reasonable fee for funding and administration of a continuing education program, subject to the review and approval of the commissioner.
- (4) The commissioner shall approve a continuing education provider or a continuing education course that satisfies the requirements of this section.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall by rule establish the procedures for continuing education provider registration and course approval.
- (6) This section applies only to a navigator who is a natural person.
- (7) A navigator shall keep documentation of completing the continuing education requirements of this section for one year after the end of the one-year licensing period to which the continuing education applies.

Amended by Chapter 244, 2015 General Session

31A-23b-207 Requirement to obtain surety bond.

- (1)
- (a) Except as provided in Subsections (1)(b)(ii) and (2), a navigator shall obtain a surety bond in an amount designated by the commissioner by administrative rule to cover the legal liability of the navigator as the result of an erroneous act or failure to act in the navigator's capacity as a navigator.
 - (b) The navigator shall:
 - (i) maintain a surety bond at all times during the term of the navigator's license; or
 - (ii) demonstrate to the commissioner that the navigator is capable of covering a legal liability for erroneous acts or failure to act in a manner approved by the commissioner.
- (2) A navigator is not required to obtain and maintain a surety bond during a period in which the navigator's scope of practice is limited to assisting individuals with:
- (a) enrollment in public programs; and
 - (b) qualification for premium and cost sharing subsidies.

Enacted by Chapter 341, 2013 General Session

31A-23b-208 Form and contents of license.

- (1) A license issued under this chapter shall be in the form the commissioner prescribes and shall set forth:
 - (a) the name and address of the licensee;
 - (b) the date of license issuance; and
 - (c) any other information the commissioner considers necessary.
- (2) A licensee under this chapter doing business under a name other than the licensee's legal name shall notify the commissioner before using the assumed name in this state.

Enacted by Chapter 341, 2013 General Session

31A-23b-209 Agency designations.

- (1) An organization shall be licensed as a navigator agency if the organization acts as a navigator.
- (2) A navigator agency that does business in the state shall designate an individual who is licensed under this chapter to act on the agency's behalf.
- (3) A navigator agency shall report to the commissioner, at intervals and in the form the commissioner establishes by rule:
 - (a) a new designation under Subsection (2); and
 - (b) a terminated designation under Subsection (2).
- (4)
 - (a) A navigator agency licensed under this chapter shall report to the commissioner the cause of termination of a designation if:
 - (i) the reason for termination is a reason described in Subsection 31A-23b-401(4)(b); or
 - (ii) the navigator agency has knowledge that the individual licensee engaged in an activity described in Subsection 31A-23b-401(4)(b) by:
 - (A) a court;
 - (B) a government body; or
 - (C) a self-regulatory organization, which the commissioner may define by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (b) The information provided to the commissioner under Subsection (4)(a) is a private record under Title 63G, Chapter 2, Government Records Access and Management Act.
 - (c) A navigator agency is immune from civil action, civil penalty, or damages if the agency complies in good faith with this Subsection (4) by reporting to the commissioner the cause of termination of a designation.
 - (d) A navigator agency is not immune from an action or resulting penalty imposed on the reporting agency as a result of proceedings brought by or on behalf of the department if the action is based on evidence other than the report submitted in compliance with this Subsection (4).
- (5) A navigator agency licensed under this chapter may act in a capacity for which it is licensed only through an individual who is licensed under this chapter to act in the same capacity.
- (6) A navigator agency licensed under this chapter shall designate and report to the commissioner, in accordance with any rule made by the commissioner, the name of the designated responsible licensed individual who has authority to act on behalf of the navigator agency in the matters pertaining to compliance with this title and orders of the commissioner.

- (7) If a navigator agency designates a licensee in reports submitted under Subsection (3) or (6), there is a rebuttable presumption that the designated licensee acts on behalf of the navigator agency.
- (8)
- (a) When a license is held by a navigator agency, both the navigator agency itself and any individual designated under the navigator agency license are considered the holders of the navigator agency license for purposes of this section.
 - (b) If an individual designated under the navigator agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the navigator agency license, the commissioner may suspend, revoke, or limit the license of:
 - (i) the individual;
 - (ii) the navigator agency, if the navigator agency:
 - (A) is reckless or negligent in its supervision of the individual; or
 - (B) knowingly participates in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or
 - (iii)
 - (A) the individual; and
 - (B) the navigator agency, if the agency meets the requirements of Subsection (8)(b)(ii).

Enacted by Chapter 341, 2013 General Session

31A-23b-210 Place of business and residence address -- Records.

- (1)
- (a) A licensee under this chapter shall register and maintain with the commissioner:
 - (i) the address and telephone numbers of the licensee's principal place of business; and
 - (ii) a valid business email address at which the commissioner may contact the licensee.
 - (b) If a licensee is an individual, in addition to complying with Subsection (1)(a), the individual shall register and maintain with the commissioner the individual's residence address and telephone number.
 - (c) A licensee shall notify the commissioner within 30 days of a change of any of the following required to be registered with the commissioner under this section:
 - (i) an address;
 - (ii) a telephone number; or
 - (iii) a business email address.
- (2) Except as provided under Subsection (3), a licensee under this chapter shall keep at the principal place of business address registered under Subsection (1), separate and distinct books and records of the transactions consummated under the Utah license.
- (3) Subsection (2) is satisfied if the books and records specified in Subsection (2) can be obtained immediately from a central storage place or elsewhere by online computer terminals located at the registered address.
- (4)
- (a) The books and records maintained under Subsection (2) shall be available for the inspection by the commissioner during the business hours for a period of time after the date of the transaction as specified by the commissioner by rule, but in no case for less than the current calendar year plus three years.
 - (b) Discarding books and records after the applicable record retention period has expired does not place the licensee in violation of a later-adopted longer record retention period.

Enacted by Chapter 341, 2013 General Session

31A-23b-211 Exceptions to navigator licensing.

- (1) For purposes of this section:
 - (a) "Negotiate" is as defined in Section 31A-23a-102.
 - (b) "Sell" is as defined in Section 31A-23a-102.
 - (c) "Solicit" is as defined in Section 31A-23a-102.
- (2) The commissioner may not require a license as a navigator of:
 - (a) a person who is employed by or contracts with:
 - (i) a health care facility that is licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, to assist an individual with enrollment in a public program or an application for premium subsidy; or
 - (ii) the state, a political subdivision of the state, an entity of a political subdivision of the state, or a public school district to assist an individual with enrollment in a public program or an application for premium subsidy;
 - (b) a federally qualified health center as defined by Section 1905(1)(2)(B) of the Social Security Act which assists an individual with enrollment in a public program or an application for premium subsidy;
 - (c) a person licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries, if the person is licensed in the appropriate line of authority to sell, solicit, or negotiate accident and health insurance plans;
 - (d) an officer, director, or employee of a navigator:
 - (i) who does not receive compensation or commission from an insurer issuing an insurance contract, an agency administering a public program, an individual who enrolled in a public program or insurance product, or an exchange; and
 - (ii) whose activities:
 - (A) are executive, administrative, managerial, clerical, or a combination thereof;
 - (B) only indirectly relate to the sale, solicitation, or negotiation of insurance, or the enrollment in a public program offered through the exchange;
 - (C) are in the capacity of a special agent or agency supervisor assisting an insurance producer or navigator;
 - (D) are limited to providing technical advice and assistance to a licensed insurance producer or navigator; or
 - (E) do not include the sale, solicitation, or negotiation of insurance, or the enrollment in a public program;
 - (e) a person who does not sell, solicit, or negotiate insurance and is not directly or indirectly compensated by an insurer issuing an insurance contract, an agency administering a public program, an individual who enrolled in a public program or insurance product, or an exchange, including:
 - (i) an employer, association, officer, director, employee, or trustee of an employee trust plan who is engaged in the administration or operation of a program:
 - (A) of employee benefits for the employer's or association's own employees or the employees of a subsidiary or affiliate of an employer or association; and
 - (B) that involves the use of insurance issued by an insurer or enrollment in a public health plan on an exchange;
 - (ii) an employee of an insurer or organization employed by an insurer who is engaging in the inspection, rating, or classification of risk, or the supervision of training of insurance producers; or

- (iii) an employee who counsels or advises the employee's employer with regard to the insurance interests of the employer, or a subsidiary or business affiliate of the employer;
and
- (f) an Indian health clinic or Urban Indian Health Center, as defined in Title V of the Indian Health Care Improvement Act, which assists a person with enrollment in a public program or an application for a premium subsidy.
- (3) The exemption from licensure under Subsections (2)(a), (b), and (f) does not apply if a person described in Subsections (2)(a), (b), and (f) enrolls a person in a private insurance plan.
- (4) The commissioner may by rule exempt a class of persons from the license requirement of Subsection 31A-23b-201(1) if:
 - (a) the functions performed by the class of persons do not require:
 - (i) special competence;
 - (ii) special trustworthiness; or
 - (iii) regulatory surveillance made possible by licensing; or
 - (b) other existing safeguards make regulation unnecessary.

Amended by Chapter 425, 2014 General Session