

Effective 5/13/2014

31A-23b-301 Unfair practices -- Compensation -- Limit of scope of practice.

- (1) As used in this section, "false or misleading information" includes, with intent to deceive a person examining it:
 - (a) filing a report;
 - (b) making a false entry in a record; or
 - (c) willfully refraining from making a proper entry in a record.
- (2)
 - (a) Communication that contains false or misleading information relating to enrollment in an insurance plan or a public program, including information that is false or misleading because it is incomplete, may not be made by:
 - (i) a person who is or should be licensed under this title;
 - (ii) an employee of a person described in Subsection (2)(a)(i);
 - (iii) a person whose primary interest is as a competitor of a person licensed under this title; and
 - (iv) a person on behalf of a person listed in this Subsection (2)(a).
 - (b) A licensee under this chapter may not:
 - (i) use a business name, slogan, emblem, or related device that is misleading or likely to cause the exchange, insurer, or other licensee to be mistaken for another governmental agency, a PPACA exchange, insurer, or other licensee already in business; or
 - (ii) use an advertisement or other insurance promotional material that would cause a reasonable person to mistakenly believe that a state or federal government agency, public program, or insurer:
 - (A) is responsible for the insurance or public program enrollment assistance activities of the person;
 - (B) stands behind the credit of the person; or
 - (C) is a source of payment of an insurance obligation of or sold by the person.
 - (c) A person who is not an insurer may not assume or use a name that deceptively implies or suggests that person is an insurer.
- (3) A person may not engage in an unfair method of competition or any other unfair or deceptive act or practice in the business of insurance, as defined by the commissioner by rule, after a finding that the method of competition, the act, or the practice:
 - (a) is misleading;
 - (b) is deceptive;
 - (c) is unfairly discriminatory;
 - (d) provides an unfair inducement; or
 - (e) unreasonably restrains competition.
- (4) A navigator licensed under this chapter is subject to the unfair marketing practices and inducement provisions of Sections 31A-23a-402 and 31A-23a-402.5.
- (5) A navigator licensed under this chapter or who should be licensed under this chapter:
 - (a) may not receive direct or indirect compensation from an accident or health insurer or from an individual who receives services from a navigator in accordance with:
 - (i) federal conflict of interest regulations established pursuant to PPACA; and
 - (ii) administrative rule adopted by the department;
 - (b) may be compensated by the exchange for performing the duties of a navigator;
 - (c)
 - (i) may perform, offer to perform, or advertise a service as a navigator only for a person selecting a qualified health plan or public program offered on an exchange; and

- (ii) may not perform, offer to perform, or advertise services as a navigator for individuals or small employer groups selecting accident and health insurance plans, qualified health plans, public programs, business, or services that are not offered on an exchange; and
- (d) may not recommend a particular accident and health insurance plan or qualified health plan.

Amended by Chapter 290, 2014 General Session

Amended by Chapter 300, 2014 General Session