



**April 2013**

## **Background**

A key feature of Health Insurance Exchanges and a critical element to getting eligible consumers enrolled in coverage are their consumer assistance functions. Exchanges are required to offer consumer assistance tools including a consumer-friendly website, call center, provider directory, and quality rating information. To assist individuals and families with the application and enrollment process, Exchanges will also be required to offer in-person assistance. To accomplish this, the law calls for several categories of application and enrollment assisters to provide outreach and education as well as impartial guidance on obtaining coverage through the Exchange. Assisters will *not* make eligibility determinations and will not select Qualified Health Plans (QHPs) for consumers or enroll applicants into QHPs (these are functions of the Exchange). Because of new streamlined eligibility determination systems and a single standard application for affordability programs (premium assistance subsidies and tax credits), QHPs sold through the Exchange, Medicaid and Children's Health Insurance Program (CHIP), assisters will have to be familiar with and guide consumers in applying for all types of coverage programs. While there are distinct differences between types of assisters, the overarching goal is to provide consumers with as many assistance options as possible.

This report will explain the three types of consumer assisters and governing regulations established in federal law and how community health centers meet the criteria. To date, in implementing Section 1311 of the Affordable Care Act<sup>1</sup>, three sets of regulations have been issued that govern the Exchange consumer assistance programs (45 CFR Section 155) and will be referenced throughout this report as follows:

- March 2012 Final Rule
- January 2013 Proposed Rule
- April 2013 Proposed Rule

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<sup>1</sup> Public Law 111-148, Sections 1311(d)(4)(K) and 1311(i)

## Categories of Consumer Assistors

A lot of attention has been given to the Navigator Program, in part because the role comes with a funding requirement and many interested and eligible organizations will compete for what are sure to be scarce dollars to carry out the consumer assistance functions. The Affordable Care Act statute<sup>2</sup> and March 2012 Final Rule<sup>3</sup> state that the Exchange must have a consumer assistance function that meets the standards set forth [in statute and subsequent regulation], *including* the Navigator program, and must refer consumers to consumer assistance programs in the State when available and appropriate.

In addition to Navigators, Exchanges will engage entities that wish to provide consumer assistance, but may not be eligible for Navigator grants. To ensure that there are ample human resources available to assist with the application and enrollment process, each Exchange, in addition to Navigators, will be required to establish and maintain a Certified Application Counselor (CAC) program, based largely on the model already in place for Medicaid and CHIP application counselors. Proposed standards for certified application counselors will closely track those for Medicaid application counselors so that training may be streamlined.<sup>4</sup> CACs are the newest category of assistors to be established in the January 2013 Proposed Rule<sup>5</sup>.

State-Based and Partnership Exchanges will also have the option to make available a cadre of In-Person Assistors (also referred to as non-Navigator assistance personnel) that will fulfill many of the same duties as Navigators and CACs and must meet the same training and conflict of interest standards. This option is not available for Federally Facilitated Exchanges and federal Exchange establishment grants may be used to fund this type of assister, at the State's option. In-Person Assistors must be a completely separate and distinct program, so as not to duplicate effort, and may not replace Navigators or CACs. States will have broad authority to develop In-Person Assistors programs.<sup>6</sup>

Appendix A describes, in detail, the roles and responsibilities of each of the three categories of assistors; the main distinction being the availability of funding. It is also important to note that CACs are the newest category and more information about this program may be provided in future guidance.

## Funding

The regulations do not specify the type of or contents of the contractual agreements between Exchanges and Navigators, other than codifying the statutory provision that Navigators receive grants. Exchanges can design the grant agreements as they deem appropriate so long as they ensure that Navigators are completing, at least, the minimum duties outlined in § 155.210 of the March 2012 Final Rule (See Appendix A).<sup>7</sup> Federal law requires that no federal funds are to be used for Navigator grants,

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<sup>2</sup> Public Law 111-148, Sections 1311(d)(4)(K) and 1311(i)

<sup>3</sup> [45 CFR Parts 155, 156, and 157, Final Rule and Interim Final Rule](#)

<sup>4</sup> [45 CFR Part 155, Proposed Rule, January 2013](#)

<sup>5</sup> [45 CFR Part 155, Proposed Rule, January 2013](#)

<sup>6</sup> [Guidance on the State Partnership Exchange, CCIIO, January 2013.](#)

<sup>7</sup> [45 CFR Parts 155, 156, and 157, Final Rule and Interim Final Rule](#)

but rather, must come from Exchange operational funds (For State-Based Exchanges). This can be from user fees, donations, grants, etc. to the exchange. It is anticipated that funding for Navigator grants will be scarce relative to the number of applications expected. In-person assisters, on the other hand, can be funded through Exchange establishment grants. There is no funding mechanism for CACs.

The Funding Opportunity for Federally-Facilitated and Partnership Exchanges,<sup>8</sup> announced on April 9, 2013 provides for \$54 million in funding to be allocated for Navigator grants. A set level of funding of at least \$600,000 will be allocated to each Exchange service area and awards will vary depending on the number of individuals the applicant plans to serve and the allowability of costs requested. Each applicant is eligible for only one, non-renewable, one-year cooperative agreement award.

### **Program Administration**

Federally-Facilitated Exchanges will be responsible for management of consumer assisters (subject to applicable State laws). For State-based and Partnership Exchanges, the state will be responsible for day to day management of the consumer assistance programs.

### **Training and Certification**

Exchanges must develop a set of training standards to ensure Navigator competency in the needs of underserved and vulnerable populations, eligibility and enrollment procedures, and the range of public programs and QHP options available through the Exchange.<sup>9</sup> In the April 2013 Proposed Rule, HHS issued a set of training, certification and recertification standards (See Appendix B) for all Navigators and in-person assisters in Federally Facilitated Exchanges, including Partnership Exchanges, and in-person assisters in State Based Exchanges that are paid for using federal Exchange establishment grants<sup>10</sup>. State-Based Exchanges may use the federal standards on which to model their own, but are not required to do so.

States are not permitted to require Navigators to hold broker licenses<sup>11</sup>, but the Exchange may impose certification requirements that go beyond the minimum standards set forth in federal law, including Navigator-specific licenses. Legislation being considered in many states deals with the issue of certification and licensure of Navigators (See attachment). Section 155.210(c)(1)(iii) of the March 2012 Final Rule states that, to receive a Navigator grant, an entity or individual must “meet any licensing, certification or other standards prescribed by the state or Exchange, if applicable.” Section 1321(d) of the Affordable Care Act provides that state laws that do not prevent the application of the provisions of Title I of the Affordable Care Act are not preempted. Consumer assisters in Federally-Facilitated Exchanges, including Partnership Exchanges are still subject to State law pursuant to these requirements.

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<sup>8</sup> [Funding Opportunity Number: CA-NAV-13-001, CFDA 93.750](#)

<sup>9</sup> [45 CFR Part 155, Proposed Rule, April 2013](#)

<sup>10</sup> [45 CFR Part 155, Proposed Rule, April 2013](#)

<sup>11</sup> [Frequently Asked Questions on Exchanges, Market Reforms and Medicaid, CCIIO, 2012.](#)

The April 2013 Proposed Rule clarifies that “any Navigator licensing, certification, or other standards prescribed by the state or Exchange should not prevent the application of the provisions of Title I of the Affordable Care Act”.<sup>12</sup> For example, a requirement by a state or an Exchange that Navigators be agents and brokers or obtain errors and omissions coverage would violate the requirement that at least two types of entities must serve as Navigators, because it would mean that only agents or brokers could be Navigators.<sup>13</sup>

### *Conflicts of Interest*

The March 2012 Final Rule<sup>14</sup> makes clear that Navigators (or any other type of assister) may not receive any consideration directly or indirectly from any health insurance issuer ***in connection with the enrollment of any individuals or employees in a QHP or a non-QHP.***

In defining “consideration,” the March 2012 final rule “should be interpreted to both mean financial compensation—including monetary or in-kind of any type, including grants—as well as any other type of influence a health insurance issuer could use, including but not limited to things such as gifts and free travel, which may result in steering individuals to particular QHPs offered in the Exchange or plans outside of the Exchange”.

The regulations do not inherently prohibit Navigators from receiving grants and other consideration from health insurance issuers for activities *unrelated* to enrollment into health plans, however, HHS has indicated that they “remain concerned that such relationships— financial and otherwise—may present a significant conflict of interest for Navigators”. Exchanges will make their own determinations with regard to this provision and proposed conflict of interest standards for Federally-Facilitated and Partnership Exchanges (See Appendix B) on which states can model their own, address this. Maryland’s Navigator Advisory Committee, for example, determined that “Navigator entities should disclose all business relationships with carriers, even if those relationships are unrelated to plan enrollment. The Committee clarified that not all relationships with carriers will disqualify an organization from becoming a navigator entity or retaining their entity status.”<sup>15</sup>

If a health center or health center controlled network, for example, operates a health plan that is sold through the Exchange, this could present a conflict of interest that would impact eligibility for a Navigator grant. The regulations contain restrictions on Navigator conduct to avoid conflicts of interest. HHS, however, in recognizing that they cannot possibly foresee all circumstances that could present a conflict, § 155.210(b)(1) of the March 2012 Final Rule establishes that Exchanges develop and disseminate a set of conflict of interest standards to ensure appropriate integrity of Navigators that work best in a particular market.

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<sup>12</sup> [45 CFR Part 155, Proposed Rule, April 2013](#)

<sup>13</sup> [45 CFR Part 155, Proposed Rule, April 2013](#)

<sup>14</sup> [45 CFR Parts 155, 156, and 157, Final Rule and Interim Final Rule](#)

<sup>15</sup> [Options for the Design and Implementation of Maryland’s Navigator Program, November 2012.](#)

The April 2013 Proposed Rule contains a set of conflict of interest standards (See Attachment B) for Federally-Facilitated Exchanges, including Partnership Exchanges and in-person assisters in State-Based Exchanges that are funded by federal Exchange establishment grants. State-Based Exchanges can use these standards in crafting their own standards, but are not required to do so.

*Providing Culturally and Linguistically Appropriate Services (CLAS Standards) and Ensuring Access to Persons with Disabilities*

To ensure all eligible consumers have access to the information and guidance necessary to apply for and enroll in coverage through the Exchange (or other affordability programs), one of the core duties of consumer assisters is to “Provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Exchange, including individuals with limited English proficiency, and ensure accessibility and usability of Navigator tools and functions for individuals in accordance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act” (See Appendix A).

The April 2013 Proposed Rule proposes training and certification standards that align with this requirement (See Appendix B). Specifically, Navigators and in-person assisters in Federally-Facilitated Exchanges, including Partnership Exchanges and federally-funded in-person assisters in State-Based Exchanges, among other things, would be required to:

- Be trained to provide culturally and linguistically appropriate services and ensure physical and other accessibility for people with disabilities;
- Develop, maintain and regularly update knowledge about the racial, ethnic and cultural groups in their service area;
- Provide information and assistance in the consumer’s preferred language;
- Provide limited-English proficiency consumers with oral and written notices of their rights to receive language assistance services and how to obtain such services;
- Implement strategies to recruit and promote staff that is representative of the demographic characteristics and primary languages spoken in their service area;
- Provide auxiliary aids and services for individuals with disabilities at no cost;
- Provide assistance in a location and in a manner that is physically and otherwise accessible to individuals with disabilities and ensure any consumer education materials or tools used for consumer assistance are accessible;
- Authorize representatives to assist individuals with disabilities to make informed decisions when necessary; and
- Have the ability to refer people with disabilities to long-term services and support programs when appropriate.

## **Are Community Health Centers Eligible for Navigator Grants?**

It is clear from the recently released funding announcement for Navigators in Federally-Facilitated and Partnership Exchanges that health centers are eligible to apply for Navigator Program grants for those types of Exchanges. State-Based Exchanges, on the other hand, are free to determine eligibility (within federal guidelines) and there have been several instances where the eligibility of safety-net providers, such as community health centers, has been called into question by state officials. Community health centers currently perform many, if not all, of the duties required of Navigators for their Medicaid and CHIP patients. Activities such as outreach and education, application and enrollment assistance are common in health centers.

Federal law does not prohibit safety-net providers such as community health centers from applying to be Navigators in State-Based Exchanges. It will be entirely up to the Exchange to determine eligibility for Navigator grants with the exception of meeting the minimum eligibility criteria and the requirement that the Exchange include at least one community and consumer-focused non-profit group. In the event that health centers are deemed *ineligible* for grants whether through individual Exchange policy or based on availability of funding, they will certainly continue to provide these services to their patients as their resources allow. Between the three categories of consumer assisters, health centers will almost certainly engage formally with their state Exchange for purposes of providing consumer assistance. The question will be whether those functions will be funded.

## **Resources on Current Exchange Consumer Assistance Program Planning**

### [Arkansas Consumer Assistance Advisory Committee](#)

<http://hbe.arkansas.gov/FFE/Consumer.html>

### [Colorado Exchange Navigator Program: Community Based Organization Survey Results](#)

<http://www.getcoveredco.org/COHBE/media/COHBE/PDFs/Reports/ConsumerNavReport.pdf>

### [Connecticut: Brokers, Agents and Navigators Advisory Committee](#)

<http://www.ct.gov/hix/cwp/view.asp?a=4295&Q=506368&PM=1>

### [District of Columbia: Navigator Recommendations/Stakeholder Comments](#)

<http://healthreform.dc.gov/DC/Health+Reform/About+Health+Reform/Implementation/Health+Benefit+Exchange+Authority+Executive+Board/Navigators+Recommendations+--+Stakeholder+Comments>

### [Illinois Navigator Program Design Final Report](#)

<http://insurance.illinois.gov/hirc/ILNavigatorFinalReport.pdf>

### [Maryland: Navigator Advisory Committee](#)

[http://dhmh.maryland.gov/exchange/SitePages/Navigator AC.aspx](http://dhmh.maryland.gov/exchange/SitePages/Navigator%20AC.aspx)

### [Minnesota Health Insurance Exchange: Agents, Brokers and Partners](#)

<http://mn.gov/hix/your-benefits/agentsbrokerspartners.jsp>

### [Washington: Navigator Technical Advisory Committee](#)

<http://wahbexchange.org/committees/navigator-tac/>

### [State Health Insurance Exchange Navigators – Health Reform GPS](#)

<http://www.healthreformgps.org/resources/state-health-insurance-exchange-navigators/>

### [Consumer Assistance/Navigators: State Reform – National Academy for State Health Policy](#)

<http://www.statereforum.org/discussions/consumer-assistance-navigators>

**APPENDIX A:**

**Breakdown of Final and Proposed Rules on Navigators, Certified Application Counselors and In-Person Assisters**

	<b>Navigators (45 CFR § 155.210, Final Rule)</b>	<b>Certified Application Counselors (45 CFR § 155.225, Proposed Rule)</b>	<b>In-Person Assisters (Guidance on the State Partnership Exchanges)</b>
General Requirements	Required for Federally-Facilitated, State-Based and Partnership Exchanges.	Required for Federally-Facilitated, State-Based and Partnership Exchanges.	Optional (but encouraged): for State-based and Partnership Exchanges only.
Eligibility Criteria	Must be capable of carrying out the duties of a Navigator; demonstrate to the Exchange that the entity has existing relationships, or could readily establish relationships, with employers and employees, consumers (including uninsured and underinsured consumers), or self-employed individuals likely to be eligible for enrollment in a QHP; meet any licensing, certification or other standards prescribed by the State or Exchange, if applicable; not have a conflict of interest during the term as Navigator; and, comply with the privacy and security standards adopted by the Exchange as required.	The Exchange must certify an individual to become an application counselor if he or she: (1) Registers with the Exchange; (2) Is trained regarding QHP options, insurance affordability programs, eligibility, and benefits rules and regulations governing all insurance affordability programs operated in the state, as implemented in the state, prior to functioning as an application counselor; (3) Discloses to the Exchange and potential applicants any relationships the application assister or sponsoring agency has with QHPs or insurance affordability programs, or other potential conflicts of interest; (4) Complies with the Exchange’s privacy and security standards	To be determined by the Exchange.

		<p>adopted consistent with 45 CFR 155.260, and applicable authentication and data security standards;</p> <p>(5) Agrees to act in the best interest of the applicants assisted;</p> <p>(6) Complies with applicable state law related to application counselors, including but not limited to state law related to conflicts of interest;</p> <p>(7) Provides information with reasonable accommodations for those with disabilities, as defined by the Americans with Disabilities Act, if providing in-person assistance; and</p> <p>(8) Enters into an agreement with the Exchange regarding compliance with the standards specified in this paragraph.</p> <p><i>(c) Withdrawal of certification.</i> The Exchange must establish procedures to withdraw certification from individual application counselors, or from all application counselors associated with a particular organization, when it finds noncompliance with the terms and conditions of the application counselor agreement.</p>	
Types of Eligible Entities (this list	Community and consumer-focused nonprofit groups;	Staff and volunteers of Exchange designated	To be determined by the Exchange.

<p>is not meant to be exhaustive)</p> <p><i>Note: At least one entity must be a community and consumer-focused nonprofit group.</i></p>	<p>trade, industry, and professional associations; commercial fishing industry organizations, ranching and farming organizations; chambers of commerce; unions; resource partners of the Small Business Administration; licensed agents and brokers; and other public or private entities or individuals that meet the requirements of the Navigator program. Other entities may include but are not limited to Indian tribes, tribal organizations, urban Indian organizations, and State or local human service agencies.</p>	<p>organizations and organizations designated by state Medicaid and CHIP agencies pursuant to 42 CFR 435.908.</p>	
<p>Duties</p>	<p>An entity that serves as a Navigator must carry out <i>at least</i> the following duties:</p> <p>(1) Maintain expertise in eligibility, enrollment, and program specifications and conduct public education activities to raise awareness about the Exchange;</p> <p>(2) Provide information and services in a fair, accurate and impartial manner. Such information must acknowledge other health programs;</p> <p>(3) Facilitate selection of a QHP;</p> <p>(4) Provide referrals to any applicable office of health insurance consumer assistance or health insurance ombudsman established under section 2793 of the PHS Act, or any other appropriate State agency or agencies, for any</p>	<p>(1) Provide information about insurance affordability programs and coverage options;</p> <p>(2) Assist individuals and employees to apply for coverage in a QHP through the Exchange and for insurance affordability programs; and</p> <p>(3) Help to facilitate enrollment of eligible individuals in QHPs and insurance affordability programs.</p>	<p>Must be separate and distinct from Navigators. Their work may supplement the duties of a Navigator. States must ensure coordination with the Navigator program to avoid duplication. Must be consistent with consumer assistance, outreach and education requirements for Exchanges.</p>

	<p>enrollee with a grievance, complaint, or question regarding their health plan, coverage, or a determination under such plan or coverage; and</p> <p>(5) Provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Exchange, including individuals with limited English proficiency, and ensure accessibility and usability of Navigator tools and functions for individuals with disabilities in accordance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act.</p>		
Prohibition on Conduct	<p>The Exchange must ensure that a Navigator must not—</p> <p>(1) Be a health insurance issuer; (2) Be a subsidiary of a health insurance issuer; (3) Be an association that includes members of, or lobbies on behalf of, the insurance industry; or, (4) Receive any consideration directly or indirectly from any health insurance issuer in connection with the enrollment of any individuals or employees in a QHP or a non-QHP.</p>	Will meet the same training and conflict of interest standards.	Will meet the same training and conflict of interest standards.
Certification and Training	Required.	Required.	Required.
Funding	Funding for Navigator grants may not be from Federal funds received by the State to establish the Exchange.	No funding.	States can apply to use funds through their Exchange Establishment grants.

## Appendix B

### Proposed Conflict of Interest, Certification, Recertification and Training Standards for Navigators in Federally-Facilitated Exchanges, including Partnership Exchanges and Non-Federally Funded In-Person Assistants in State-Based Exchanges

Proposed Conflict of Interest Standards	To require that a Navigator entity, including a Navigator grant applicant, submit to the Exchange a written attestation that the Navigator and its staff do not have any of these prohibited conflicts of interest.
	To direct that all Navigator entities submit to the Exchange a written plan to remain free of conflicts of interest during their term as a Navigator
	To direct that all Navigators, both individual Navigators and Navigator entities, and their staff, provide information to consumers about the full range of QHP options and insurance affordability programs such as premium tax credits and cost sharing reductions and Medicaid and CHIP, for which they are eligible.
	<p>That certain conflicts of interest, while not a bar to serving as a Navigator, should be disclosed to the Exchange and to each consumer receiving application assistance (which includes pre-enrollment and post-enrollment services, but does not include outreach and education assistance), both by the Navigator individual and the entity.</p> <p>Three types of information to be disclosed:</p> <p>1) Navigator and all Navigator staff members would be required to disclose to the Exchange and to each consumer who receives application assistance from the Navigator entity or individual, any lines of insurance business, other than health insurance or stop loss insurance, which the Navigator intends to sell while serving as a Navigator.</p> <p>2) Navigators and their staff members would be required to disclose to the Exchange and each consumer receiving application assistance, any existing and former employment relationships they have had within the last five years with any issuer of health insurance or stop loss insurance, or subsidiaries of such issuers.</p> <p>3) Navigators and their staff members would also be required to disclose to the Exchange and to each consumer receiving application assistance any existing or anticipated financial, business, or contractual relationships with one or more issuers of health insurance or stop loss insurance or subsidiaries of such issuers.</p>
Proposed Certification and Recertification Standards	To require registration with the Exchange and be certified by the Exchange, and prior to certification, complete an HHS-approved training before carrying out any consumer assistance functions in the Exchange.
	To require individuals and staff of Navigator entities and non-Navigator assistance entities receive a passing score on all HHS-approved examinations in order to serve as Navigators or non-Navigator assistance personnel in a Federally-facilitated Exchange, a State Partnership Exchange, or as federally-funded non-Navigator assistance personnel in a State-based Exchange.

	<p>Proposed recertification requirement for Navigators and non-Navigator assistance personnel would ensure that they remain appropriately trained to adequately serve consumers.</p> <p>Navigators and non-Navigator assistance personnel should obtain continuing education and be certified and/or recertified on at least an annual basis.</p> <p>Certification requirements would specifically direct that all Navigators and non-Navigator assistance personnel be prepared to serve both the individual Exchange and SHOP in a Federally-facilitated Exchange.</p> <p>In cases where the Navigator or non-Navigator assister does not have the capacity to assist an individual who presents him or herself for assistance, the Navigator or non-Navigator assistance personnel should be capable of providing assistance in a timely manner but should also refer consumers seeking assistance to other Exchange resources, such as the toll-free Exchange Call Center, or to another Navigator or non-Navigator assistance personnel in the same Exchange who might have better capacity to serve that individual more effectively.</p>
<p>Training Module Standards</p> <p><i>In addition to training on the duties of a Navigator or In-Person Assister</i></p>	<p>The training for Navigators and non-Navigator assistance personnel would include training designed to ensure that they will be equipped to provide culturally and linguistically appropriate services and ensure physical and other accessibility for people with disabilities.</p> <p>Navigators and non-Navigator assistance personnel develop, maintain, and regularly update general knowledge about the racial, ethnic, and cultural groups in their service area, including the primary languages spoken, and continue to use this information.</p> <p>The training for Navigators and non-Navigator assistance personnel must include training designed to ensure that they safeguard consumers' sensitive personal information including but not limited to health information, income and tax information, and Social Security number.</p>
<p>Providing Culturally and Linguistically Appropriate Services (CLAS Standards)</p>	<p>The proposed requirements would also include that such entities and individuals provide consumers with information and assistance in the consumer's preferred language, at no cost to the consumer, which would include oral interpretation of non-English languages and the translation of written documents in non-English languages when necessary to ensure meaningful access.</p> <p>Use of a consumer's family or friends as interpreters can satisfy the requirement to provide linguistically appropriate services only when requested by the consumer as the preferred alternative to an offer of other interpretive services.</p>

	<p>To require that non-Navigator assistance personnel provide limited-English-proficiency consumers with oral and written notices informing them of their right to receive language assistance services and how to obtain such services. This requirement could be satisfied using methods outlined in existing §155.205(c)(2), which allows for the use of taglines in non-English languages placed on documents or websites to indicate the availability of language services.</p>
	<p>To direct Navigator and non-Navigator assistance personnel entities to implement strategies to recruit and promote a staff that is representative of the demographic characteristics, including primary languages spoken, of the communities in their service area.</p>
	<p>To direct that auxiliary aids and services for individuals with disabilities be provided at no cost where necessary for effective communication. The proposal specifies that the use of a consumer’s family or friends as interpreters can satisfy the requirement to provide auxiliary aids and services only when requested by the consumer as the preferred alternative to an offer of other auxiliary aids and services.</p>
<p>Standards Ensuring Access by Persons with Disabilities</p>	<p>To require Navigators and non-Navigator assistance personnel in a Federally-facilitated Exchange or State Partnership Exchange, and federally-funded non-Navigator assistance personnel in a State-based Exchange to provide assistance to consumers in a location and in a manner that is physically and otherwise accessible to individuals with disabilities.</p>
	<p>To direct Navigators and non-Navigator assistance personnel to ensure that any consumer education materials, websites, or other tools utilized for consumer assistance purposes are accessible to people with disabilities.</p>
	<p>To require that legally authorized representatives be permitted to assist individuals with disabilities to make informed decisions.</p>
	<p>To direct that individuals carrying out Navigator and non-Navigator assistance functions have the ability to refer people with disabilities to local, state, and federal long-term services and supports programs when appropriate.</p>

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**Health Center Eligibility for Exchange Consumer Assistance Programs**

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**Pending Legislation on Navigators in the 50 States and DC (as of March 12, 2013)**

State	Bill Summary	Status
<b>Georgia</b>	<a href="#">H.B. 198</a> : Would establish license requirements that include a showing of requisite experience and competency to deliver accurate information; passage of an exam unless exempt; and good moral character; among others. Would prohibit navigators from engaging in activities that require a producer license; providing advice concerning benefits, terms, and features of a particular health plan; or recommending a particular plan or advising about which health plan to choose unless specifically authorized by federal law.	Passed both chambers – to House for concurrence
<b>Iowa</b>	<a href="#">S.F. 72</a> : Would authorize the exchange to select entities qualified to serve as navigators and award grants to facilitate the function of navigators; would direct navigators to conduct the functions outlined in Section 1311 under the Affordable Care Act. Would prohibit navigators from engaging in activities that require licensure as a producer unless the navigator also holds a producer license.	Introduced – in Senate Committee on Commerce
<b>Illinois</b>	<a href="#">H.B. 2608</a> , <a href="#">S.B. 1194</a> : Would prohibit navigators from engaging in activities that require a producer license; providing advice concerning benefits, terms, and features of a particular health plan; recommending a particular plan or advising about which health plan to choose; or providing information related to non-exchange plans. Would establish license requirements that include pre-licensing training; passage of a written exam; a showing of character and integrity; payment of a licensing fee; and a surety bond for protection against wrongful acts, misrepresentation, or negligence; among others. Would establish license renewal requirements, standards for navigator referrals, and grounds for probation.	Introduced – to House Health Care Licenses Committee  Introduced – to Senate Committee on Insurance
<b>Indiana</b>	<a href="#">H.B. 1319</a> , <a href="#">S.B. 551</a> : Would establish license requirements that include passage of an exam; payment of a licensing fee; and disclosures of conflicts of interest; among others. Would permit the insurance commissioner to take action against navigators which includes reprimand, levying civil penalties, and placing the navigator on probation or suspension, among others. Would direct the commissioner to develop a policy for conflict of interest, consumer complaint procedures, and an attestation that the navigator meets the requirements.	Passed House – to Senate Committee on Appropriations  Passed Senate – to House Committee on Public Health

*This legislative tracking is made possible as part of our [Implementing the ACA: Monitoring and Analysis of Insurance Reforms project](#). CHIR tracks legislative and regulatory developments using [StateNet®](#) and does not confirm this information with legislators or regulators prior to publication.*

<b>Maryland</b>	<a href="#">H.B. 228</a> , <a href="#">H.B. 361</a> , <a href="#">S.B. 274</a> : Would amend existing requirements for navigators operating in the individual exchange and the SHOP. Would require individual and SHOP navigators to obtain enrollment permits by showing good character and trustworthiness, passage of a written exam, and no conflicts of interest. Would establish fees of \$54 for an initial SHOP navigator license.	Introduced – to House Committee on Health and Government Operations  Introduced – to Senate Finance Committee
<b>Maine</b>	<a href="#">H.P. 366</a> : Would amend existing producer and consultant requirements by specifying that navigators can provide information concerning the substantive benefits, terms or conditions of health plans and provide assistance to facilitate enrollment in a qualified health plan through a state-based exchange. Would repeal existing requirements that navigators carry and maintain errors and omissions insurance and the application of unfair trade practices to navigators.	Introduced – to House Committee on Insurance and Financial Services
<b>Minnesota</b>	<a href="#">H.B. 5</a> : Would direct the exchange board to establish policies and procedures for a navigator program and sets policies for navigator operations until the board can do so. Would require the board to ensure that navigators have training in the needs of underserved and vulnerable populations, eligibility and enrollment rules, public health care programs, qualified health plan options, and privacy and security standards. Would hold navigators personally liable for damages resulting from an act or omission in providing assistance.	Passed both chambers – in conference committee
<b>Missouri</b>	<a href="#">S.B. 401</a> : Would prohibit navigators from engaging in activities that require a producer license; providing advice concerning benefits, terms, and features of a particular health plan; recommending or endorsing a particular plan or advising about which health plan to choose; or providing information related to non-exchange plans. Would establish license requirements that include passage of an exam; payment of a licensing fee; and a surety bond for protection against wrongful acts, misrepresentation, or negligence; among others. Would establish license renewal requirements, standards for navigator referrals, and grounds for probation and give the insurance director the authority to require that restitution be made to a consumer.	Introduced – to Senate Small Business, Insurance and Industry Committee
<b>Montana</b>	<a href="#">H.B. 250</a> : Would establish license requirements that include completion of certification and training requirements; a background examination; and payment of a licensing fee; among others. Would require the insurance commissioner to make a list of producers certified to sell through the exchange and a list of certified navigators. Would establish fees of \$100 for an initial navigator certification.	Passed House – to Senate Committee on Business, Labor, and Economic Affairs
<b>Nebraska</b>	<a href="#">L.B. 568</a> : Would prohibit navigators from engaging in activities that require a producer license; providing advice concerning benefits, terms, and features of a particular health plan; recommending or endorsing a	Introduced – to Banking, Commerce, and Insurance

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	particular plan or advising about which health plan to choose; or providing information related to non-exchange plans. Would establish license requirements that include pre-licensing training; passage of a written exam; a showing of character and integrity; payment of a licensing fee; and a surety bond for protection against wrongful acts, misrepresentation, or negligence; among others. Would establish license renewal requirements, standards for navigator referrals, and grounds for probation and give the insurance director the authority to require that restitution be made to a consumer. Would apply the state’s Unfair Insurance Trade Practices Act to navigators.	Committee
<b>New Mexico</b>	<p><a href="#">H.B. 564</a>: Would prohibit navigators from engaging in activities that require a producer license; providing advice concerning benefits, terms, and features of a particular health plan; recommending or endorsing a particular plan or advising about which health plan to choose; or providing information related to non-exchange plans. Would establish license requirements that include pre-licensing training; passage of a written exam; a showing of character and integrity; payment of a licensing fee; and a surety bond for protection against wrongful acts, misrepresentation, or negligence; among others. Would establish license renewal requirements, standards for navigator referrals, and grounds for probation and give the insurance director the authority to require that restitution be made to a consumer. Would apply the state’s Unfair Insurance Trade Practices Act to navigators.</p> <p><a href="#">H.B. 168</a>, <a href="#">S.B. 221</a>: Would require the exchange board to establish a navigator program.</p>	<p>Introduced – to House Judiciary Committee</p> <p>Failed to pass House – under reconsideration in the House</p> <p>Passed Senate – to House Committee on Health, Government &amp; Indian Affairs</p>
<b>New York</b>	<a href="#">A.B. 3006</a> , <a href="#">S.B. 2606</a> : Would amend existing requirements for producers to specify that a navigator is not considered an “insurance agent” and exempts navigators from certain licensure requirements.	<p>Introduced – to Assembly Committee on Ways and Means</p> <p>Introduced – to Senate Finance Committee</p>
<b>Ohio</b>	<a href="#">H.B. 3</a> : Would prohibit navigators from selling, soliciting, or negotiating health insurance; providing advice concerning benefits, terms, and features of a particular health plan; recommending or endorsing a particular plan or advising about which health plan to choose; or providing information related to non-exchange plans. Would establish license requirements that include completion of certification and training requirements; a background examination; and payment of a licensing fee; among others. Would require the navigator certification and training program to address HIPAA, training on ethics, and training on the Affordable Care Act and exchanges. Would require any electronic	Passed House – to Senate Rules and Reference Committee

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	medium (i.e., a website) or exchange-sanctioned outreach event to include information on how an individual can obtain the contact information of insurance agents that are certified to sell health benefit plans through an exchange and navigators.	
<b>Oregon</b>	<a href="#">S.B. 356</a> : Would require the exchange to issue rules regarding the certification of navigators, including requirements that relate to conflicts of interest, educational background or training, and the ability to eliminate the influence of personal biases and values in working with diverse groups, among other requirements. Would require the exchange to adopt a code of ethics for navigators and prohibit navigators from violating the trust of clients or providing inappropriate or unnecessary services to clients. Would require navigators to seek consultation or make a referral if doing so is in the best interest of the client and prohibit navigators from attempting to provide services beyond their area of competence, training, and qualifications.	Introduced – to Senate Committee on Health Care and Human Services
<b>Tennessee</b>	<a href="#">H.B. 881</a> : Would require the insurance commissioner to develop criteria for the selection of a navigator and adopt rules to establish a certification and training program that includes initial and continuing education requirements. Would – to the extent permitted by federal law – require a navigator to carry and maintain errors and omissions insurance. Would establish license requirements that include completion of certification and training requirements; a background examination; and payment of a licensing fee; among others.	Introduced – to House Insurance and Banking Subcommittee
<b>Texas</b>	<a href="#">H.B. 459</a> : Would require the department of insurance to establish a navigator program; select entities qualified to serve as navigators; adopt rules governing the certification of navigators; certify navigators; and provide training to navigators that includes enabling navigators to provide complete and accurate information about enrollment through an exchange and the circumstances under which a navigator should refer a client to an agent. Would allow the department to charge a reasonable fee for training services with an exception for nonprofit organizations.	Introduced – to House Insurance Committee
<b>Utah</b>	<a href="#">H.B. 160</a> : Would direct the insurance commissioner to preserve state control over the conduct of navigators, producers, and in-person assisters. Would establish license requirements that include completion of examination and training requirements; a background examination; demonstration of good character; maintenance of a surety bond (except when the navigator’s scope of practice is limited to assisting with enrollment in public programs or qualification for premium and cost-sharing subsidies); and payment of a licensing fee; among others. Would exempt certain organizations from licensure as a navigator, including health care facilities, the state and its political subdivisions or school districts, a federally qualified health center, a licensed agent, certain officers, directors, or employees of a navigator, and additional classes of	Passed both chambers

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	persons as decided by the commissioner. Would allow the commissioner to maintain a civil action against the navigator for recovery of compensatory damages or other appropriate relief.	
<b>Virginia</b>	<a href="#">H.B. 2246</a> , <a href="#">S.B. 1261</a> : Would prohibit navigators from engaging in activities that require a producer license; providing advice about whether a particular qualified health plan is better or worse for a client; acting as an intermediary between an employer and an insurer; or violating any unfair trade practices and privacy requirements. Would prohibit navigators from claiming to be or holding themselves out as a navigator without having been selected as a navigator in accordance with federal law and having completed all navigator requirements.	Passed both chambers

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