



OFFICE OF THE GOVERNOR

RICK PERRY
GOVERNOR

September 17, 2013

Ms. Julia Rathgeber
Commissioner
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714

Dear Commissioner Rathgeber:

During the 83rd regular session, the Texas Legislature passed and I signed into law Senate Bill 1795, which authorized the creation of rules regulating a navigator program to assist Texans in signing up for the federal health care exchange, which is a requirement under the Patient Protection and Affordable Care Act, otherwise known as Obamacare.

SB 1795 allows TDI to create and enforce regulations governing those persons who seek to work as navigators and specifically allows TDI to adopt more stringent regulations than federal rules. SB 1795 also prohibits navigators in Texas from engaging in electioneering activities.

The U.S. Department of Health and Human Services has repeatedly delayed explaining how its navigators were going to be created, how they were going to operate, and how they were going to be regulated.

Because of the nature of navigators' work and because they will be collecting confidential information, including birth dates, social security numbers and financial information, it is imperative that Texas train navigators on the collection and security of such data.

To that end, I am directing TDI to use its authority under S.B. 1795 and create rules to ensure that navigators are well-trained, qualified, and capable of protecting Texans' privacy.

Therefore, as TDI develops rules for regulating navigators, please ensure your rules require that navigators:

- Be at least 18 years old and demonstrate knowledge and capability to perform the services of a navigator;
- Provide proof of U.S. citizenship or legal residency;
- Complete a comprehensive, TDI-approved training course of a minimum of 40 hours coursework in addition to any federal coursework;
- Pass a rigorous exam based on that training course and covering job functions and privacy protections, among other topics;

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- Refrain from selling, soliciting, or negotiating health insurance, and from recommending a plan, providing advice regarding substantive benefits or comparative benefits of different plans;
- Submit to initial and periodic background and regulatory checks;
- Report to TDI on a regular basis the names of those persons they sign up for the federal health care exchange, and locations at which sign-ups take place.
- Show state issued identification and credentialing when approaching individuals, in advance of entering their home, or when otherwise intruding on their privacy.

Furthermore, TDI rules for the navigator program should:

- Create and require continuing education requirements;
- Require TDI to maintain a comprehensive database of navigators and their relevant information which includes background checks, regulatory checks and fingerprints;
- Include in TDI's database information on names of persons who were signed up in the federal health exchange by navigators and the locations at which they were signed up;
- Institute time, place, and manner requirements for navigator activity, including limiting registration of persons only between the hours of 8am and 8pm;
- Allow TDI to charge a fee sufficient to cover the costs of licensing, education, administration, and all other activities associated with the navigator program;
- Institute a surety bond for repayment to the state for any navigator's failure to secure confidential information, failure to maintain necessary training and certification, and improperly including ineligible individuals in the program;
- Give TDI the authority to suspend, or have registration revoked, for non-compliance or failure to meet any of the requirements created in rule or statute; and
- Give TDI the authority to take enforcement action against any person or entity that is holding itself out as, or performing the duties of, a navigator without being registered.

In addition to these, I trust that you will look at all of the ideas before you and give serious consideration to any additional proposals that seek to protect Texans and their privacy.

I look forward to working with you as we move through the rulemaking process.

Sincerely,



Rick Perry
Governor

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