

Senate File 2293

H-8414

1 Amend Senate File 2293, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 18, after line 12 by inserting:

4 <Sec. \_\_\_\_\_. Section 522B.12, Code 2011, is amended  
5 by adding the following new subsection:

6 NEW SUBSECTION. 5. A person who enrolls in a  
7 qualified health benefit plan offered in this state  
8 pursuant to federal law has the option to utilize the  
9 services of an insurance producer licensed pursuant  
10 to chapter 522B. Qualified health benefit plans  
11 offered pursuant to federal law shall pay licensed  
12 insurance producers for their services at a level that  
13 is commensurate with the compensation paid to insurance  
14 producers for the placement, renewal, or enrollment of  
15 persons in health benefit plans offered pursuant to  
16 state law.>

17 2. Page 19, after line 14 by inserting:

18 <Sec. \_\_\_\_\_. NEW SECTION. **522D.1 Definitions.**

19 As used in this chapter, unless the context  
20 otherwise requires:

21 1. "*Commissioner*" means the commissioner of  
22 insurance.

23 2. "*Navigator*" means a public or private entity  
24 or an individual that is qualified and licensed, if  
25 appropriate, to engage in the activities and meet the  
26 standards described in 45 C.F.R. § 155.210.

27 Sec. \_\_\_\_\_. NEW SECTION. **522D.2 License required.**

28 A person shall not act as a navigator in this state  
29 unless the person is licensed by the commissioner as  
30 required in this chapter.

31 Sec. \_\_\_\_\_. NEW SECTION. **522D.3 Actions prohibited.**

32 A navigator shall not perform the functions of a  
33 person required to be licensed as an insurance producer  
34 under chapter 522B unless the navigator is licensed  
35 as a navigator pursuant to this chapter and as an  
36 insurance producer pursuant to chapter 522B.

37 Sec. \_\_\_\_\_. NEW SECTION. **522D.4 Application for  
38 examination.**

39 1. An individual applying for a navigator license  
40 shall pass a written examination. The examination  
41 shall test the knowledge of the individual concerning  
42 the duties and responsibilities of a navigator and the  
43 insurance laws and regulations of this state. The  
44 commissioner shall adopt rules pursuant to chapter  
45 17A related to the development and conduct of the  
46 examination.

47 2. The commissioner may make arrangements,  
48 including contracting with an outside testing service  
49 or other appropriate entity, for administering  
50 examinations and collecting fees.

1 3. An individual applying for an examination shall  
2 remit a nonrefundable fee as established by rule of the  
3 commissioner.

4 4. An individual who fails to appear for the  
5 examination as scheduled or fails to pass the  
6 examination shall reapply for an examination and remit  
7 all required fees and forms before being rescheduled  
8 for another examination.

9 Sec. \_\_\_\_ . NEW SECTION. 522D.5 Application for  
10 license.

11 1. A person applying for a navigator license shall  
12 make application to the commissioner on an application  
13 form approved by the commissioner and declare under  
14 penalty of refusal, suspension, or revocation of the  
15 license that the statements made on the application  
16 are true, correct, and complete to the best of the  
17 individual's knowledge and belief. Before approving  
18 the application, the commissioner shall find all of the  
19 following:

20 a. The individual is at least eighteen years of  
21 age.

22 b. The individual has not committed any act that is  
23 a ground for denial, suspension, or revocation as set  
24 forth in section 522D.7.

25 c. The individual has paid the license fee, as  
26 established by the commissioner by rule.

27 d. The individual has successfully completed the  
28 initial training and education program for a license as  
29 established by the commissioner by rule.

30 e. The individual has successfully passed the  
31 examination as provided in section 522D.4.

32 f. In order to protect the public interest, the  
33 individual has the requisite character and competence  
34 to receive a license as a navigator.

35 2. A public or private entity acting as a navigator  
36 may elect to obtain a navigator license. Application  
37 shall be made using the application form approved by  
38 the commissioner. Prior to approving the application,  
39 the commissioner shall find both of the following:

40 a. The entity has paid the appropriate fees.

41 b. The entity has designated a licensed navigator  
42 responsible for the entity's compliance with this  
43 chapter.

44 Sec. \_\_\_\_ . NEW SECTION. 522D.6 License.

45 1. A person who meets the requirements of sections  
46 522D.4 and 522D.5, unless otherwise denied licensure  
47 pursuant to section 522D.7, shall be issued a navigator  
48 license. A navigator license is valid for three years.

49 2. A navigator license remains in effect unless  
50 revoked or suspended as long as all required fees are

1 paid and continuing education requirements are met by  
2 any applicable due date. A navigator is required to  
3 complete continuing education requirements required by  
4 law in order to be eligible for license renewal.

5 3. A licensed navigator who is unable to comply  
6 with license renewal procedures due to military service  
7 or other extenuating circumstances may request a waiver  
8 of those procedures. The licensed navigator may also  
9 request a waiver of any examination requirement or any  
10 other penalty or sanction imposed for failure to comply  
11 with renewal procedures.

12 4. The license shall contain the licensee's  
13 name, address, personal identification number, the  
14 date of issuance, the expiration date, and any other  
15 information the commissioner deems necessary.

16 5. A licensee shall inform the commissioner by any  
17 means acceptable to the commissioner of a change of  
18 legal name or address within thirty days of the change.  
19 Failure to timely inform the commissioner of a change  
20 of legal name or address may result in a penalty as  
21 specified in section 522D.7.

22 6. The commissioner shall require by rule that  
23 a licensed navigator furnish a surety bond or other  
24 evidence of financial responsibility that protects all  
25 persons against wrongful acts, misrepresentations,  
26 errors, omissions, or negligence of the navigator.

27 7. In order to assist with the commissioner's  
28 duties, the commissioner may contract with a  
29 nongovernmental entity, including the national  
30 association of insurance commissioners or any affiliate  
31 or subsidiary the national association of insurance  
32 commissioners oversees, to perform any ministerial  
33 functions, including the collection of fees, related  
34 to navigator licensing that the commissioner deems  
35 appropriate.

36 **Sec. \_\_\_\_ . NEW SECTION. 522D.7 License denial,**  
37 **nonrenewal, or revocation.**

38 1. The commissioner may place on probation,  
39 suspend, revoke, or refuse to issue or renew a  
40 navigator's license or may levy a civil penalty as  
41 provided in section 522D.8 for any one or more of the  
42 following causes:

43 a. Providing incorrect, misleading, incomplete,  
44 or materially untrue information in the license  
45 application.

46 b. Violating any insurance laws, or violating any  
47 regulation, subpoena, or order of the commissioner or  
48 of a commissioner of another state.

49 c. Obtaining or attempting to obtain a license  
50 through misrepresentation or fraud.

1 *d.* Improperly withholding, misappropriating, or  
2 converting any moneys or properties received in the  
3 course of doing insurance business.

4 *e.* Intentionally misrepresenting the terms of an  
5 actual or proposed insurance contract or application  
6 for insurance.

7 *f.* Having been convicted of a felony.

8 *g.* Having admitted or been found to have committed  
9 any unfair insurance trade practice or fraud.

10 *h.* Using fraudulent, coercive, or dishonest  
11 practices, or demonstrating incompetence,  
12 untrustworthiness, or financial irresponsibility  
13 in the conduct of business in this state or elsewhere.

14 *i.* Having a navigator license, or its equivalent,  
15 denied, suspended, or revoked in any other state,  
16 province, district, or territory.

17 *j.* Forging another's name to an application for  
18 insurance or to any document related to an insurance  
19 transaction.

20 *k.* Improperly using notes or any other reference  
21 material to complete an examination for a navigator  
22 license.

23 *l.* Failing to comply with an administrative or  
24 court order imposing a child support obligation.

25 *m.* Failing to comply with an administrative or  
26 court order related to repayment of loans to the  
27 college student aid commission.

28 *n.* Failing to pay state income tax or comply with  
29 any administrative or court order directing payment of  
30 state income tax.

31 *o.* Failing or refusing to cooperate in an  
32 investigation by the commissioner.

33 2. If the commissioner does not renew a license or  
34 denies an application for a license, the commissioner  
35 shall notify the applicant or licensee and advise,  
36 in writing, the licensee or applicant of the reason  
37 for the nonrenewal of the license or denial of the  
38 application for a license. The licensee or applicant  
39 may request a hearing on the nonrenewal or denial. A  
40 hearing shall be conducted according to section 507B.6.

41 3. The license of a public or private entity  
42 operating as a navigator may be suspended, revoked,  
43 or refused if the commissioner finds, after hearing,  
44 that an individual navigator licensee's violation was  
45 known or should have been known by a partner, officer,  
46 or manager acting on behalf of the entity and the  
47 violation was not reported to the commissioner and  
48 corrective action was not taken.

49 4. In addition to, or in lieu of, any applicable  
50 denial, suspension, or revocation of a license, a

1 person, after hearing, may be subject to a civil  
2 penalty as provided in section 522D.8.

3 5. The commissioner may conduct an investigation  
4 of any suspected violation of this chapter pursuant  
5 to section 507B.6 and may enforce the provisions and  
6 impose any penalty or remedy authorized by this chapter  
7 and chapter 507B against any person who is under  
8 investigation for, or charged with, a violation of  
9 either chapter even if the person's license has been  
10 surrendered or has lapsed by operation of law.

11 6. a. In order to assure a free flow of  
12 information for accomplishing the purposes of this  
13 section, all complaint files, investigation files,  
14 other investigation reports, and other investigative  
15 information in the possession of the commissioner or  
16 the commissioner's employees or agents that relates to  
17 licensee discipline are privileged and confidential,  
18 and are not subject to discovery, subpoena, or  
19 other means of legal compulsion for their release  
20 to a person other than the licensee, and are not  
21 admissible in evidence in a judicial or administrative  
22 proceeding other than the proceeding involving  
23 licensee discipline. A final written decision of the  
24 commissioner in a disciplinary proceeding is a public  
25 record.

26 b. Investigative information in the possession  
27 of the commissioner or the commissioner's employees  
28 or agents that relates to licensee discipline may  
29 be disclosed, in the commissioner's discretion, to  
30 appropriate licensing authorities within this state,  
31 the appropriate licensing authority in another state,  
32 the District of Columbia, or a territory or country in  
33 which the licensee is licensed or has applied for a  
34 license.

35 c. If the investigative information in the  
36 possession of the commissioner or the commissioner's  
37 employees or agents indicates a crime has been  
38 committed, the information shall be reported to the  
39 proper law enforcement agency.

40 d. Pursuant to the provisions of section 17A.19,  
41 subsection 6, upon an appeal by the licensee, the  
42 commissioner shall transmit the entire record of the  
43 contested case to the reviewing court.

44 e. Notwithstanding the provisions of section  
45 17A.19, subsection 6, if a waiver of privilege has  
46 been involuntary and evidence has been received at a  
47 disciplinary hearing, the court shall issue an order to  
48 withhold the identity of the individual whose privilege  
49 was waived.

50 Sec. \_\_\_\_ . NEW SECTION. 522D.8 Cease and desist

1 orders — penalties.

2 1. A navigator who, after hearing, is found to have  
3 violated this chapter, may be ordered to cease and  
4 desist from engaging in the conduct resulting in the  
5 violation and may be assessed a civil penalty pursuant  
6 to chapter 507B.

7 2. If a person does not comply with an order issued  
8 pursuant to this section, the commissioner may petition  
9 a court of competent jurisdiction to enforce the order.  
10 The court shall not require the commissioner to post  
11 a bond in an action or proceeding under this section.  
12 If the court finds, after notice and opportunity for  
13 hearing, that the person is not in compliance with an  
14 order, the court may adjudge the person to be in civil  
15 contempt of the order. The court may impose a civil  
16 penalty against the person for contempt in an amount  
17 not less than three thousand dollars but not greater  
18 than ten thousand dollars for each violation and may  
19 grant any other relief that the court determines is  
20 just and proper in the circumstances.

21 Sec. \_\_\_\_ . NEW SECTION. 522D.9 Injunctive relief.

22 1. A person may bring an action in district court  
23 to enjoin another person from acting as a navigator in  
24 violation of section 522D.2. However, before bringing  
25 an action in district court to enjoin a person pursuant  
26 to this section, the person shall file a complaint with  
27 the insurance division alleging that another person is  
28 acting as a navigator in violation of section 522D.2.

29 2. If the division makes a determination to proceed  
30 administratively against the person for a violation  
31 of section 522D.2, the complainant shall not bring an  
32 action in district court against the person pursuant to  
33 this section based upon the allegations contained in  
34 the complaint filed with the division.

35 3. If the division does not make a determination  
36 to proceed administratively against the person for  
37 a violation of section 522D.2, the division shall  
38 issue, by ninety days from the date of filing of the  
39 complaint, a release to the complainant that permits  
40 the complainant to bring an action in district court  
41 pursuant to this section.

42 4. The filing of a complaint with the division  
43 pursuant to this section tolls the statute of  
44 limitations pursuant to section 614.1 as to the alleged  
45 violation for a period of one hundred twenty days from  
46 the date of filing the complaint.

47 5. Any action brought in district court by a  
48 complainant against a person pursuant to this section,  
49 based upon the allegations contained in the complaint  
50 filed with the division, shall be brought within one

1 year after the ninety-day period following the filing  
2 of the complaint with the division, or the date of the  
3 issuance of a release by the division, whichever is  
4 earlier.

5 6. If the court finds that the person is in  
6 violation of section 522D.2 and enjoins the person from  
7 acting as a navigator in violation of that section,  
8 the court's findings of fact and law, and the judgment  
9 and decree, when final, shall be admissible in any  
10 proceeding initiated pursuant to section 522D.8 by the  
11 commissioner against the person enjoined and the person  
12 enjoined shall be precluded from contesting in that  
13 proceeding the court's determination that the person  
14 acted as a navigator in violation of section 522D.2.

15 Sec. \_\_\_\_\_. NEW SECTION. **522D.10 Rules.**

16 The commissioner may adopt rules pursuant to  
17 chapter 17A as are necessary or proper to carry out the  
18 purposes of this chapter.

19 Sec. \_\_\_\_\_. NEW SECTION. **522D.11 Severability.**

20 If any provision of this chapter or its application  
21 to any person or circumstance is held invalid by a  
22 court of competent jurisdiction or by federal law,  
23 the invalidity does not affect other provisions or  
24 applications of the chapter that can be given effect  
25 without the invalid provision or application, and to  
26 this end the provisions of the chapter are severable  
27 and the valid provisions or applications shall remain  
28 in full force and effect.

29 Sec. \_\_\_\_\_. NEW SECTION. **522D.12 Future repeal.**

30 If the federal law requiring the establishment  
31 of an exchange in each state is repealed by federal  
32 legislation or is ruled invalid by a decision of the  
33 United States supreme court, the commissioner shall  
34 notify the Iowa Code editor of the effective date of  
35 the repeal or the date of the ruling. This chapter  
36 is repealed on the effective date of such federal  
37 legislation or the date of the United States supreme  
38 court decision.>

39 3. Page 21, after line 18 by inserting:

40 Sec. \_\_\_\_\_. EFFECTIVE DATE. The following provision  
41 or provisions of this Act take effect July 1, 2013:

42 1. The sections of this Act enacting chapter 522D.>

43 4. By renumbering as necessary.

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HORBACH of Tama