



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB2294

Introduced 2/26/2021, by Sen. Ann Gillespie

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Insurance Code. Provides that a group or individual policy of accident and health insurance or managed care plan that offers a program for wellness coverage must not provide a total incentive that exceeds 30% (rather than 20%) of the cost of self-only or employee-only coverage (rather than only employee-only coverage). Provides that the incentive may be increased by up to an additional 20%, for a total incentive of 50%, to the extent that the additional percentage is in connection with a program designed to prevent or reduce tobacco use. Amends the Navigator Certification Act. Provides that certified application counselors are subject to the same certification requirements as navigators. Provides that navigators or certified application counselors may not engage in any unfair method of competition or any fraudulent, deceptive, or dishonest act or practice related to the health insurance marketplace or to that individual's or entity's absence of a conflict of interest in connection with the enrollment of any individuals or employees in a particular private health benefit plan. Provides that a navigator or certified application counselor who fails to timely file for certificate renewal shall be charged a late fee in an amount prescribed by the Director of Insurance. Revises the meaning of the terms "certified application counselor" and "navigator". Makes other changes. Effective immediately.

LRB102 10643 BMS 15972 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by  
5 changing Section 356z.17 as follows:

6 (215 ILCS 5/356z.17)

7 Sec. 356z.17. Wellness coverage.

8 (a) A group or individual policy of accident and health  
9 insurance or managed care plan amended, delivered, issued, or  
10 renewed after January 1, 2010 (the effective date of Public  
11 Act 96-639) that provides coverage for hospital or medical  
12 treatment on an expense incurred basis may offer a reasonably  
13 designed program for wellness coverage that allows for a  
14 reward, a contribution, a reduction in premiums or reduced  
15 medical, prescription drug, or equipment copayments,  
16 coinsurance, or deductibles, or a combination of these  
17 incentives, for participation in any health behavior wellness,  
18 maintenance, or improvement program approved or offered by the  
19 insurer or managed care plan. The insured or enrollee may be  
20 required to provide evidence of participation in a program.  
21 Individuals unable to participate in these incentives due to  
22 an adverse health factor shall not be penalized based upon an  
23 adverse health status.

1           (b) For purposes of this Section, "wellness coverage"  
2 means health care coverage with the primary purpose to engage  
3 and motivate the insured or enrollee through: incentives;  
4 provision of health education, counseling, and self-management  
5 skills; identification of modifiable health risks; and other  
6 activities to influence health behavior changes.

7           For the purposes of this Section, "reasonably designed  
8 program" means a program of wellness coverage that has a  
9 reasonable chance of improving health or preventing disease;  
10 is not overly burdensome; does not discriminate based upon  
11 factors of health; and is not otherwise contrary to law.

12           (c) Incentives as outlined in this Section are specific  
13 and unique to the offering of wellness coverage and have no  
14 application to any other required or optional health care  
15 benefit.

16           (d) Such wellness coverage must satisfy the requirements  
17 for an exception from the general prohibition against  
18 discrimination based on a health factor under the federal  
19 Health Insurance Portability and Accountability Act of 1996  
20 (P.L. 104-191; 110 Stat. 1936), including any federal  
21 regulations that are adopted pursuant to that Act.

22           (e) A plan offering wellness coverage must do the  
23 following:

24           (i) give participants the opportunity to qualify for  
25 offered incentives at least once a year;

26           (ii) allow a reasonable alternative to any individual

1 for whom it is unreasonably difficult, due to a medical  
2 condition, to satisfy otherwise applicable wellness  
3 program standards. Plans may seek physician verification  
4 that health factors make it unreasonably difficult or  
5 medically inadvisable for the participant to satisfy the  
6 standards; and

7 (iii) not provide a total incentive that exceeds 30%  
8 ~~20%~~ of the cost of self-only or employee-only coverage,  
9 except that the incentive may be increased by up to an  
10 additional 20%, for a total incentive of 50%, to the  
11 extent that the additional percentage is in connection  
12 with a program designed to prevent or reduce tobacco use.  
13 The cost of employee-only or family coverage provided  
14 through group health insurance coverage includes both  
15 employer and employee contributions. For group or  
16 individual plans offering family coverage, the ~~20%~~  
17 limitation applies to cost of family coverage and applies  
18 to the entire family.

19 (f) A reward, contribution, or reduction established under  
20 this Section and included in the policy or certificate does  
21 not violate Section 151 of this Code.

22 (Source: P.A. 96-639, eff. 1-1-10; 96-833, eff. 6-1-10.)

23 Section 10. The Navigator Certification Act is amended by  
24 changing Sections 5, 10, 15, 30, 35, and 45 as follows:

1 (215 ILCS 121/5)

2 Sec. 5. Definitions. As used in this Act:

3 "Certified application counselor" has the same meaning as  
4 in federal regulations and guidelines, including 45 CFR  
5 155.225.

6 "Director" means the Director of Insurance.

7 "Exchange" means any health benefit exchange established  
8 or operating in this State, including any exchange established  
9 or operated by the United States Department of Health and  
10 Human Services.

11 "Navigator" means a person or entity selected to perform  
12 the activities and duties identified in 42 U.S.C. 18031(i) in  
13 this State. ~~"Navigator" includes any person or entity who~~  
14 ~~receives grant funds from the United States Department of~~  
15 ~~Health and Human Services, the State of Illinois, or an~~  
16 ~~exchange or private funds to perform any of the activities and~~  
17 ~~duties identified in 42 U.S.C. 18031(i), including, but not~~  
18 ~~limited to, in person assisters as defined by federal~~  
19 ~~regulations or guidelines.~~

20 (Source: P.A. 98-524, eff. 8-23-13.)

21 (215 ILCS 121/10)

22 Sec. 10. Certificate required.

23 (a) No individual or entity shall perform, offer to  
24 perform, or advertise any service as a navigator or certified  
25 application counselor in this State or receive navigator grant

1 funding from the United States Department of Health and Human  
2 Services, the State of Illinois, or an exchange or private  
3 funds unless certified as a navigator or certified application  
4 counselor by the Director under this Act.

5 (b) The Director may establish exemptions from  
6 certification by rule. ~~A navigator who complies with the~~  
7 ~~requirements of this Act shall do the following:~~

8 ~~(1) conduct public education activities to raise~~  
9 ~~awareness of the availability of qualified health plans;~~

10 ~~(2) distribute fair and impartial information~~  
11 ~~concerning enrollment in qualified health plans offered~~  
12 ~~within the exchange and the availability of the premium~~  
13 ~~tax credits under Section 36B of the Internal Revenue Code~~  
14 ~~of 1986, 26 U.S.C. 36B, and cost-sharing reductions under~~  
15 ~~Section 1402 of the federal Patient Protection and~~  
16 ~~Affordable Care Act;~~

17 ~~(3) facilitate enrollment in qualified health plans;~~

18 ~~(4) provide referrals to appropriate federal and State~~  
19 ~~agencies for any enrollee with a grievance, complaint, or~~  
20 ~~question regarding their health plan or coverage or a~~  
21 ~~determination under such plan or coverage;~~

22 ~~(5) provide information in a manner that is culturally~~  
23 ~~and linguistically appropriate to the needs of the~~  
24 ~~population being served by the exchange.~~

25 (c) A navigator or certified application counselor may  
26 not:

1 (1) sell, solicit, or negotiate, as these terms are  
2 defined in Section 500-10 of the Illinois Insurance Code,  
3 any of the classes of insurance enumerated in Section 4 of  
4 the Illinois Insurance Code;

5 (2) offer advice about which health plan is better or  
6 worse for a particular individual or employer;

7 (3) recommend or endorse a particular health plan or  
8 advise consumers about which health plan to choose;

9 (4) provide any information or services related to  
10 health benefit plans or other insurance products not  
11 offered in the exchange, except for health care providers  
12 when furnishing information or services related to a  
13 patient's existing health benefit plan or other existing  
14 health insurance coverage; ~~or~~

15 (5) accept any compensation or consideration, directly  
16 or indirectly, from any issuer of accident and health  
17 insurance or stop-loss insurance that is dependent, in  
18 whole or in part, on whether a person enrolls in or  
19 purchases a particular private health benefit plan; ~~or~~

20 (6) engage in an unfair method of competition or a  
21 fraudulent, deceptive, or dishonest act or practice with  
22 respect to the health insurance marketplace or with  
23 respect to that individual's or entity's absence of a  
24 conflict of interest in connection with the enrollment of  
25 an individual or employee in a particular private health  
26 benefit plan.

1 (d) Items (1), (2), (3), (4), and (5) of subsection (c) of  
2 this Section do not apply to navigators or certified  
3 application counselors when assisting individuals with the  
4 enrollment process in the State Medicaid program or other  
5 public programs.

6 (Source: P.A. 98-524, eff. 8-23-13.)

7 (215 ILCS 121/15)

8 Sec. 15. Application for certificate.

9 (a) An entity or individual applying for an initial or  
10 renewal ~~a~~ navigator or certified application counselor  
11 certificate shall make application to the Director on a form  
12 developed by the Director and declare under penalty of  
13 refusal, suspension, or revocation of the certificate that the  
14 statements made in the application are true, correct, and  
15 complete to the best of the individual's or entity's knowledge  
16 and belief. ~~Before approving the application, the Director~~  
17 ~~shall find that the individual:~~

18 ~~(1) is at least 18 years of age;~~

19 ~~(2) resides in this State or maintains his or her~~  
20 ~~principal place of business in this State;~~

21 ~~(3) is not disqualified due to having committed any~~  
22 ~~act that would be grounds for denial, suspension, or~~  
23 ~~revocation of a navigator certification in accordance with~~  
24 ~~Section 30 of this Act;~~

25 ~~(4) has successfully completed the federal and State~~



1 ~~training provided by the exchange or equivalent State~~  
2 ~~requirements as determined by the Department; and~~

3 ~~(5) when applicable, has the written consent of the~~  
4 ~~Director pursuant to 18 U.S.C. 1033, or any successor~~  
5 ~~statute regulating crimes by or affecting persons engaged~~  
6 ~~in the business of insurance whose activities affect~~  
7 ~~interstate commerce.~~

8 (b) The Director shall establish certification terms and  
9 requirements for completed applications, including educational  
10 requirements, by rule. ~~An entity that acts as a navigator,~~  
11 ~~supervises the activities of individual navigators, or~~  
12 ~~receives funding to perform such activities shall obtain a~~  
13 ~~navigator entity certificate. An entity applying for a~~  
14 ~~navigator entity certificate shall make application on a form~~  
15 ~~containing the information prescribed by the Director and~~  
16 ~~shall list the individuals acting as navigators under the~~  
17 ~~entity certificate.~~

18 ~~(1) The entity shall designate a certified navigator~~  
19 ~~responsible for the navigator entity's compliance with the~~  
20 ~~laws of this State and the exchange.~~

21 ~~(2) The entity, under penalty of revocation,~~  
22 ~~suspension, or other discipline prescribed by the~~  
23 ~~Director, shall certify that each individual completes the~~  
24 ~~mandatory training required by item (4) of subsection (a)~~  
25 ~~of Section 15 of this Act.~~

26 (c) The Director may require any documents deemed

1 necessary to verify the information contained in an  
2 application submitted in accordance with subsections (a) and  
3 (b) of this Section.

4 (d) Any navigator or certified application counselor who  
5 fails to timely file for certificate renewal shall be charged  
6 a late fee in an amount prescribed by the Director ~~Entities~~  
7 ~~certified as navigators shall provide the Director with a list~~  
8 ~~of all individual navigators that it employs, supervises, or~~  
9 ~~is affiliated with at renewal.~~

10 (e) The Director may require, in a manner determined by  
11 the Director, that each entity that acts as a navigator or  
12 certified application counselor demonstrate a level of  
13 financial responsibility capable of protecting all persons  
14 against the wrongful acts, misrepresentations, or negligence  
15 of the navigator or certified application counselor.

16 (f) Prior to any exchange becoming operational in this  
17 State, the Director, in coordination with the exchange, shall  
18 prescribe the initial training and continuing education  
19 requirements for navigators and certified application  
20 counselors.

21 (g) Certificate holders must inform the Director, in  
22 writing, of a change of address within 30 days after the  
23 change.

24 (h) In order to assist in the performance of the  
25 Director's duties, the Director may contract with the National  
26 Association of Insurance Commissioners (NAIC), or any

1 affiliates or subsidiaries that the NAIC oversees, to perform  
2 any ministerial functions, including the collection of fees,  
3 related to certification that the Director and the  
4 nongovernmental entity may deem appropriate.

5 (Source: P.A. 98-524, eff. 8-23-13.)

6 (215 ILCS 121/30)

7 Sec. 30. Certificate denial, nonrenewal, or revocation.

8 (a) The Director may place on probation, suspend, revoke,  
9 or refuse to issue or renew a navigator or certified  
10 application counselor ~~navigator's~~ certificate or may levy a  
11 civil penalty as established by rule.

12 (b) If an action by the Director is to nonrenew, suspend,  
13 or revoke a certificate or to deny an application for a  
14 certificate, then the Director shall notify the applicant or  
15 certificate holder and advise, in writing, the applicant or  
16 certificate holder of the reason for the suspension,  
17 revocation, or denial or nonrenewal of the applicant's or  
18 certificate holder's certificate. The applicant or certificate  
19 holder may make written demand upon the Director within 30  
20 days after the date of mailing for a hearing before the  
21 Director to determine the reasonableness of the Director's  
22 action. The hearing must be held within not fewer than 20 days  
23 nor more than 30 days after the mailing of the notice of  
24 hearing ~~and shall be held pursuant to Part 2402 of Title 50 of~~  
25 ~~the Illinois Administrative Code.~~

1           (c) A navigator or certified application counselor entity  
2 certificate may be suspended, revoked, or refused or  
3 information turned over to the U.S. Department of Health and  
4 Human Services and applicable state agencies if the Director  
5 finds, after hearing, that a certified individual's violation  
6 was known or should have been known by one or more of the  
7 partners, officers, or managers acting on behalf of the  
8 navigator entity.

9           (d) In addition to or instead of any applicable denial,  
10 suspension, or revocation of a certificate, a person may,  
11 after hearing, be subject to a civil penalty in accordance  
12 with emergency rules issued by the Director.

13           (e) The Director has the authority to enforce the  
14 provisions of and impose any penalty or remedy authorized by  
15 this Act against any person who is under investigation of or  
16 charged with a violation of this Act or rules, even if the  
17 person's certificate has been surrendered or has lapsed by  
18 operation of law.

19           (f) Upon the suspension, denial, or revocation of a  
20 certificate, the certificate holder or other person having  
21 possession or custody of the certificate shall promptly  
22 deliver it to the Director in person or by mail. The Director  
23 shall publish all suspensions, denials, or revocations after  
24 the suspensions, denials, or revocations become final in a  
25 manner designed to notify the public.

26           (g) A person whose certificate is revoked or whose

1 application is denied pursuant to this Section is ineligible  
2 to apply for any certificate for 3 years after the revocation  
3 or denial. A person whose certificate as a navigator or  
4 certified application counselor has been revoked, suspended,  
5 or denied may not be employed, contracted, or engaged in an  
6 exchange-related capacity during the time the revocation,  
7 suspension, or denial is in effect.

8 (Source: P.A. 98-524, eff. 8-23-13.)

9 (215 ILCS 121/35)

10 Sec. 35. Reporting to the Director.

11 (a) Each navigator or certified application counselor  
12 shall report to the Director within 30 calendar days after the  
13 final disposition of a matter ~~that violates the provisions set~~  
14 ~~forth in this Act~~ that results in any administrative action  
15 taken against the navigator or certified application counselor  
16 ~~him~~ in another jurisdiction or by another governmental agency  
17 in this State. The report shall include a copy of the order,  
18 consent to order, or other relevant legal documents.

19 (b) Within 30 days after the initial pretrial hearing  
20 date, a navigator or certified application counselor shall  
21 report to the Director any criminal prosecution of the  
22 navigator or certified application counselor ~~of a matter that~~  
23 ~~violates the provisions set forth in this Act~~ taken in any  
24 jurisdiction. The report shall include a copy of the initial  
25 complaint filed, the order resulting from the hearing, and any

1 other relevant legal documents.

2 (c) An entity that is certified ~~acts~~ as a navigator or  
3 certified application counselor that terminates the  
4 employment, engagement, affiliation, or other relationship  
5 with an individual navigator or certified application  
6 counselor shall notify the Director within 30 days following  
7 the effective date of the termination, using a format  
8 prescribed by the Director, if the reason for termination is  
9 related to the requirements or standards ~~one of the reasons~~  
10 set forth in this Act or the rules adopted by the Director  
11 pursuant to this Act, or the entity has knowledge the  
12 navigator or certified application counselor was found by a  
13 court or government body to have engaged in any of the  
14 activities prohibited by this Act or the rules adopted by the  
15 Director pursuant to this Act. Upon the written request of the  
16 Director, the entity shall provide additional information,  
17 documents, records, or other data pertaining to the  
18 termination or activity of the individual.

19 (Source: P.A. 98-524, eff. 8-23-13.)

20 (215 ILCS 121/45)

21 Sec. 45. Other laws; rulemaking authority.

22 (a) The requirements of this Act shall not apply to any  
23 individual or entity licensed as an insurance producer in this  
24 State.

25 (b) Pursuant to the authority granted by this Act, the

1 Director may adopt rules as may be necessary or appropriate  
2 for the administration and enforcement of this Act. Such rules  
3 may not conflict with or prevent the application of the  
4 provisions of Title I of the Patient Protection and Affordable  
5 Care Act or the federal regulations promulgated under such  
6 provisions.

7 (Source: P.A. 98-524, eff. 8-23-13.)

8 (215 ILCS 121/20 rep.)

9 (215 ILCS 121/25 rep.)

10 (215 ILCS 121/40 rep.)

11 Section 15. The Navigator Certification Act is amended by  
12 repealing Sections 20, 25, and 40.

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 215 ILCS 5/356z.17

4 215 ILCS 121/5

5 215 ILCS 121/10

6 215 ILCS 121/15

7 215 ILCS 121/30

8 215 ILCS 121/35

9 215 ILCS 121/45

10 215 ILCS 121/20 rep.

11 215 ILCS 121/25 rep.

12 215 ILCS 121/40 rep.