

Final Rule

LSA Document #15-33(F)

DIGEST

Adds [760 IAC 4](#) regarding certification and registration requirements, precertification education and examinations, continuing education, duties, conflicts of interest, privacy and security of information, reporting requirements, enforcement, and other matters relating to an individual acting as a navigator and an entity acting as an application organization in Indiana. Effective 30 days after filing with the Publisher.

[760 IAC 4](#)

SECTION 1. [760 IAC 4](#) IS ADDED TO READ AS FOLLOWS:

**ARTICLE 4. NAVIGATORS AND APPLICATION ORGANIZATIONS**

**Rule 1. General Provisions**

[760 IAC 4-1-1](#) Applicability and scope

Authority: [IC 27-19-1-4](#)

Affected: [IC 27-19-1-4](#)

Sec. 1. This article applies to all application organizations, navigators, programs, and providers defined under this article.

(Department of Insurance; [760 IAC 4-1-1](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))

**Rule 2. Definitions**

[760 IAC 4-2-1](#) Definitions

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#)

Affected: [IC 12-8-1.5-2](#); [IC 12-10](#); [IC 12-15-44.5](#); [IC 12-17.6](#); [IC 16-28](#); [IC 27-1-1](#); [IC 27-19-2](#); [IC 27-19-4-1](#)

Sec. 1. The definitions set forth in [IC 27-19-2](#) and the following definitions apply throughout this article:

(1) "Application organization" means a navigator described in Section 1311(i) of PPACA (42 U.S.C. 18031(i)), a certified application counselor organization described in 45 CFR 155.225 issued pursuant to PPACA, or any other federal assistance program under PPACA, or an entity that employs personnel to assist individuals with application for and enrollment in a QHP through a health benefit exchange or in a public health insurance program. An application organization does not include:

(A) An entity that makes presumptive eligibility determinations concerning an individual's eligibility for enrollment in a public health insurance program unless such entity also assists individuals with the full application for and enrollment in a public health insurance program or QHP through a health benefit exchange.

(B) A state agency, division, or subdivision thereof.

(C) An entity that only performs one (1) or both of the following two (2) functions:

(i) Provides assistance with application for and enrollment in a public health insurance program to individuals who may be eligible for Medicaid nursing home care.

(ii) Provides individuals with general information concerning the application process for enrollment in a QHP through a health benefit exchange or in a public health insurance program but does not assist individuals with application for or enrollment in a QHP through a health benefit exchange or in a public health insurance program.

(2) "Assist" or "assistance" means to help an individual with the completion of an application for a QHP through a health benefit exchange or an application for a public health insurance program.

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- (3) "CHIP" refers to the children's health insurance program under Title XXI of the Social Security Act and [IC 12-17.6](#).
- (4) "Commissioner" refers to the insurance commissioner appointed under [IC 27-1-1-2](#).
- (5) "Department" refers to the department of insurance created under [IC 27-1-1-1](#).
- (6) "Entity" means any type of corporation, company, partnership, association, institution, or any other organization, as distinguished from an individual.
- (7) "Group health plan" has the meaning set forth in Section 2791 of the federal Public Health Service Act (42 U.S.C. 300gg-91).
- (8) "Health benefit exchange" means an American health benefit exchange or marketplace operating in Indiana pursuant to PPACA.
- (9) "Health insurance coverage" has the meaning set forth in Section 2791 of the federal Public Health Service Act (42 U.S.C. 300gg-91).
- (10) "Health plan" means a policy or contract that provides health insurance coverage. The term includes a group health plan, QHP, or public health insurance program.
- (11) "Healthy Indiana Plan 2.0" or "HIP 2.0" refers to the 1115 waiver program established by [IC 12-15-44.5](#).
- (12) "Medicaid" refers to the state and federal program under 42 U.S.C. 1396 et seq. and [IC 12-15](#).
- (13) "Medicaid home and community-based waiver services" means those services provided in accordance with [IC 12-10](#) and [455 IAC 2-4](#).
- (14) "Navigator" means a navigator described in Section 1311(i) of PPACA (42 U.S.C. 18031(i)), a certified application counselor described in 45 CFR 155.225 issued pursuant to PPACA, or any other federal assistance personnel as provided by PPACA, or a person who assists individuals with application for and enrollment in a QHP through a health benefit exchange or in a public health insurance program. A navigator does not include:
- (A) A person who makes presumptive eligibility determinations concerning an individual's eligibility for enrollment in a public health insurance program unless such person also assists individuals with the full application for and enrollment in a public health insurance program or a QHP through a health benefit exchange.
  - (B) An employee or contractor of a state agency, division, or subdivision thereof who is performing their job function for such state agency, division, or subdivision.
  - (C) A person who is the authorized representative on behalf of an individual applying for a public health insurance program unless such person also assists an individual with application for and enrollment in a public health insurance program or a QHP through a health benefit exchange not as the individual's authorized representative.
  - (D) A person who only performs one (1) or both of the following two (2) functions:
    - (i) Provides assistance with application for and enrollment in a public health insurance program to individuals who may be eligible for Medicaid nursing home care.
    - (ii) Provides individuals with general information concerning the application process for enrollment in a QHP through a health benefit exchange or in a public health insurance program but does not assist individuals with application completion or enrollment in a QHP through a health benefit exchange or in a public health insurance program.
- (15) "Nonresident" means an individual with a permanent home address outside of Indiana or an entity with a physical address outside of Indiana.
- (16) "Nursing home care" means in-patient care and services provided by nursing homes, also identified as long term care facilities, licensed under [IC 16-28](#) and meeting Medicaid standards described in [405 IAC 1-3](#).
- (17) "Person" means an individual or entity.
- (18) "Personal information" means any nonpublic information that is provided to a navigator or application organization by an individual for purposes of assisting with application for and enrollment of such individual in a QHP through a health benefit exchange or in a public health insurance program, including, but not limited to:
- (A) Social Security number;
  - (B) first and last name;
  - (C) driver's license number;
  - (D) bank account number;
  - (E) credit card number;
  - (F) street address;
  - (G) medical or health information;
  - (H) state identification card number; or
  - (I) financial account number or debit card number.
- (19) "PPACA" refers to the federal Patient Protection and Affordable Care Act (P.L.111-148), as

amended by the federal Health Care and Education Reconciliation Act (P.L.111-152).

(20) "Program" means an insurance trade association, accredited college or university, educational organization, or application organization that offers navigator precertification education that is approved by the commissioner in compliance with [760 IAC 4-8](#).

(21) "Provider" means an individual, insurance trade association, accredited college or university, educational organization, or application organization that offers a navigator continuing education course that is approved by the commissioner in compliance with [760 IAC 4-9](#).

(22) "Public health insurance program" refers to health coverage provided under a state or federal government program, including Medicaid, CHIP, and HIP 2.0.

(23) "QHP" refers to a qualified health plan that has been certified under Section 1301 of PPACA (42 U.S.C. 18021(a)) to meet the criteria for availability through a health benefit exchange operating in Indiana.

(24) "Resident" means an individual with a permanent home address in Indiana or an entity with a physical address in Indiana.

(25) "Secretary" refers to the secretary of the office of the secretary of family and social services appointed under [IC 12-8-1.5-2](#).

(26) "Security breach" means an unauthorized acquisition of or disclosure of personal information that compromises the security, confidentiality, or integrity of such personal information.

(Department of Insurance; [760 IAC 4-2-1](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))

### Rule 3. Certification, Registration, and Duties

#### [760 IAC 4-3-1](#) Certification and registration requirement

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-11](#)

Affected: [IC 27-1-15.6](#); [IC 27-1-15.7](#); [IC 27-19-4-11](#)

Sec. 1. (a) A person shall not assist individuals with application for and enrollment in a QHP through a health benefit exchange or in a public health insurance program or otherwise function as a navigator or application organization unless the individual is certified as a navigator or the entity is registered as an application organization under this rule.

(b) A person that is a navigator described in Section 1311(i) of PPACA (42 U.S.C. 18031(i)), a certified application counselor described in 45 CFR 155.225 issued pursuant to PPACA, or any other federal assistance personnel under PPACA, shall:

- (1) continue to carry out all duties and functions under PPACA while applying to be certified as a navigator or registered as an application organization under this rule;
- (2) obtain certification as a navigator or registration as an application organization in a timely manner as determined by the commissioner in consultation with the secretary; and
- (3) continue to carry out all duties and functions under PPACA while acting as a certified navigator or registered application organization.

(c) An individual applying for navigator certification shall meet the following:

- (1) Be at least eighteen (18) years of age.
- (2) Not have committed any violation under [IC 27-19-4](#) or this article that would be grounds for denial, suspension, or revocation of certification.
- (3) Complete and submit the navigator application pursuant to section 2 of this rule.
- (4) Submit the nonrefundable application fee in accordance with section 3 of this rule.
- (5) Complete navigator precertification education under section 4 of this rule.
- (6) Pass the certification examination pursuant to section 5 of this rule.
- (7) Not have a conflict of interest, as defined in [760 IAC 4-5](#), that prohibits the individual from:
  - (A) providing fair, accurate, and impartial information and assistance regarding application for and enrollment in a QHP through a health benefit exchange or in a public health insurance program; or
  - (B) acting in the best interests of individuals the individual is assisting.

(d) An entity applying for registration as an application organization shall meet the following:

- (1) Be in good standing with the Indiana secretary of state.
- (2) Not have committed or have an owner, partner, officer, director, member, or manager who has

committed any violation under [IC 27-19-4](#) or this article that would be grounds for denial, suspension, or revocation of registration.

(3) Complete and submit the application organization application pursuant to section 2 of this rule.

(4) Submit the nonrefundable application fee in accordance with section 3 of this rule.

(5) Designate at least one (1) certified navigator to ensure the entity's compliance with [IC 27-19-4](#) and this article.

(6) Not have a conflict of interest, as defined in [760 IAC 4-5](#), that prohibits the entity from:

(A) providing fair, accurate, and impartial information and assistance regarding application for and enrollment in a QHP through a health benefit exchange or in a public health insurance program; or

(B) acting in the best interests of individuals the entity is assisting.

(e) Neither a navigator nor application organization is subject to the licensing requirements of [IC 27-1-15.6](#) unless such navigator or application organization is also acting within the capacity of an insurance producer or consultant as defined under [IC 27-1-15.6](#).

(f) A licensed insurance producer or consultant acting solely within the capacity of a licensed insurance producer or consultant under [IC 27-1-15.6](#) is not subject to the navigator certification or application organization registration requirements under [IC 27-19-4](#) and this rule.

(g) If a licensed insurance producer or consultant, who does not currently receive consideration directly or indirectly from a health insurance issuer in connection with the enrollment of an individual in a health plan, wants to perform the functions of a certified navigator under [IC 27-19-4](#) and this rule, the licensed insurance producer or consultant shall request designation and approval from the commissioner by:

(1) submitting to the department such request for designation and approval on a form provided by the department in a manner specified by the commissioner in consultation with the secretary; and

(2) completing navigator precertification education as described in section 4 of this rule.

The precertification education hours shall be in addition to the insurance producer or consultant continuing education requirements under [IC 27-1-15.7](#) and shall not be credited toward such requirements.

(h) If a licensed producer or consultant receives approval from the department and is designated as a certified navigator, the licensed producer or consultant shall be subject to regulation and enforcement by the department under [IC 27-19-4](#) and this article and shall do the following to maintain such designation:

(1) Complete annually at least two (2) hours of navigator continuing education as described in section 6 of this rule. Such hours shall not be in addition to the insurance producer or consultant continuing education requirements under [IC 27-1-15.7](#) and shall be credited toward such requirements.

(2) Follow the conflicts of interest and privacy and security requirements under [760 IAC 4-5](#).

(3) Submit to the department an annual request for renewal of designation and approval on a form provided by the department in a manner specified by the commissioner in consultation with the secretary.

(Department of Insurance; [760 IAC 4-3-1](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))

## [760 IAC 4-3-2](#) Certification and registration application

Authority: [IC 27-19-1-4](#)

Affected: [IC 27-19-1-4](#); [IC 27-19-4-1](#)

Sec. 2. (a) An application for navigator certification or application organization registration shall be completed on a form prescribed by the commissioner in consultation with the secretary.

(b) An individual applying for navigator certification and an individual applying for application organization registration on behalf of an entity must declare under penalty of denial, suspension, or revocation of the certification or registration that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief.

(c) All individuals applying for navigator certification shall submit a criminal background check to the

department, in a manner determined [sic, by the] commissioner in consultation with the secretary, by either of the following two (2) methods:

- (1) The associated application organization performs the criminal background check of the navigator and submits the background check results to the department.
- (2) The applicant obtains the criminal background check and submits the criminal background check results to the department.

The criminal background check shall be dated no more than thirty (30) days prior to the application submission date.

(d) An entity applying for application organization registration that has more than one (1) physical location shall submit a list to the department, in a manner determined by the commissioner in consultation with the secretary, of each of the following for each location:

- (1) Name of location.
- (2) Address.
- (3) Public telephone.
- (4) Public e-mail (if applicable).
- (5) Public website (if applicable).
- (6) Name of main contact person.

The department may make such information available to the public in a manner determined by the commissioner in consultation with the secretary.

(Department of Insurance; [760 IAC 4-3-2](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))

### [760 IAC 4-3-3](#) Certification and registration fees

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#)

Affected: [IC 27-19-1-4](#); [IC 27-19-4-1](#)

Sec. 3. (a) All resident individuals and entities applying for certification or registration under this rule shall submit a nonrefundable fifty dollar (\$50) application fee, and an electronic processing fee if submitted electronically, with the initial certification or registration application.

(b) All nonresident individuals and entities applying for certification or registration under this rule shall submit a nonrefundable one hundred dollar (\$100) application fee, and an electronic processing fee if submitted electronically, with the initial certification or registration application.

(Department of Insurance; [760 IAC 4-3-3](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))

### [760 IAC 4-3-4](#) Precertification education

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-11](#)

Affected: [IC 27-19-4-11](#)

Sec. 4. (a) A resident or nonresident individual applying for navigator certification shall complete navigator precertification education offered by an approved navigator precertification education provider, as described in [760 IAC 4-8](#), prior to taking the navigator certification examination.

(b) The precertification education shall provide instructions regarding the following:

- (1) The functions of a health benefit exchange and public health insurance programs.
- (2) The duties and responsibilities of a navigator.
- (3) The insurance laws of Indiana that apply to the functions of a navigator with respect to a health benefit exchange.
- (4) Rules related to public health insurance programs, including the following:
  - (A) Eligibility requirements.
  - (B) Renewal and redetermination rules.
  - (C) Appeal policies.
- (5) The obligations of a navigator related to confidentiality and security of information and conflicts of interest.

(c) An individual or entity that has made a material misrepresentation on the certificate of precertification education completion shall be subject to an enforcement action under [760 IAC 4-7](#).

(Department of Insurance; [760 IAC 4-3-4](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))

#### [760 IAC 4-3-5](#) Certification examination

Authority: [IC 27-19-1-4](#); [IC 27-19-4-11](#)

Affected: [IC 27-19-4-11](#)

Sec. 5. (a) A resident or nonresident individual applying for navigator certification shall:

- (1) submit a nonrefundable examination fee, as determined by the commissioner in consultation with the secretary; and
- (2) pass a written examination, as prescribed by the commissioner in consultation with the secretary, by correctly answering seventy percent (70%) of the examination questions.

(b) The examination required under subsection (a) shall test the knowledge of the individual concerning the applicable:

- (1) functions of a health benefit exchange and public health insurance programs;
- (2) duties and responsibilities of a navigator;
- (3) insurance laws of Indiana that apply to the functions of a navigator with respect to a health benefit exchange, including rules related to public health insurance programs; and
- (4) obligations of a navigator related to confidentiality and security of information and conflicts of interest.

(c) An individual who fails to appear for the examination required under subsection (a), as scheduled, shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

(d) An individual who fails to pass the examination required under subsection (a) within ninety (90) days of application for navigator certification is deemed denied for such application and must reapply for navigator certification under this rule by:

- (1) submitting a new application for navigator certification;
- (2) remitting all required application fees and forms;
- (3) completing navigator precertification education; and
- (4) passing the certification examination under this rule.

(Department of Insurance; [760 IAC 4-3-5](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))

#### [760 IAC 4-3-6](#) Certification and registration renewal and continuing education

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#)

Affected: [IC 27-19-1-4](#); [IC 27-19-4-1](#)

Sec. 6. (a) A resident and nonresident navigator's certification or application organization's registration shall remain in effect for one (1) year from the last day of the month of original certification or registration, unless canceled, suspended, or revoked under this article. The annual certification or registration renewal shall be completed no later than the last day of the month of original certification or registration.

(b) The navigator certification or application organization registration renewal shall consist of a renewal application and nonrefundable renewal fee, as prescribed by the commissioner in consultation with the secretary, and, for navigators, continuing education as provided under this rule.

(c) All resident navigators and application organizations shall submit a nonrefundable fifty dollar (\$50) renewal application fee, and an electronic processing fee if submitted electronically, with the renewal application.



(d) All nonresident navigators and application organizations shall submit a nonrefundable one hundred dollar (\$100) renewal application fee, and an electronic processing fee if submitted electronically, with the renewal application.

(e) All certification and registration renewal applications must be made under oath or affirmation.

(f) No less than sixty (60) days prior to the navigator certification or application organization registration expiration date, the department, or its duly authorized agent, may notify, by business electronic mail, the certified navigator or registered application organization of the requirement to renew with the department.

(g) A certified navigator or registered application organization's failure to receive a business electronic mail notification of renewal due to failure to submit to the department a valid business electronic mail address, or for any other reason, shall not:

- (1) constitute an error on the part of the department; or
- (2) exonerate or otherwise excuse the navigator or application organization from completing the annual certification or registration renewal requirements under this rule.

(h) An application organization that allows its registration to lapse may, not more than thirty (30) days after the expiration date, reinstate the same registration by submitting the renewal application and nonrefundable renewal fee to the department. A penalty in the amount of three (3) times the renewal fee shall be required in addition to the renewal application and fee received past the expiration date of the registration.

(i) A navigator who has:

- (1) allowed certification to lapse; and
  - (2) completed all continuing education required under this rule before the certification expired;
- may, not more than thirty (30) days after the expiration date, reinstate the same certification by submitting the renewal application and fee to the department. A penalty in the amount of three (3) times the renewal fee shall be required in addition to the renewal application and fee received past the expiration date of the certification. A certified navigator who allows certification to lapse and does not submit the renewal application, pay the renewal fee and penalty fee within the thirty (30) day late period, and does not complete all continuing education before the certification expiration date, must reapply for new navigator certification under this rule.

(j) A navigator shall complete at least two (2) hours of navigator continuing education, approved by the commissioner in accordance with [760 IAC 4-9](#), as part of the annual navigator certification renewal.

(k) A certified navigator who is unable to comply with the certification renewal requirements under this rule due to military service or another extenuating circumstance, as determined by the commissioner, may request a temporary waiver from the renewal requirements by submitting a waiver request to the department by no later than the certification expiration date. The waiver request shall be submitted to the department in a manner specified by the commissioner. The department shall notify the navigator in writing following receipt of the waiver request whether such request is granted or denied.

*(Department of Insurance; [760 IAC 4-3-6](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))*

### **[760 IAC 4-3-7](#) Duties**

Authority: [IC 27-19-1-4](#)

Affected: [IC 27-19-1-4](#)

**Sec. 7. (a) An application organization or navigator shall carry out, at a minimum, the following duties:**

- (1) Maintain expertise in eligibility, enrollment, and program specifications related to QHPs available on the health benefit exchange and public health insurance programs.
- (2) Provide information and assistance to an individual in a fair, accurate, and impartial manner. Information provided regarding QHPs must acknowledge all QHPs available to the individual on the

health benefit exchange.

(3) Provide referrals to the department for any person who has a grievance, complaint, or question regarding a navigator, application organization, program, provider, or the certification, registration, or renewal procedures provided in this article or [IC 27-19](#).

(4) Provide referrals to the appropriate person for any individual who has a grievance, complaint, or question regarding their QHP or public health insurance program coverage.

(5) Provide assistance in a manner that is culturally and linguistically appropriate to the needs of the individuals being assisted and ensure accessibility to individuals with disabilities in accordance with the federal Americans with Disabilities Act and Section 504 of the federal Rehabilitation Act.

(b) An application organization or navigator shall comply with the conflict of interest policy and privacy and security agreements pursuant to [760 IAC 4-5](#).

(c) If a navigator or application organization does not comply with the requirements of this rule, the commissioner may initiate an enforcement action against the navigator or application organization under [760 IAC 4-7](#).

*(Department of Insurance; [760 IAC 4-3-7](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))*

#### Rule 4. Navigator Association

##### [760 IAC 4-4-1](#) Navigator association and verification

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#)

Affected: [IC 27-19-1-4](#); [IC 27-19-4-1](#)

Sec. 1. (a) An application organization that employs or contracts with one (1) or more navigators to perform the functions of a navigator shall verify that each navigator is certified and has not committed any acts that would be grounds for certification denial, suspension, or revocation under [IC 27-19-4](#) or this article.

(b) An application organization shall notify the department no later than thirty (30) days following a navigator addition to or removal from the application organization by sending notification to the department in a manner specified by the commissioner in consultation with the secretary.

(c) If an application organization revokes a navigator's association due to a violation of [IC 27-19-4](#) or this article, the application organization shall do the following no later than thirty (30) days following the revocation:

- (1) Submit a written report to the department, in a manner specified by the commissioner, detailing the revocation circumstances.
- (2) Provide a copy of the written report to the navigator.

(d) Not more than thirty (30) days after a navigator has received a copy of an application organization's written report submitted to the department, the navigator may submit written comments regarding the substance of the report to the department in a manner specified by the commissioner.

(e) An application organization that fails to comply with this rule shall be subject to an enforcement action under [760 IAC 4-7](#).

*(Department of Insurance; [760 IAC 4-4-1](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))*

#### Rule 5. Conflict of Interest Policy

##### [760 IAC 4-5-1](#) Conflict of interest policy

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#)

Affected: [IC 27-19-1-4](#); [IC 27-19-4-1](#)

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**Sec. 1. (a) The commissioner shall, in consultation with the secretary, develop a conflict of interest policy concerning actual or potential conflicts of interest affecting navigators or application organizations.**

**(b) A conflict of interest includes a conflict of loyalty or a financial interest, which are defined as follows:**

**(1) A conflict of loyalty exists when a navigator or application organization has, directly or indirectly, through business or family, an interest or relationship with a third party that prohibits or inhibits, or potentially prohibits or inhibits, the navigator or application organization from exercising independent judgment in the best interests of individuals the person assists or may assist with application for and enrollment in a QHP through a health benefit exchange or in a public health insurance program. A conflict of loyalty does not exist solely because a navigator or application organization is employed by a hospital that owns or is owned, in whole or in part, by an issuer.**

**(2) A financial interest exists if, as a result of an individual's health plan selection at issue, a navigator or application organization receives or may receive any consideration, compensation, or financial benefit, either directly or indirectly, from a third party as a condition of assisting individuals with application for and enrollment in a particular health plan as follows:**

**(A) A person that receives consideration, compensation, or financial benefit from a health insurance issuer (as defined in Section 2791 of the federal Public Health Service Act (42 U.S.C. 300gg-91)) in connection with application for and enrollment of an individual in a health plan is prohibited from serving as a navigator or application organization when receipt of such consideration, compensation, or financial benefit requires or otherwise influences the person to direct the individual towards a particular health plan.**

**(B) A navigator or application organization receiving grant funding through the federal navigator grant program provided under Section 1311(i)(6) of PPACA does not have a prohibited financial interest by reason of that compensation.**

**(c) Navigators and application organizations shall do the following:**

**(1) Provide fair, accurate, and impartial information and assistance when assisting individuals with application for and enrollment in a QHP through a health benefit exchange or in a public health insurance program.**

**(2) Act in the best interests of the individuals whom they are assisting.**

**(3) Not allow any actual or potential conflict of interest to affect the assistance they provide to individuals.**

**(4) Agree to follow the department's conflict of interest policy.**

**(5) Disclose in writing all actual or potential conflicts of interest to the department on a form provided by the department.**

**(6) Disclose in writing all actual or potential conflicts of interest to individuals prior to assisting individuals with application for and enrollment in a QHP through a health benefit exchange or in a public health insurance program.**

**(d) A navigator or application organization shall inform the department, on a form provided by the department, of a change in conflict of interest status or any new actual or potential conflict of interest no later than thirty (30) days after the change in status or new actual or potential conflict of interest arises.**

**(e) If the commissioner determines that an actual or potential conflict of interest will prohibit a navigator or application organization from providing fair, accurate, and impartial information and assistance regarding application for and enrollment in a QHP through a health benefit exchange or in a public health insurance program, or prohibit the navigator or application organization from acting in the best interests of individuals whom they are assisting, the commissioner may:**

**(1) deny certification or registration;**

**(2) request that the navigator or application organization mitigate the circumstances creating the actual or potential conflict of interest; or**

**(3) request that the navigator or application organization cancel their certification or registration in a manner specified by the commissioner if the actual or potential conflict of interest is due to a change in conflict of interest status after certification or registration.**

**If a navigator or application organization does not comply with the commissioner's request to mitigate an actual or potential conflict of interest or cancel their certification or registration in a manner specified by the commissioner, the commissioner may initiate an enforcement action against the navigator or**

application organization under [760 IAC 4-7](#).

(f) A navigator or application organization may appeal an action listed under subsection (e) pursuant to [760 IAC 4-7](#).

(Department of Insurance; [760 IAC 4-5-1](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))

#### [760 IAC 4-5-2](#) Privacy and security agreement

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#)

Affected: [IC 24-4.9-1](#); [IC 27-19-1-4](#); [IC 27-19-4-1](#)

Sec. 2. (a) The commissioner shall, in consultation with the secretary, develop a privacy and security agreement for navigators and application organizations pursuant to this rule.

(b) Navigators and application organizations shall maintain and protect all personal information received from individuals when assisting such individuals with application for and enrollment in a QHP through a health benefit exchange or in a public health insurance program with reasonable operational, administrative, technical, and physical safeguards to ensure its confidentiality and to prevent unauthorized or inappropriate access, use, or disclosure of such personal information.

(c) Navigators and application organizations shall follow all state and federal laws governing the privacy and security of personal information received from individuals whom they are assisting with application for and enrollment in a QHP through a health benefit exchange or in a public health insurance program.

(d) Navigators and application organizations shall comply with the following safeguards to maintain and protect the confidentiality of personal information:

- (1) Personal information shall only be disclosed to those individuals or entities authorized by law or by the individual to whom the personal information belongs.
- (2) When disclosing personal information to authorized individuals or entities, reasonable efforts shall be made to limit disclosure of the personal information to the minimum necessary personal information needed to accomplish the intended purpose of such disclosure.
- (3) Personal information shall be protected against any reasonably anticipated threats or hazards to the confidentiality of such personal information.
- (4) Personal information shall be protected against any reasonably anticipated uses or disclosures that are not permitted or required by law.
- (5) Personal information shall be securely destroyed or disposed of in an appropriate and reasonable manner that results in the personal information being illegible and unusable.

(e) If a security breach or improper disclosure of personal information occurs, the navigator or application organization shall:

- (1) take immediate steps to mitigate any potential harm related to the security breach or improper disclosure;
- (2) notify the affected individual or individuals of the security breach or improper disclosure as soon as reasonably practical, but no later than ten (10) business days following the discovery of such security breach or improper disclosure, by U.S. first class mail or electronic mail if the affected individual or individuals have elected to receive notices or correspondence from the navigator or application organization via electronic mail;
- (3) report any security breach or improper disclosure of personal information as soon as reasonably practical, but no later than five (5) business days following the discovery of such security breach or improper disclosure, to the department in a manner specified by the commissioner; and
- (4) comply with state and federal law related to security breaches if applicable, including, but not limited to, [IC 24-4.9-1](#) et seq.

(f) Navigators and application organizations shall make available their internal privacy practices and policies upon request by the department.

(g) If a navigator or application organization does not comply with the requirements of this rule, the commissioner may initiate an enforcement action against the navigator or application organization under [760 IAC 4-7](#).

(Department of Insurance; [760 IAC 4-5-2](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))

## Rule 6. Other Reporting Requirements

### [760 IAC 4-6-1](#) Other reporting requirements

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#)

Affected: [IC 27-19-1-4](#); [IC 27-19-4-1](#)

Sec. 1. (a) In addition to reporting and disclosure requirements established under this article or [IC 27-19](#), a navigator or application organization shall comply with the reporting requirements established under this rule.

(b) A navigator shall inform the department, on a form provided by the department, of a change in any of the following no later than thirty (30) days after the change occurs:

- (1) Legal name.
- (2) Residential, business, or mailing address.

(c) An application organization shall inform the department, on a form provided by the department, of a change in any of the following no later than thirty (30) days after the change occurs:

- (1) Legal or assumed business name.
- (2) Federal employer identification number.
- (3) Business or mailing address.
- (4) An addition or removal of a physical location of the application organization for an application organization with more than one (1) physical location.

(d) A navigator or application organization shall report to the department any of the following actions taken against the navigator or application organization not more than thirty (30) days after the final disposition of the matter by sending the report to the department in a manner specified by the commissioner:

- (1) An administrative action against another professional license, certification, or registration within any jurisdiction.
- (2) A federal or state criminal action within any jurisdiction.
- (3) An administrative action or court order directing payment of state income tax within any jurisdiction.
- (4) Any legal action related to a failure to pay a child support obligation within any jurisdiction.
- (5) An administrative or legal action related to unfair trade practice or fraud in the business of insurance within any jurisdiction.

(e) If a navigator or application organization does not comply with the requirements of this rule, the commissioner may initiate an enforcement action against the navigator or application organization under [760 IAC 4-7](#).

(Department of Insurance; [760 IAC 4-6-1](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))

## Rule 7. Enforcement and Hearing and Appeals

### [760 IAC 4-7-1](#) Enforcement

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-3](#)

Affected: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-3](#)

Sec. 1. (a) For purposes of this section, "permanently revoke" means that:

- (1) the navigator's certification or application organization's registration shall never be reinstated or reissued; and
- (2) the former navigator or application organization, after the permanent revocation, is not eligible to submit a navigator or application organization application to the department.

(b) The commissioner has the authority to enforce the provisions of [IC 27-19-4](#) and this article against any navigator or application organization under investigation for or charged with a violation of [IC 27-19-4](#) or this article, even if the navigator's certification or application organization's registration has been surrendered or has lapsed by operation of law.

(c) If a navigator or application organization commits a violation of [IC 27-19-4](#) or this article, the commissioner may take one (1) or a combination of the following actions against the navigator or application organization within a reasonable time, even if the navigator's certification or application organization's registration has been surrendered or has lapsed by operation of law:

- (1) Reprimand the navigator or application organization.
- (2) Levy a civil penalty against the navigator or application organization.
- (3) Place the navigator's certification or application organization's registration on probation.
- (4) Suspend a navigator's certification or application organization's registration.
- (5) Revoke a navigator's certification or application organization's registration for a period of one (1) or more years.
- (6) Permanently revoke a navigator's certification or application organization's registration.
- (7) Issue a cease and desist order to a navigator or an application organization.
- (8) Refuse to issue or renew a navigator's certification or application organization's registration.

(d) A civil penalty imposed against a navigator or application organization under subsection (c) shall be not less than fifty dollars (\$50) and not more than ten thousand dollars (\$10,000) per violation. A civil penalty imposed may be enforced in the same manner as a civil judgment.

(e) A navigator or application organization may appeal an action listed under subsection (c) pursuant to section 2 of this rule.

*(Department of Insurance; [760 IAC 4-7-1](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))*

### [760 IAC 4-7-2](#) Hearings and appeals

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#)

Affected: [IC 4-21.5](#); [IC 27-19-1-4](#); [IC 27-19-4-1](#)

Sec. 2. (a) If the commissioner:

- (1) denies an initial or renewal application for navigator certification or application organization registration;
  - (2) files an enforcement action under section 1 of this rule against a navigator or application organization for a violation of [IC 27-19-4](#) or this article;
  - (3) denies, suspends, or revokes the approval of a navigator precertification education program under [760 IAC 4-8](#);
  - (4) denies, suspends, or revokes the approval of a navigator precertification education program instructor or program director under [760 IAC 4-8](#); or
  - (5) denies approval of a navigator continuing education course of study or the provider disagrees with the number of hours assigned to the navigator continuing education course of study;
- the department shall provide written notice of the reason for the action to the affected person.

(b) Any person that is the subject of an action under subsection (a) may file an administrative appeal with the commissioner in accordance with [IC 4-21.5](#).

(c) All hearings and appeals regarding actions under subsection (a) shall be conducted in accordance with [IC 4-21.5](#).

(d) The commissioner may appoint members of the commissioner's staff to serve as hearing officers

for purposes of hearings held under [IC 27-19-4](#) or this rule.

(Department of Insurance; [760 IAC 4-7-2](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))

## Rule 8. Navigator Precertification Education Program Requirements

### [760 IAC 4-8-1](#) Approval of navigator precertification education program

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-11](#)

Affected: [IC 27-19-4-11](#)

Sec. 1. (a) A program shall not provide navigator precertification education unless the program is certified as a navigator precertification education program.

(b) Approval of a navigator precertification education program shall require the following:

- (1) Submission of an application to the department on a form provided by the department.
- (2) Payment of a nonrefundable application fee as determined by the commissioner.
- (3) Approval by the commissioner.
- (4) Compliance with the qualifications set forth under section 2 of this rule.

(c) The commissioner's approval of a navigator precertification education program shall be valid for two (2) years from the date of application approval or approval of the most recent renewal application.

(d) In order to renew the commissioner's approval of a navigator precertification education program, the approved program director shall submit no later than sixty (60) days prior to the expiration of the program's approval, the following:

- (1) A renewal application on a form provided by the department.
- (2) A nonrefundable renewal application fee as determined by the commissioner.

(e) If program material is modified, altered, or changed from the program material approved at the time of the most recent approved application, the modified, altered, or changed material shall be submitted for review no later than thirty (30) days from the modification, alteration, or change, or with the renewal application, whichever occurs first.

(f) If a navigator precertification education program seeks to modify, alter, or change the program material indicated and approved at the time of the program's most recent certification application, the approved program director shall submit the following to the department on a form provided by the department:

- (1) An application for modification, alteration, or change of program material.
- (2) A nonrefundable fee, as determined by the commissioner, for the application for modification, alteration, or change of program material.

(Department of Insurance; [760 IAC 4-8-1](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))

### [760 IAC 4-8-2](#) Qualifications and requirements for navigator precertification education program

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-11](#)

Affected: [IC 27-19-4-11](#)

Sec. 2. (a) To qualify as a navigator precertification education program for purposes of [IC 27-19-4-11](#) and this article, a program shall meet all of the following criteria:

- (1) The navigator precertification education program shall be conducted or developed by an:
  - (A) insurance trade association;
  - (B) accredited college or university;
  - (C) educational organization; or
  - (D) application organization;that is approved by the commissioner under this rule.

(2) Instruction shall be provided by an instructor who is approved under this rule and who meets the qualifications established under section 3 of this rule.

(3) The navigator precertification education program must designate a program director who meets the qualifications for approval under section 5 of this rule and is responsible for the program's compliance with the requirements in this rule and [IC 27-19-4](#).

(4) The navigator precertification education program shall provide instruction regarding each of the following:

(A) The functions of a health benefit exchange and public health insurance programs.

(B) The duties and responsibilities of a navigator.

(C) The insurance laws of Indiana that apply to the functions of a navigator with respect to a health benefit exchange, including rules related to public health insurance programs.

(D) The obligations of a navigator related to confidentiality and security of information and conflicts of interest.

(b) Current course materials for a precertification education program that is approved under this section shall be submitted to the commissioner upon request, but not less frequently than once every two (2) years.

(c) A program shall prepare and submit a certification of course completion to the department for each individual who completes the program's approved navigator precertification education in a manner determined by the commissioner.

(d) A program shall provide each individual who completes precertification education with a certificate of course completion form, as provided by the department or an authorized agent of the department, no later than ten (10) days following the completion of the course.

(e) For two (2) years following precertification education, the program shall provide a duplicate certificate of completion upon the request of an individual who completed the precertification education. The certificate must be provided within ten (10) days of the request.

*(Department of Insurance; [760 IAC 4-8-2](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))*

### [760 IAC 4-8-3](#) Qualifications for approved instructor

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-11](#)

Affected: [IC 27-19-4-11](#)

Sec. 3. (a) An approved instructor shall do the following:

(1) Hold a high school diploma.

(2) Have any of the following:

(A) A valid teaching certificate for two (2) or more years.

(B) Two (2) or more years of managerial, supervisory, or teaching experience in the insurance or health care industries.

(C) An active navigator certification in good standing with the department.

(b) No person may qualify as an approved instructor who:

(1) has been convicted of a felony or other crime determined by the commissioner;

(2) has had an insurance producer license, navigator certification, or other professional license suspended or revoked in Indiana or in any other state;

(3) at the time of application, has any outstanding fines imposed by the commissioner related to disciplinary offenses; or

(4) is on the most recent tax warrant list supplied to the commissioner by the department of state revenue.

*(Department of Insurance; [760 IAC 4-8-3](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))*

### [760 IAC 4-8-4](#) Renewal for approved instructor

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-11](#)



Affected: [IC 27-19-4-11](#)

**Sec. 4. (a) Approval of a qualified instructor is valid for two (2) years from the date of the approval by the commissioner of the instructor's most recent application for approval as an instructor.**

**(b) An approved instructor who desires to renew instructor approval shall submit to the commissioner no more than sixty (60) days prior to the expiration of the instructor's qualification, the following:**

- (1) A renewal application on a form provided by the department.**
- (2) A nonrefundable renewal fee as determined by the commissioner.**

**(c) Approval of an instructor is valid only for the program for which the applicant is to be affiliated, as indicated on the application.**

**(d) An approved instructor may transfer to a different program other than that for which the instructor is approved only after the approved instructor:**

- (1) submits a written request to the department for transfer to a different program on a form provided by the department;**
- (2) pays a nonrefundable transfer fee as determined by the commissioner; and**
- (3) obtains written notification from the department of approval by the commissioner for the transfer.**

**(e) An approved instructor may obtain approval to be an instructor at a program additional to that for which the instructor is approved only after the approved instructor:**

- (1) submits an application to the department for additional approval on a form provided by the department;**
- (2) pays a nonrefundable additional approval fee as determined by the commissioner; and**
- (3) obtains written notification from the department of approval by the commissioner for the addition.**

*(Department of Insurance; [760 IAC 4-8-4](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))*

#### **[760 IAC 4-8-5](#) Qualifications for approved program director**

**Authority:** [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-11](#)

**Affected:** [IC 27-19-4-11](#)

**Sec. 5. (a) An approved program director shall do the following:**

- (1) Hold a high school diploma.**
- (2) Have any of the following:**
  - (A) Two (2) or more years of experience as an instructor or educational administrator in the insurance or healthcare industries.**
  - (B) Six (6) or more years of experience in the insurance or healthcare industries with a minimum of two (2) years in insurance or healthcare management.**
  - (C) An active navigator certification in good standing with the department.**

**(b) No person may qualify as a program director who:**

- (1) has been convicted of a felony or other crime determined by the commissioner;**
- (2) has had an insurance producer license, navigator certification, or other professional license suspended or revoked in Indiana or in any other state;**
- (3) has any outstanding fines imposed by the commissioner of insurance related to disciplinary offenses; or**
- (4) is on the most recent tax warrant list supplied to the commissioner by the department of state revenue.**

*(Department of Insurance; [760 IAC 4-8-5](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))*

#### **[760 IAC 4-8-6](#) Renewal for approved program director**

**Authority:** [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-11](#)

**Affected:** [IC 27-19-4-11](#)

**Sec. 6. (a) Approval of a qualified program director under section 5 of this rule is valid for two (2) years from the date of the commissioner's approval of the program director's most recent application for approval as a program director.**

**(b) An approved program director who desires to renew approval shall submit to the commissioner no more than sixty (60) days prior to the expiration of the program director's approval, the following:**

- (1) A renewal application on a form provided by the department.**
- (2) A nonrefundable renewal fee as determined by the commissioner.**

*(Department of Insurance; [760 IAC 4-8-6](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))*

#### **[760 IAC 4-8-7](#) Enforcement**

**Authority:** [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-11](#)

**Affected:** [IC 27-19-4-11](#)

**Sec. 7. (a) As used in this section, "material misrepresentation" means a false or misleading statement of fact or the omission of any fact that, if known to the commissioner, would be cause to suspend, revoke, or refuse to grant approval under this rule, or that would otherwise render such program, instructor, or program director ineligible for the approval for which application was made.**

**(b) The commissioner may deny, suspend, or revoke the approval of a program or the approval of an instructor or program director if the commissioner finds that the program, instructor, or program director has made a material misrepresentation on the application for program approval, on the application for instructor approval, or on the application for program director approval.**

**(c) The commissioner may:**

- (1) suspend or revoke the certification of a program that does not maintain reasonable standards, as determined by the commissioner; or**
- (2) disqualify an approved instructor who is currently qualified under section 3 of this rule to render instruction in a navigator program from rendering the instruction if the annual passing percentage of individuals, who receive instruction from the approved instructor and take the navigator certification examination, is less than forty-five percent (45%).**

**(d) A program, instructor, or program director may appeal an action listed under this section pursuant to [760 IAC 4-7](#).**

*(Department of Insurance; [760 IAC 4-8-7](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))*

#### **Rule 9. Continuing Education**

##### **[760 IAC 4-9-1](#) Navigator continuing education course of study**

**Authority:** [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-12](#)

**Affected:** [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-12](#)

**Sec. 1. To qualify as an approved navigator continuing education course of study for purposes of [IC 27-19-4-12](#) and [760 IAC 4-3-6](#), a navigator continuing education course of study shall meet the following:**

- (1) Be conducted or developed by a provider that is at least one (1) of the following:**
  - (A) An individual.**
  - (B) An insurance trade association.**
  - (C) An accredited college or university.**
  - (D) An educational organization.**
  - (E) An application organization.**
- (2) Relate to the duties of a navigator regarding:**
  - (A) health benefit exchanges;**
  - (B) public health insurance programs;**
  - (C) conflicts of interest and ethics;**

- (D) privacy and security of information; or
- (E) Indiana insurance laws.

(3) Be approved by the commissioner under this rule.

(Department of Insurance; [760 IAC 4-9-1](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))

#### **[760 IAC 4-9-2](#) Continuing education credit hour defined**

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-12](#)

Affected: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-12](#)

Sec. 2. (a) A continuing education credit hour is based on a one (1) hour block of time. Fifty (50) minutes of instruction in a sixty (60) minute period will constitute one (1) continuing education credit hour. Time designated by the provider as break time may not be considered when computing course credit hours.

(b) Continuing education credit hours may be approved in no less than one-half (1/2) hour increments.

(c) One (1) continuing education credit hour is the minimum number of hours that may be approved for a navigator continuing education course of study.

(d) Eight (8) hours of classroom instruction per day is the maximum number of hours that may be approved for a navigator continuing education course of study.

(Department of Insurance; [760 IAC 4-9-2](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))

#### **[760 IAC 4-9-3](#) Continuing education course of study application**

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-12](#)

Affected: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-12](#)

Sec. 3. (a) Any:

- (1) individual;
- (2) insurance trade association;
- (3) accredited college or university;
- (4) educational organization; or
- (5) application organization;

may submit a navigator continuing education course of study for approval by the commissioner.

(b) A completed application for approval of a continuing education course of study shall be submitted to the department on a form provided by the department. Other application supporting materials may be required for the application as determined by the commissioner.

(c) The application shall be submitted at least thirty (30) days before the first date when the continuing education course of study will be offered.

(d) A provider may advertise a continuing education course of study after submission to the department but before its approval; however, the provider shall clearly indicate in any advertisement that course approval is pending.

(e) A nonrefundable application fee in the amount of forty dollars (\$40) per course, or a yearly fee in the amount of five hundred dollars (\$500) for all courses, shall be submitted to the department along with a completed application.

(f) Videotaped, Internet, and satellite broadcast programs may be approved for continuing education credit.

(g) Each educational segment within a convention program or an association annual meeting shall be

submitted individually for continuing education credit.

(h) The department shall notify the provider in writing when the commissioner approves or disapproves the provider's continuing education course.

(i) Course approval is valid for two (2) years from the date of the commissioner's approval. Thereafter, the course must be resubmitted for approval under this section.

(j) A provider may appeal a decision listed under subsection (h) pursuant to [760 IAC 4-7](#).

(Department of Insurance; [760 IAC 4-9-3](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))

#### [760 IAC 4-9-4](#) Requirements for self-study continuing education course of study

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-12](#)

Affected: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-12](#)

Sec. 4. (a) In addition to the requirements in section 3 of this rule, navigator self-study continuing education courses are subject to the following requirements:

(1) A navigator enrolled in a self-study continuing education course, including a computer-based course, shall take a written or computer-based examination at the conclusion of the self-study continuing education course. The written or computer-based examination must comply with the following requirements:

(A) Examination questions shall be multiple choice.

(B) Questions shall be selected at random from a bank of questions.

(C) At least three (3) different versions of the examination shall be used on a random basis.

(D) The examination for a course of study approved for eight (8) hours of credit or less shall consist of at least twenty-five (25) questions.

(E) The examination shall be graded by the provider.

(F) A computer-based examination must be designed to prevent the navigator from skipping the education materials before taking the examination and must not include prompts designed to aid the navigator in answering examination questions.

(2) A navigator must correctly answer seventy percent (70%) of the examination questions in order to pass and receive credit for the self-study continuing education course.

(3) When taking the self-study examination, the navigator shall do all of the following:

(A) Sign an affidavit, supplied by the provider that states that the navigator did not use outside help, such as course materials, outside educational materials, or another individual, in taking the examination.

(B) A second certified navigator must sign the affidavit verifying that the second navigator witnessed the first navigator's examination and no outside help was used, or a navigator who takes the examination at a testing center that administers tests for certified navigators may have a representative of the testing center sign the affidavit rather than a second certified navigator.

(C) Submit the signed affidavit to the provider of the continuing education course of study.

(4) The provider shall grade the examination and send the results to the navigator no later than thirteen (13) days after the date upon which the navigator sent the completed examination to the provider.

(b) If a navigator does not comply with the requirements of this section, the commissioner may initiate an enforcement action against the navigator or application organization under [760 IAC 4-7](#).

(Department of Insurance; [760 IAC 4-9-4](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))

#### [760 IAC 4-9-5](#) Record keeping requirements

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-12](#)

Affected: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-12](#)

Sec. 5. (a) A provider shall take attendance at each navigator continuing education course of study.

The provider shall retain the attendance reports for a minimum of four (4) years. The attendance report shall contain the following information:

- (1) Navigator's name.
- (2) Navigator's certificate number.
- (3) Navigator's birth date.
- (4) Navigator's signature.
- (5) Any other information as determined by the commissioner.

(b) A provider shall prepare and submit a certification of course completion to the department for each navigator who completes the provider's approved navigator continuing education course of study in a manner determined by the commissioner.

(c) A provider shall provide each navigator who completes a continuing education course of study with a certificate of course completion form, as provided by the department or an authorized agent of the department, no later than ten (10) days following the completion of the course.

(d) For two (2) years following a continuing education course of study, the provider shall provide a duplicate certificate of completion upon the request of a navigator who completed the continuing education course of study. The certificate must be provided within ten (10) days of the request.

(e) No later than ten (10) days after a request from the department, the provider shall deliver to the department a list of the navigators to whom the provider has delivered a certificate of completion for a specific continuing education course of study.

(f) In the event a provider fails to provide a certificate of completion as required in this section, the commissioner may suspend approval of any or all of a provider's continuing education courses.

(g) Navigators shall retain the certificate of completion for a minimum of four (4) years following completion of the course.

(h) Providers shall retain the original affidavit signed by a navigator from a self-study continuing course examination for a minimum of four (4) years.

*(Department of Insurance; [760 IAC 4-9-5](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))*

#### **[760 IAC 4-9-6](#) Continuing education course reciprocal agreements**

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-12](#)

Affected: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-12](#)

Sec. 6. The department may enter into reciprocal agreements with other states for the approval or disapproval of navigator continuing education courses of study. When considering an application for continuing education course of study approval, the department shall approve a continuing education course of study approved by a state that has entered into a reciprocal agreement with the department for the same number of credit hours it was approved for in the other state.

*(Department of Insurance; [760 IAC 4-9-6](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))*

#### **[760 IAC 4-9-7](#) List of providers**

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-12](#)

Affected: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-12](#)

Sec. 7. The department shall maintain a current list of providers who offer an approved navigator continuing education course of study.

*(Department of Insurance; [760 IAC 4-9-7](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))*

## Rule 10. Waiver of Fees

### [760 IAC 4-10-1](#) Waiver of fees

Authority: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-12](#)

Affected: [IC 27-19-1-4](#); [IC 27-19-4-1](#); [IC 27-19-4-12](#)

**Sec. 1. (a)** A person may request for the commissioner to waive any fee requirement imposed by this article upon a showing of good cause as determined by the commissioner.

**(b)** A request for a waiver of a fee shall:

- (1)** be submitted to the commissioner in writing in a manner as determined by the commissioner; and
- (2)** state the reasons why the waiver of the fee is in the public interest.

(Department of Insurance; [760 IAC 4-10-1](#); filed Jun 10, 2016, 1:21 p.m.: [20160706-IR-760150033FRA](#))

LSA Document #15-33(F)

Notice of Intent: [20150128-IR-760150033NIA](#)

One Year Requirement ([IC 4-22-2-25](#)): [20151007-IR-760150033ARB](#)

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