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Date: (Filing No. H-)

INSURANCE AND FINANCIAL SERVICES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1098, L.D. 1497, Bill, “An Act To Comply with the Health Insurance Exchange Provision of the Patient Protection and Affordable Care Act”

Amend the bill by striking out the title and substituting the following:

'An Act Relating to Navigators under Health Benefit Exchanges'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 24-A MRSA §2188 is enacted to read:

§2188. Permitted activities of insurance producers; navigators; requirements

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Exchange" means a health benefit exchange established or operated in this State, including a health benefit exchange established or operated by the Secretary of the United States Department of Health and Human Services, pursuant to Section 1311 of the federal Affordable Care Act.

B. "Navigator" means a person selected to perform the activities and duties identified in Section 1311(i) of the federal Affordable Care Act.

2. Permitted insurance producer activities. Only a person licensed as an insurance producer in this State in accordance with chapter 16 may:

- A. Sell, solicit or negotiate health insurance;
- B. Confer with or offer advice to purchasers, enrollees or prospective purchasers or enrollees concerning the substantive benefits, terms or conditions of health plans; or
- C. Enroll an individual or employer in a qualified health plan offered through an exchange or facilitate enrollment of an individual or employer in a qualified health plan offered through an exchange.

COMMITTEE AMENDMENT

1 **3. Certification of navigators.** Prior to any exchange becoming operational in this
2 State, the superintendent shall:

3 **A. Develop criteria for use by any exchange for the selection of a navigator pursuant**
4 **to Section 1311(i) of the federal Affordable Care Act and state law;**

5 **B. Adopt rules to establish a certification and training program for a prospective**
6 **individual navigator that includes initial and continuing education requirements and**
7 **an examination; and**

8 **C. Adopt rules that require a navigator to carry and maintain errors and omissions**
9 **insurance to cover all activities contemplated or performed pursuant to this section**
10 **and Section 1311(i) of the federal Affordable Care Act.**

11 **Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,**
12 **chapter 375, subchapter 2-A.**

13 **4. Navigator requirements.** An individual, other than a licensed insurance producer
14 **under chapter 16, may not act in the capacity of a navigator unless the individual:**

15 **A. Is at least 18 years of age;**

16 **B. Has completed and submitted a disclosure form, which must be developed by the**
17 **superintendent and which may include such information as the superintendent**
18 **determines necessary, and has declared under penalty of refusal, suspension or**
19 **revocation of the navigator certification that the statements made in the form are true,**
20 **correct and complete to the best of the individual’s knowledge and belief;**

21 **C. Has submitted to fingerprinting and a criminal history record check and**
22 **regulatory background check in a manner prescribed by the superintendent;**

23 **D. Has not committed any act that would be a ground for denial, suspension or**
24 **revocation of a producer license as set forth in section 1420-K;**

25 **E. Has successfully completed the certification and training requirements adopted by**
26 **the superintendent in accordance with subsection 3; and**

27 **F. Has paid any fees required by the superintendent.**

28 **5. Unfair practices.** The provisions of this chapter and chapter 24 and any rules
29 **adopted pursuant to those chapters apply to navigators. For purposes of this section and**
30 **the application of other provisions of this Title, the duties of a navigator are deemed to**
31 **constitute the business of insurance.**

32 **6. Denial, suspension or revocation.** The superintendent may deny, suspend or
33 **revoke the authority of a navigator certified pursuant to this section for good cause.'**

34 **SUMMARY**

35 This amendment replaces the bill and changes the title. The amendment requires that
36 only licensed insurance producers may sell, solicit or negotiate health insurance or enroll
37 an individual or employer in a qualified health plan offered through an exchange
38 established or operated in this State pursuant to state or federal law.

1 The amendment also requires the Superintendent of Insurance to develop criteria for
2 the selection and certification of navigators prior to the establishment of any exchange in
3 this State pursuant to state or federal law and prohibits individuals from acting as
4 navigators without certification from the superintendent unless the individuals are
5 licensed insurance producers.

6

FISCAL NOTE REQUIRED

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(See attached)