



The Trusted Choice

Michigan Association of Insurance Agents
Representing Independent Agents

June 4, 2013

**HB 4576
House Health Policy Committee Testimony**

Introduction

Good Afternoon Madam Chair and Committee Members,

My name is Scott Hummel and I am pleased to testify on behalf of the Michigan Association of Insurance Agents (MAIA) and to discuss MAIA's concerns with HB 4576 as substituted.

MAIA is a state trade association for Independent Insurance Agencies representing almost 850 member agencies from all across Michigan and consists of over 8000 agents and their staff. Our members are independently operated, family owned small businesses that offer all types of insurance in the personal and commercial lines markets, including auto, home, business, life, and health coverage, as well as retirement and employee-benefit products. As Independent Agents, MAIA members represent not one, but numerous insurance companies, and can therefore provide their clients with a wide choice of coverage and products to best suit their unique needs and in most cases, the independent agent's first duty is to their client.

Michigan Based Oversight of Navigators

The Affordable Care Act (ACA) requires health insurance exchanges to be operational in every state by October 1, 2013, and the law requires every exchange – whether state-based or a federally – facilitated exchange (FFE) – to satisfy certain requirements. One mandatory element is the establishment of a so-called “navigator” program by each exchange, and many states are passing legislation on how these new entities will be overseen and regulated. States have broad authority and discretion to establish and structure these programs as they deem appropriate, and this includes the authority to create a state-level oversight system and regulatory framework for navigators (even with a FFE).

The establishment of navigators and similar entities (In-Person-Assistors; Application Specialists) by the ACA raises a number of important public policy issues for you as state legislators. Many navigators will have little or no insurance expertise but they will soon begin to perform a number of significant tasks in Michigan such as educating certain consumers about new health insurance





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options and tax subsidies. The failure of navigators to perform these duties appropriately, whether as a result of incompetence or misconduct, may have significant adverse effects on small businesses and individual consumers. Decisions regarding health insurance are among the most important that are made by any individual or family, so the ramifications and states are very high.

MAIA supports the concept of the substitute for HB 4576 because it will help ensure that navigator activities are properly defined, that they are subject to the oversight of state officials and jurisdiction of the state insurance code, and that they are accountable for their actions.

However, there are a few areas where the substitute can be significantly improved to protect Michigan citizens.

- 1) The language (page 7) provides that the Director certify any individual as a Navigator to operate in Michigan who has met a list of criteria listed **OR** is licensed or certified by another state or the appropriate federal agency. Thus, since all individuals must receive federal certification to participate as a Navigator in a FFE, all federally certified Navigators will of course be certified by Michigan without any additional requirements. The default is paragraph (B) and the other language is useless under an FFE as currently written.

There seems to be great concern among some that anything we do beyond what the HHS requires will be met with resistance and rejection by the HHS. If that were to happen and HHS supersedes any requirements we place upon Navigators over and above what the HHS requires, then what do we end up with? We end up with exactly what the substitute language is for SB 324. Michigan will have to accept the HHS certification as sufficient for Navigators to work in the FFE for Michigan. So why not even attempt to require a standard that we think is appropriate for protecting Michigan consumers? The language concedes to the HHS even before we try to place any other requirements upon Navigators. MAIA strongly encourages the committee to delete the "1 or more of" references under individuals and entities and any other language that is impacted by that change.

Additionally, the "reciprocity" provisions for other state certified Navigators is unusual. For the most part, navigators are expected to be community-based and consumer-oriented groups with established relationships and ties to their local areas, so it would be odd for a navigator or assister to enter Michigan without any connection or established ties to the state. This notion runs counter to the concepts behind navigators.





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- 2) The substitute language does not include any reference to others (in-person assisters, etc.) that will be working within the structure of the FFE. There will be “true” navigators operating in every state beginning this fall, but there will also be other types of entities and individuals performing identical functions for the exchanges as well. We should ensure that anyone who is compensated to perform these tasks or is selected or designated by the exchange to perform these tasks is subject to the provisions of the legislation. MAIA encourages the committee to expand the definition of Navigators to include “others” who will be working in the confines of the FFE.
- 3) The latest proposed rules by HHS indicate that Navigators must be trained on the privacy and security requirements for the protection of personally identifiable information, including relevant state laws. Does Michigan want the Feds to provide that training or accountability? We don't even know that they will receive that specific training in their certification process? MAIA encourages the committee to include a requirement that verification be provided that Michigan specific Training regarding privacy and security requirements for protection of personally identifiable information and any other state specific training was completed by those wishing to serve as Navigators in Michigan.

Although many states are including provisions for background checks and fingerprinting, some have expressed their opinion that this requirement will definitely be rejected by the HHS. MAIA would not be opposed to eliminating that requirement.

In conclusion, there are many reasons why Michigan policymakers should act quickly to establish jurisdiction over navigators and create an oversight structure for those who operate within the borders of the state, including:

- Oversight and Supervision of Navigators and other type of Navigator assistors;
- Permissible activities of Navigators;
- Disciplinary Action.

HB 4576 is a thoughtfully constructed proposal that addresses a clear regulatory gap and helps ensure that Michigan's citizens are protected from this new category of marketplace actor, and MAIA commends Representative Crawford for his leadership on this issue. MAIA thanks you for your time to comment on this bill and I am available for questions.



