

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4576

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 102 (MCL 500.102), as amended by 2000 PA 252,
and by adding chapter 12A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 102. ~~(1) "Commissioner" as~~ **AS** used in this act:

2 **(A) "COMMISSIONER"** means the ~~commissioner of the office of~~
3 ~~financial and insurance services.~~ **DIRECTOR.**

4 **(B) ~~(2)~~"Department"** ~~as used in this act~~ means the ~~office of~~
5 ~~financial and insurance services.~~ **DEPARTMENT OF INSURANCE AND**
6 **FINANCIAL SERVICES.**

7 **(C) "DIRECTOR"** MEANS, UNLESS THE CONTEXT CLEARLY IMPLIES A
8 DIFFERENT MEANING, THE DIRECTOR OF THE DEPARTMENT.

9 CHAPTER 12A

10 **SEC. 1261. AS USED IN THIS CHAPTER:**

House Bill No. 4576 (S-2) as amended December 17, 2014

1 (A) "AFFORDABLE CARE ACT" MEANS THE PATIENT PROTECTION AND
2 AFFORDABLE CARE ACT, PUBLIC LAW 111-148, AS AMENDED BY THE HEALTH
3 CARE AND EDUCATION RECONCILIATION ACT OF 2010, PUBLIC LAW 111-152.

4 (B) "BUSINESS ENTITY" MEANS A CORPORATION, ASSOCIATION,
5 PARTNERSHIP, LIMITED LIABILITY COMPANY, LIMITED LIABILITY
6 PARTNERSHIP, OR OTHER LEGAL ENTITY.

7 (C) "CERTIFICATE" MEANS A DOCUMENT ISSUED BY THE DIRECTOR
8 AUTHORIZING A PERSON TO ACT AS A NAVIGATOR OR CERTIFIED APPLICATION
9 COUNSELOR FOR THE QUALIFICATIONS SPECIFIED IN THE DOCUMENT. THE
10 CERTIFICATE ITSELF DOES NOT CREATE ANY ACTUAL, APPARENT, OR
11 INHERENT AUTHORITY IN THE CERTIFICATE HOLDER TO REPRESENT OR COMMIT
12 AN INSURER.

13 (D) "CERTIFICATE HOLDER" MEANS A PERSON ISSUED A CERTIFICATE
14 UNDER THIS CHAPTER.

15 (E) "CERTIFIED APPLICATION COUNSELOR" MEANS AN INDIVIDUAL WHO
16 IS CERTIFIED [AS A CERTIFIED APPLICATION COUNSELOR] UNDER THIS CHAPTER
AND IS AUTHORIZED BY THE UNITED
17 STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES TO PERFORM THE
18 DUTIES DESCRIBED IN 45 CFR 155.225.

[(F) "CERTIFIED NAVIGATOR" MEANS A PERSON THAT IS CERTIFIED AS A
NAVIGATOR UNDER THIS CHAPTER.

19 (G) "EXCHANGE" MEANS AN AMERICAN HEALTH BENEFITS EXCHANGE
20 ESTABLISHED OR OPERATING UNDER THE AFFORDABLE CARE ACT.

21 [(H)] "INSURANCE" MEANS ANY OF THE KINDS OF INSURANCE DESCRIBED
22 IN CHAPTER 6.

23 [(I)] "INSURANCE PRODUCER" MEANS A PERSON REQUIRED TO BE
24 LICENSED UNDER THE LAWS OF THIS STATE TO SELL, SOLICIT, OR
25 NEGOTIATE INSURANCE.

26 [(J)] "NAVIGATOR" MEANS A PERSON THAT RECEIVES ANY FUNDING FROM
27 AN EXCHANGE OR THE FEDERAL GOVERNMENT AND IS DESIGNATED OR SELECTED

House Bill No. 4576 (S-2) as amended December 17, 2014

1 BY AN EXCHANGE OR THE FEDERAL GOVERNMENT TO PERFORM ANY OF THE
2 DUTIES DESCRIBED IN 42 USC 18031(I) (3) .

3 [(K)] "NEGOTIATE" MEANS THE ACT OF CONFERRING DIRECTLY WITH OR
4 OFFERING ADVICE DIRECTLY TO A PURCHASER OR PROSPECTIVE PURCHASER OF
5 A PARTICULAR CONTRACT OF INSURANCE CONCERNING ANY OF THE
6 SUBSTANTIVE BENEFITS, TERMS, OR CONDITIONS OF THE CONTRACT,
7 PROVIDED THAT THE PERSON ENGAGED IN THAT ACT EITHER SELLS INSURANCE
8 OR OBTAINS INSURANCE FROM INSURERS FOR PURCHASERS.

9 [(I)] "QUALIFIED HEALTH PLAN" MEANS THAT TERM AS DEFINED IN
10 SECTION 1301 OF THE AFFORDABLE CARE ACT.

11 [(M)] "SELL" MEANS TO EXCHANGE A CONTRACT OF INSURANCE BY ANY
12 MEANS, FOR MONEY OR ITS EQUIVALENT, ON BEHALF OF AN INSURANCE
13 COMPANY.

14 [(N)] "SOLICIT" MEANS ATTEMPTING TO SELL INSURANCE OR ASKING OR
15 URGING A PERSON TO APPLY FOR A PARTICULAR KIND OF INSURANCE FROM A
16 PARTICULAR COMPANY.

17 SEC. 1262. (1) [BEGINNING JUNE 30, 2015, AN] INDIVIDUAL SHALL NOT
18 ACT AS A NAVIGATOR [] UNLESS HE OR SHE HAS FILED AN
19 APPLICATION UNDER SECTION [1263(1)] AND IS CERTIFIED WITH THIS STATE AS
20 A NAVIGATOR [.]

21 (2) UNLESS CERTIFIED [AS A NAVIGATOR], AN INDIVIDUAL SHALL NOT
22 RECEIVE FUNDING FROM AN EXCHANGE.

23 (3) SUBJECT TO THE AFFORDABLE CARE ACT, A [CERTIFIED NAVIGATOR]
24 SHALL DO ALL OF THE FOLLOWING:

25 (A) CONDUCT PUBLIC EDUCATION ACTIVITIES TO RAISE AWARENESS OF
26 THE AVAILABILITY OF QUALIFIED HEALTH PLANS.

27 (B) DISTRIBUTE FAIR AND IMPARTIAL INFORMATION CONCERNING

House Bill No. 4576 (S-2) as amended December 17, 2014

1 ENROLLMENT IN ALL QUALIFIED HEALTH PLANS OFFERED WITHIN THE
2 EXCHANGE AND THE AVAILABILITY OF THE PREMIUM TAX CREDITS UNDER
3 SECTION 36B OF THE INTERNAL REVENUE CODE OF 1986, 26 USC 36B, AND
4 COST-SHARING REDUCTION UNDER SECTION 1402 OF THE AFFORDABLE CARE
5 ACT.

6 (C) FACILITATE SELECTION OF A QUALIFIED HEALTH PLAN.

7 (D) PROVIDE REFERRALS TO APPROPRIATE STATE AGENCIES FOR AN
8 ENROLLEE WITH A GRIEVANCE, COMPLAINT, OR QUESTION REGARDING THE
9 ENROLLEE'S HEALTH PLAN, COVERAGE, OR A DETERMINATION UNDER SUCH
10 PLAN COVERAGE.

11 (E) PROVIDE INFORMATION IN A MANNER THAT IS CULTURALLY AND
12 LINGUISTICALLY APPROPRIATE TO THE NEEDS OF THE POPULATION SERVED BY
13 THE EXCHANGE.

14 (4) A [CERTIFIED NAVIGATOR] SHALL NOT DO ANY OF THE FOLLOWING:

15 (A) SELL, SOLICIT, OR NEGOTIATE HEALTH INSURANCE.

16 (B) RECOMMEND A PARTICULAR HEALTH BENEFIT PLAN.

17 (C) PROVIDE ANY INFORMATION OR SERVICES RELATED TO INSURANCE
18 REGULATED UNDER THIS ACT OTHER THAN HEALTH BENEFIT PLANS OR OTHER
19 PRODUCTS OFFERED IN THE EXCHANGE.

20 (5) IF AN EXCHANGE IS OPERATIONAL IN THIS STATE, THE DIRECTOR
21 SHALL DETERMINE WHETHER A PROGRAM TO CERTIFY AND TRAIN NAVIGATORS
22 [] PROTECTS THE PRIVACY AND
23 SECURITY OF PERSONALLY IDENTIFIABLE INFORMATION OF THE RESIDENTS OF
24 THIS STATE UNDER THE LAWS OF THIS STATE. IF THE DIRECTOR DETERMINES
25 THAT THE PROGRAM DOES NOT PROTECT THE RESIDENTS OF THIS STATE UNDER
26 THIS SUBSECTION, THE DIRECTOR SHALL DO ALL OF THE FOLLOWING:

27 (A) ESTABLISH A CERTIFICATION AND TRAINING PROGRAM THAT MUST

1 INCLUDE, BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

2 (i) A CRIMINAL HISTORY CHECK USING THE DEPARTMENT OF STATE
3 POLICE'S INTERNET CRIMINAL HISTORY ACCESS TOOL (ICHAT).

4 (ii) TRAINING ON PRIVACY AND SECURITY OF PERSONAL IDENTIFYING
5 INFORMATION, TRAINING ON ETHICS, TRAINING ON PROVISIONS OF THE
6 AFFORDABLE CARE ACT RELATING TO NAVIGATORS AND CERTIFIED
7 APPLICATION COUNSELORS AND ANY NECESSARY STATE-SPECIFIC TRAINING AS
8 DETERMINED BY THE DIRECTOR.

9 (B) DEVELOP AN APPLICATION AND DISCLOSURE FORM BY WHICH AN
10 APPLICANT FOR A CERTIFICATE SHALL DISCLOSE ANY POTENTIAL CONFLICTS
11 OF INTEREST, AS WELL AS ANY OTHER INFORMATION REQUIRED BY THE
12 DIRECTOR.

13 (C) SUBMIT AN ANNUAL REPORT TO THE STANDING COMMITTEES OF THE
14 SENATE AND HOUSE OF REPRESENTATIVES WITH JURISDICTION OVER HEALTH
15 POLICY. THE REPORT MUST INCLUDE ALL OF THE FOLLOWING:

16 (i) THE DIRECTOR'S ASSESSMENT OF ANY FEDERAL PROGRAM TO CERTIFY
17 AND TRAIN NAVIGATORS AND CERTIFIED APPLICATION COUNSELORS.

18 (ii) ANY CHANGES IMPLEMENTED BY THE DEPARTMENT AS A RESULT OF A
19 FEDERAL PROGRAM TO TRAIN NAVIGATORS AND CERTIFIED APPLICATION
20 COUNSELORS.

[SEC. 1262A. (1) AN INDIVIDUAL SHALL NOT ACT AS A CERTIFIED
APPLICATION COUNSELOR UNLESS HE OR SHE HAS FILED AN APPLICATION UNDER
SECTION 1263(2) AND IS CERTIFIED WITH THIS STATE AS A CERTIFIED
APPLICATION COUNSELOR.

(2) UNLESS CERTIFIED AS A CERTIFIED APPLICATION COUNSELOR, AN
INDIVIDUAL SHALL NOT RECEIVE FUNDING FROM AN EXCHANGE.

(3) SUBJECT TO THE AFFORDABLE CARE ACT, A CERTIFIED APPLICATION
COUNSELOR MAY DO ALL OF THE FOLLOWING:

(A) CONDUCT PUBLIC EDUCATION ACTIVITIES TO RAISE AWARENESS OF THE
AVAILABILITY OF QUALIFIED HEALTH PLANS.

(B) DISTRIBUTE FAIR AND IMPARTIAL INFORMATION ABOUT ALL QUALIFIED
HEALTH PLANS OFFERED WITHIN THE EXCHANGE AND THE AVAILABILITY OF THE
PREMIUM TAX CREDITS UNDER SECTION 36B OF THE INTERNAL REVENUE CODE OF
1986, 26 USC 36B, AND COST-SHARING REDUCTION UNDER SECTION 1402 OF THE
AFFORDABLE CARE ACT.

(C) ASSIST INDIVIDUALS APPLYING FOR COVERAGE IN A QUALIFIED HEALTH
PLAN.

(D) FACILITATE SELECTION OF ELIGIBLE INDIVIDUALS IN A QUALIFIED HEALTH PLAN.

(E) PROVIDE INFORMATION IN A MANNER THAT IS CULTURALLY AND LINGUISTICALLY APPROPRIATE TO THE NEEDS OF THE POPULATION SERVED BY THE EXCHANGE.

(F) REFER AN INDIVIDUAL WITH LIMITED ENGLISH PROFICIENCY TO A NAVIGATOR, INSURANCE PRODUCER, OR OTHER SOURCE OF ASSISTANCE.

(4) A CERTIFIED APPLICATION COUNSELOR SHALL NOT DO ANY OF THE FOLLOWING:

(A) SELL, SOLICIT, OR NEGOTIATE HEALTH INSURANCE.

(B) RECOMMEND A PARTICULAR QUALIFIED HEALTH BENEFIT PLAN.

(C) PROVIDE ANY INFORMATION OR SERVICES RELATED TO INSURANCE REGULATED UNDER THIS ACT OTHER THAN QUALIFIED HEALTH BENEFIT PLANS OR OTHER PRODUCTS OFFERED IN THE EXCHANGE.

(5) BEFORE PROVIDING SERVICES TO OR ACTING FOR AN INDIVIDUAL UNDER SUBSECTION (3), A CERTIFIED APPLICATION COUNSELOR SHALL DISCLOSE ANY POTENTIAL CONFLICT OF INTEREST TO THE INDIVIDUAL.]

21 SEC. 1263. (1) AN INDIVIDUAL APPLYING FOR A [NAVIGATOR] CERTIFICATE SHALL

22 FILE WITH THE DIRECTOR THE UNIFORM APPLICATION REQUIRED BY THE

23 DIRECTOR AND SHALL DECLARE UNDER PENALTY OF REFUSAL, SUSPENSION, OR

24 REVOCATION OF THE [NAVIGATOR] CERTIFICATE THAT THE STATEMENTS MADE IN THE

25 APPLICATION ARE TRUE, CORRECT, AND COMPLETE TO THE BEST OF THE

26 INDIVIDUAL'S KNOWLEDGE AND BELIEF. AN APPLICATION FOR A [NAVIGATOR] CERTIFICATE

27 SHALL NOT BE APPROVED UNLESS THE DIRECTOR FINDS THAT THE INDIVIDUAL

House Bill No. 4576 (S-2) as amended December 17, 2014

1 MEETS ALL OF THE FOLLOWING CRITERIA:

2 (A) IS AT LEAST 18 YEARS OF AGE.

3 (B) HAS NOT COMMITTED AN ACT LISTED THAT WOULD BE A GROUND FOR
4 DENIAL, SUSPENSION, OR REVOCATION OF AN INSURANCE PRODUCER'S
5 LICENSE IN SECTION 1239(1).

6 (C) HAS COMPLETED ALL REQUIRED TRAINING COURSES UNDER SECTION
7 1262.

8 (D) HAS PAID THE FEES REQUIRED BY THE DIRECTOR.

9 (E) HAS SUCCESSFULLY PASSED ANY REQUIRED EXAMINATION.

10 (F) HAS SUCCESSFULLY COMPLETED A CRIMINAL HISTORY CHECK UNDER
11 SECTION 1262.

[(2) AN INDIVIDUAL APPLYING FOR A CERTIFIED APPLICATION COUNSELOR
CERTIFICATE SHALL FILE WITH THE DIRECTOR THE UNIFORM APPLICATION REQUIRED
BY THE DIRECTOR AND SHALL DECLARE UNDER PENALTY OF REFUSAL, SUSPENSION,
OR REVOCATION OF THE CERTIFIED APPLICATION COUNSELOR CERTIFICATE THAT THE
STATEMENTS MADE IN THE APPLICATION ARE TRUE, CORRECT, AND COMPLETE TO THE
BEST OF THE INDIVIDUAL'S KNOWLEDGE AND BELIEF. AN APPLICATION FOR A
CERTIFIED APPLICATION COUNSELOR CERTIFICATE SHALL NOT BE APPROVED UNLESS
THE DIRECTOR FINDS THAT THE INDIVIDUAL MEETS ALL OF THE FOLLOWING
CRITERIA:

(A) IS AT LEAST 18 YEARS OF AGE.

(B) HAS NOT COMMITTED AN ACT LISTED THAT WOULD BE A GROUND FOR
DENIAL, SUSPENSION, OR REVOCATION OF AN INSURANCE PRODUCER'S LICENSE IN
SECTION 1239(1).

(C) HAS COMPLETED THE ENTIRE UNITED STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES TRAINING FOR CERTIFIED APPLICATION COUNSELORS, HAS
SUCCESSFULLY COMPLETED ALL TESTING, AND HAS RECEIVED CERTIFICATION AS A
CERTIFIED APPLICATION COUNSELOR FROM THE FEDERAL GOVERNMENT.

(D) HAS PAID THE FEES REQUIRED BY THE DIRECTOR.

(E) HAS SUCCESSFULLY COMPLETED A CRIMINAL HISTORY CHECK USING THE
DEPARTMENT OF STATE POLICE'S INTERNET CRIMINAL HISTORY ACCESS TOOL
(ICHAT).

(3) IF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES
DISCONTINUES THE TRAINING AND TESTING PROGRAM FOR CERTIFIED APPLICATION
COUNSELORS, THE DIRECTOR SHALL CREATE A TRAINING AND TESTING PROGRAM FOR
CERTIFIED APPLICATION COUNSELORS REGARDING QUALIFIED HEALTH PLAN OPTIONS,
INSURANCE AFFORDABILITY PROGRAMS, ELIGIBILITY, AND BENEFIT RULES, AND
REGULATIONS GOVERNING ALL INSURANCE AFFORDABILITY PROGRAMS OPERATED IN
THIS STATE.

12 (4)] A BUSINESS ENTITY ACTING AS A NAVIGATOR OR CERTIFIED
13 APPLICATION COUNSELOR SHALL OBTAIN A CERTIFICATE. A BUSINESS ENTITY
14 APPLYING FOR A CERTIFICATE SHALL FILE WITH THE DIRECTOR THE UNIFORM
15 BUSINESS ENTITY APPLICATION REQUIRED BY THE DIRECTOR. AN
16 APPLICATION FOR A CERTIFICATE UNDER THIS SUBSECTION SHALL NOT BE
17 APPROVED UNLESS THE DIRECTOR FINDS THAT THE BUSINESS ENTITY MEETS
18 ALL OF THE FOLLOWING:

19 (A) THE BUSINESS ENTITY HAS PAID THE FEES REQUIRED BY THE
20 DIRECTOR.

21 (B) THE BUSINESS ENTITY HAS DESIGNATED AN INDIVIDUAL
22 CERTIFICATE HOLDER RESPONSIBLE FOR THE BUSINESS ENTITY'S COMPLIANCE
23 WITH THIS CHAPTER.

24 (C) THE BUSINESS ENTITY HAS NOT COMMITTED AN ACT LISTED IN
25 SECTION 1239(1).

26 [(5)] THE DIRECTOR MAY REQUIRE THE PRODUCTION OF ANY DOCUMENTS
27 REASONABLY NECESSARY TO VERIFY THE INFORMATION CONTAINED IN AN

1 APPLICATION.

2 SEC. 1264. (1) IN ADDITION TO ANY OTHER POWERS UNDER THIS ACT,
3 THE DIRECTOR MAY PLACE ON PROBATION, SUSPEND, OR REVOKE A
4 CERTIFICATE OR MAY LEVY A CIVIL FINE UNDER SECTION 1270 OR ANY
5 COMBINATION OF ACTIONS, AND THE DIRECTOR SHALL REFUSE TO ISSUE A
6 CERTIFICATE UNDER SECTION 1263, FOR ANY 1 OR MORE CAUSES THAT WOULD
7 BE A GROUND FOR REFUSAL, SUSPENSION, OR REVOCATION OF AN INSURANCE
8 PRODUCER'S LICENSE UNDER SECTION 1239. THE DIRECTOR MAY REVOKE A
9 CERTIFICATE OF A PERSON OR REFUSE TO ISSUE A CERTIFICATE FOR A
10 PERSON THAT RECEIVES FINANCIAL COMPENSATION, INCLUDING MONETARY AND
11 IN-KIND COMPENSATION, GIFTS, OR ANY COMPENSATION RELATED TO
12 ENROLLMENT FROM AN INSURER OFFERING QUALIFIED HEALTH BENEFITS
13 THROUGH AN EXCHANGE OPERATING IN THIS STATE. THE DIRECTOR MAY DENY,
14 SUSPEND, APPROVE, RENEW, OR REVOKE A CERTIFICATE IF THE DIRECTOR
15 CONSIDERS IT NECESSARY TO PROTECT INSUREDS AND THE PUBLIC.

16 (2) THE CERTIFICATE OF A BUSINESS ENTITY MAY BE SUSPENDED,
17 REVOKED, OR REFUSED IF THE DIRECTOR FINDS, AFTER HEARING, THAT AN
18 INDIVIDUAL CERTIFICATE HOLDER'S VIOLATION WAS KNOWN OR SHOULD HAVE
19 BEEN KNOWN BY 1 OR MORE OF THE PARTNERS, OFFICERS, OR MANAGERS
20 ACTING ON BEHALF OF THE BUSINESS ENTITY AND THE VIOLATION WAS
21 NEITHER REPORTED TO THE DIRECTOR NOR CORRECTIVE ACTION TAKEN.

22 (3) THE DIRECTOR MAY EXAMINE THE BOOKS AND RECORDS OF A
23 CERTIFICATE HOLDER TO DETERMINE WHETHER THE CERTIFICATE HOLDER IS
24 CONDUCTING ITS BUSINESS IN ACCORDANCE WITH THIS CHAPTER. FOR THE
25 PURPOSE OF FACILITATING THE EXAMINATION, THE CERTIFICATE HOLDER
26 SHALL ALLOW THE DIRECTOR FREE ACCESS, AT REASONABLE TIMES, TO ALL
27 OF THE CERTIFICATE HOLDER'S BOOKS AND RECORDS RELATING TO

1 TRANSACTIONS TO WHICH THIS CHAPTER APPLIES.

2 SEC. 1265. A BUSINESS ENTITY ISSUED A CERTIFICATE SHALL, IN A
3 MANNER PRESCRIBED BY THE DIRECTOR, MAKE AVAILABLE A LIST OF ALL
4 INDIVIDUAL CERTIFICATE HOLDERS THAT THE BUSINESS ENTITY EMPLOYS OR
5 SUPERVISES OR WITH WHICH THE BUSINESS ENTITY IS OTHERWISE
6 AFFILIATED.

7 SEC. 1266. A BUSINESS ENTITY THAT TERMINATES THE EMPLOYMENT,
8 ENGAGEMENT, AFFILIATION, OR OTHER RELATIONSHIP WITH AN INDIVIDUAL
9 CERTIFICATE HOLDER SHALL NOTIFY THE DIRECTOR USING A FORMAT
10 PRESCRIBED BY THE DIRECTOR OF THE TERMINATION WITHIN 30 DAYS
11 FOLLOWING THE EFFECTIVE DATE OF THE TERMINATION IF THE REASON FOR
12 TERMINATION IS 1 OF THE REASONS LISTED IN SECTION 1239(1) OR THE
13 BUSINESS ENTITY HAS KNOWLEDGE THE INDIVIDUAL WAS FOUND BY A COURT
14 OR GOVERNMENT BODY TO HAVE ENGAGED IN ANY OF THE ACTIVITIES LISTED
15 IN SECTION 1239(1).

16 SEC. 1268. (1) WHEN APPLYING FOR A CERTIFICATE, THE APPLICANT
17 SHALL REPORT HIS OR HER MAILING AND ELECTRONIC MAIL ADDRESS TO THE
18 DIRECTOR. A CERTIFICATE HOLDER SHALL NOTIFY THE DIRECTOR OF A
19 CHANGE IN HIS OR HER MAILING OR ELECTRONIC MAIL ADDRESS WITHIN 30
20 DAYS AFTER THE CHANGE. THE DIRECTOR SHALL MAINTAIN THE MAILING AND
21 ELECTRONIC MAIL ADDRESS OF EACH CERTIFICATE HOLDER ON FILE.

22 (2) A NOTICE OF HEARING OR SERVICE OF PROCESS MAY BE SERVED
23 UPON A CERTIFICATE HOLDER IN AN ACTION OR PROCEEDING FOR A
24 VIOLATION OF THIS ACT BY MAILING THE NOTICE OR PROCESS BY FIRST-
25 CLASS MAIL TO THE CERTIFICATE HOLDER'S MAILING ADDRESS REPORTED TO
26 THE DIRECTOR UNDER SUBSECTION (1).

27 SEC. 1269. (1) THE DIRECTOR SHALL REFUSE TO GRANT A

1 CERTIFICATE TO AN APPLICANT WHO FAILS TO MEET THE REQUIREMENTS OF
2 THIS CHAPTER. NOTICE OF THE REFUSAL SHALL BE IN WRITING AND SHALL
3 SET FORTH THE BASIS FOR THE REFUSAL. IF THE APPLICANT SUBMITS A
4 WRITTEN REQUEST WITHIN 30 DAYS AFTER MAILING OF THE NOTICE OF
5 REFUSAL, THE DIRECTOR SHALL PROMPTLY CONDUCT A HEARING IN WHICH THE
6 APPLICANT SHALL BE GIVEN AN OPPORTUNITY TO SHOW COMPLIANCE WITH THE
7 REQUIREMENTS OF THIS CHAPTER.

8 (2) THE DIRECTOR, AFTER NOTICE OF AND OPPORTUNITY FOR A
9 HEARING, MAY SUSPEND OR REVOKE A CERTIFICATE OF A CERTIFICATE
10 HOLDER WHO FAILS TO MAINTAIN THE STANDARDS REQUIRED FOR INITIAL
11 CERTIFICATION OR WHO VIOLATES THIS ACT.

12 (3) WITHOUT PRIOR HEARING, THE DIRECTOR MAY ORDER SUMMARY
13 SUSPENSION OF A CERTIFICATE IF HE OR SHE FINDS THAT PROTECTION OF
14 THE PUBLIC REQUIRES EMERGENCY ACTION AND INCORPORATES THIS FINDING
15 IN HIS OR HER ORDER. THE SUSPENSION SHALL BE EFFECTIVE ON THE DATE
16 SPECIFIED IN THE ORDER OR UPON SERVICE OF A CERTIFIED COPY OF THE
17 ORDER ON THE CERTIFICATE HOLDER, WHICHEVER IS LATER. IF REQUESTED,
18 THE DIRECTOR SHALL CONDUCT A HEARING ON THE SUSPENSION WITHIN A
19 REASONABLE TIME BUT NOT LATER THAN 20 DAYS AFTER THE EFFECTIVE DATE
20 OF THE SUMMARY SUSPENSION UNLESS THE PERSON WHOSE CERTIFICATE IS
21 SUSPENDED REQUESTS A LATER DATE. AT THE HEARING, THE DIRECTOR SHALL
22 DETERMINE IF THE SUSPENSION SHOULD BE CONTINUED OR IF THE
23 SUSPENSION SHOULD BE WITHDRAWN, AND, IF PROPER NOTICE IS GIVEN, MAY
24 DETERMINE IF THE CERTIFICATE SHOULD BE REVOKED. THE DIRECTOR SHALL
25 ANNOUNCE HIS OR HER DECISION WITHIN 30 DAYS AFTER CONCLUSION OF THE
26 HEARING. THE SUSPENSION SHALL CONTINUE UNTIL THE DECISION IS
27 ANNOUNCED.

1 (4) THE DIRECTOR, OR HIS OR HER DESIGNATED DEPUTY, MAY ISSUE
2 SUBPOENAS TO REQUIRE THE ATTENDANCE AND TESTIMONY OF WITNESSES AND
3 THE PRODUCTION OF DOCUMENTS NECESSARY TO THE CONDUCT OF THE HEARING
4 AND MAY DESIGNATE A DEPARTMENT EMPLOYEE TO MAKE SERVICE. THE
5 SUBPOENAS ISSUED BY THE DIRECTOR, OR HIS OR HER DESIGNATED DEPUTY,
6 MAY BE ENFORCED UPON PETITION TO THE CIRCUIT COURT OF INGHAM COUNTY
7 TO SHOW CAUSE WHY A CONTEMPT ORDER SHOULD NOT BE ISSUED, AS
8 PROVIDED BY LAW.

9 SEC. 1270. (1) IF THE DIRECTOR FINDS THAT A PERSON HAS
10 VIOLATED THIS CHAPTER, AFTER AN OPPORTUNITY FOR A HEARING UNDER THE
11 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
12 24.328, THE DIRECTOR SHALL REDUCE THE FINDINGS AND DECISION TO
13 WRITING AND SHALL ISSUE AND CAUSE TO BE SERVED UPON THE PERSON
14 CHARGED WITH THE VIOLATION A COPY OF THE FINDINGS AND AN ORDER
15 REQUIRING THE PERSON TO CEASE AND DESIST FROM THE VIOLATION. IN
16 ADDITION, THE DIRECTOR MAY ORDER ANY OF THE FOLLOWING:

17 (A) PAYMENT OF A CIVIL FINE OF NOT MORE THAN \$500.00 FOR EACH
18 VIOLATION. HOWEVER, IF THE PERSON KNEW OR REASONABLY SHOULD HAVE
19 KNOWN THAT HE OR SHE WAS IN VIOLATION OF THIS CHAPTER, THE DIRECTOR
20 MAY ORDER THE PAYMENT OF A CIVIL FINE OF NOT MORE THAN \$2,500.00
21 FOR EACH VIOLATION. AN ORDER OF THE DIRECTOR UNDER THIS SUBSECTION
22 SHALL NOT REQUIRE THE PAYMENT OF CIVIL FINES EXCEEDING \$25,000.00.
23 A FINE COLLECTED UNDER THIS SUBDIVISION SHALL BE TURNED OVER TO THE
24 STATE TREASURER AND CREDITED TO THE GENERAL FUND OF THIS STATE.

25 (B) THE SUSPENSION OR REVOCATION OF THE CERTIFICATE.

26 (2) THE DIRECTOR MAY BY ORDER, AFTER NOTICE AND OPPORTUNITY
27 FOR HEARING, REOPEN AND ALTER, MODIFY, OR SET ASIDE, IN WHOLE OR IN

1 PART, AN ORDER ISSUED UNDER THIS SECTION, IF IN THE OPINION OF THE
2 DIRECTOR CONDITIONS OF FACT OR OF LAW HAVE CHANGED TO REQUIRE THAT
3 ACTION, OR IF THE PUBLIC INTEREST REQUIRES THAT ACTION.

4 (3) IF A PERSON KNOWINGLY VIOLATES A CEASE AND DESIST ORDER
5 UNDER THIS CHAPTER AND HAS BEEN GIVEN NOTICE AND AN OPPORTUNITY FOR
6 A HEARING HELD UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
7 1969 PA 306, MCL 24.201 TO 24.328, THE DIRECTOR MAY ORDER A CIVIL
8 FINE OF NOT MORE THAN \$10,000.00 FOR EACH VIOLATION, OR A
9 SUSPENSION OR REVOCATION OF THE CERTIFICATE, OR BOTH. AN ORDER
10 ISSUED BY THE DIRECTOR UNDER THIS SUBSECTION SHALL NOT REQUIRE THE
11 PAYMENT OF CIVIL FINES EXCEEDING \$50,000.00. A FINE COLLECTED UNDER
12 THIS SUBSECTION SHALL BE TURNED OVER TO THE STATE TREASURER AND
13 CREDITED TO THE GENERAL FUND OF THIS STATE.

14 (4) THE DIRECTOR MAY APPLY TO THE CIRCUIT COURT OF INGHAM
15 COUNTY FOR AN ORDER OF THE COURT ENJOINING A VIOLATION OF THIS
16 CHAPTER.

17 SEC. 1271. THE DIRECTOR SHALL DEVELOP AND IMPLEMENT A PROCESS
18 FOR RECEIPT, INVESTIGATION, AND REFERRAL TO A FEDERAL EXCHANGE OF
19 CITIZEN COMPLAINTS REGARDING NAVIGATORS AND CERTIFIED APPLICATION
20 COUNSELORS. THE DIRECTOR SHALL SUBMIT AN ANNUAL REPORT THAT
21 DESCRIBES THIS PROCESS TO THE STANDING COMMITTEES OF THE SENATE AND
22 HOUSE OF REPRESENTATIVES WITH JURISDICTION OF HEALTH POLICY.

23 SEC. 1272. THIS CHAPTER DOES NOT AUTHORIZE OR SHALL NOT BE
24 CONSTRUED TO AUTHORIZE THE ESTABLISHMENT OR OPERATION OF AN
25 AMERICAN HEALTH BENEFIT EXCHANGE IN THIS STATE UNDER THE AFFORDABLE
26 CARE ACT.

27 Enacting section 1. (1) This amendatory act shall not be

1 construed to do any of the following:

2 (a) Authorize this state or an agency of this state to conduct
3 or oversee state-level governmental consumer assistance functions
4 for an American health benefit exchange established or operating in
5 this state under the patient protection and affordable care act,
6 Public Law 111-148, as amended by the health care and education
7 reconciliation act of 2010, Public Law 111-152.

8 (b) Convey any administrative, statutory, rule-making, or
9 other power to this state or an agency of this state to authorize,
10 establish, or operate an American health benefit exchange in this
11 state that did not exist before the effective date of this
12 amendatory act.

13 (2) It is the intent of this legislature that any consumer
14 assistance functions by or overseen by this state or an agency of
15 this state with regard to an American health benefit exchange shall
16 be conducted in a manner that utilizes and highlights Michigan-
17 based resources, including insurance producers, in order to best
18 serve the residents of this state and to ensure appropriate health
19 care decisions.

20 Enacting section 2. This amendatory act applies to policies,
21 certificates, or contracts delivered, issued for delivery, or
22 renewed in this state on and after the effective date of this
23 amendatory act.