

**By Electronic Mail**

July 9, 2013

Honorable Roger Sevigny  
Commissioner of Insurance  
New Hampshire  
Chair, Producer Licensing (EX) Task Force

Honorable Kenneth E. Kobylowski  
Commissioner of Banking and Insurance  
New Jersey  
Vice Chair, Producer Licensing (EX) Task Force

**Re: Regulation of health insurance exchange navigators**

Dear Commissioner Sevigny and Commissioner Kobylowski:

PIA National appreciates the recognition by the NAIC of several critical issues surrounding the regulation of health insurance navigators as the Affordable Care Act (ACA) is implemented. **Several states have chosen to enact legislation governing navigators, and we support these efforts to protect consumers.** Ideally, we would like to see that these rules and regulations are at least somewhat uniform across the country, and we believe the NAIC can play a valuable role in this effort. We also expect the Secretary of Health and Human Services (HHS) to release further guidance regarding navigators so hopefully many of the outstanding questions will be addressed there.

**In order to sell, solicit or negotiate insurance, a producer license should continue to be required.** Navigators will have a role in helping to reach out to traditionally underserved health insurance markets, which will include senior citizens, non-English speakers and people with little or no experience purchasing insurance. Now more than ever, as we begin the implementation of vast health insurance reforms, consumers need accurate information. Navigators may likely be the first point of contact for many people who are entering the health insurance market for the first time. We therefore advocate for some fundamental regulation of navigators so they can reliably perform their limited duties as mandated by federal law. Should this task force decide to move forward with consideration of model navigator guidelines for states, we believe several critical issues must be addressed.

We support strong consumer protections, including allowing exchanges to encourage or even require navigators to carry errors and omissions liability coverage, so consumers may be held harmless for any mistakes made by navigators. The ACA allows broad authority for states to regulate navigators, and HHS officials have repeatedly claimed states will have wide discretion in their efforts to regulate their insurance markets.

The best way to serve and protect consumers is to create tight parameters that navigators work within. This includes creating a navigator license that is fulfilled by thorough education requirements. Unlicensed, untrained navigators could lead to incorrect information being distributed, fraud, market disruption, sensitive consumer information being released and other consumer protection failures. **Navigators should be subject to background checks and this system should be capable of tracking navigator violations nationwide.** The list of individuals that can become a navigator is lengthy, which leads to an increased concern that many navigators will have little-to-no experience with insurance. We therefore believe that **initial navigator training will be absolutely necessary.** We also think some periodic ongoing training should be required for navigators. A navigator's role should be carefully defined and overseen by state insurance departments. Additionally, navigators should not be allowed to engage in activities that include selling, soliciting or negotiating insurance and should be recertified periodically.

As both the states and federal government establish navigator parameters, we encourage utilization of the current agent and broker community. Agents and brokers are licensed, regulated and experienced professionals that educate consumers on complex products and enroll them in policies that best fit their personal needs. Agents and brokers have a deep familiarity with insurance markets and products, they service plans throughout the year, assist with renewals and are held to strict compliance standards. Agents and brokers must meet continuing education requirements in order to maintain their licenses. In addition, they are required to maintain continuous professional liability insurance coverage in order to protect consumers. Consumers would be subjected to needless risks by allowing unscreened, untrained and unlicensed navigators the ability to educate and help facilitate enrollment with no liability protection. **We strongly encourage state insurance departments to assert jurisdiction over navigators, because state insurance departments have proven they have experience and expertise to effectively license and regulate the insurance industry.**

The document sent out by the NAIC on June 11, 2013, entitled "Navigator Issues and Concerns" is comprehensive; however we noticed one key omission, privacy. **Navigators will be handling very sensitive consumer information and therefore must be held accountable for keeping this information private.**

With the major push now getting underway to get exchanges operational and to begin enrolling participants, it is imperative that the concerns we have outlined are addressed in a timely fashion. **Failure to have adequate protections in place governing navigators could jeopardize healthcare reform efforts just as they are about to get off the ground.**

At this critical juncture in the healthcare market now is not the time to gamble with consumer protections. Agents and brokers have been relied on for generations because consumers trust them and value their sound advice. We therefore support approaches that continue to utilize the expertise of professional insurance agents.

Thank you for your consideration of these comments. If you have any questions or would like any further information, please contact me.

Sincerely,

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Attachment

cc:

Honorable Sandy Praeger, Commissioner of Insurance, Kansas  
Chair, NAIC Health Insurance and Managed Care (B) Committee  
Tim Mullen, Director, Market Regulation, NAIC