

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 10. LIFE, ACCIDENT AND HEALTH**

SUBCHAPTER 31. NAVIGATORS AND NAVIGATOR ENTITIES

365:10-31-1. Purpose

The purpose of this Subchapter is to set forth the regulations and procedures relating to the registration and oversight of navigators and navigator entities under 36 O.S. §§ 1415.2-1415.5.

365:10-31-2. Scope

This Subchapter shall apply to all navigators and navigator entities, as defined by 36 O.S. § 1415.2, which must be registered pursuant to 36 O.S. § 1415.3.

365:10-31-3. Authority

This Subchapter is promulgated under the authority granted to the Insurance Commissioner ("Commissioner") in 36 O.S. § 1415.5.

365:10-31-4. Individual navigator registration application, registration renewals, fees, and civil penalties

(a) An application for an individual navigator registration shall be on a form provided by the Commissioner and shall be accompanied by a fee of Twenty-Five Dollars (\$25.00). This fee shall be deemed earned and not refundable if the application is denied, withdrawn, cancelled, or refused for any reason by either the applicant or the Commissioner. Subject to the Oklahoma Insurance Department's ("OID") ability to accept electronic applications, all applicants for an individual navigator registration shall apply electronically. The individual navigator registration fee may be paid by the individual navigator or by the navigator entity employing or supervising the navigator.

(b) An applicant for an initial individual navigator registration shall submit to a criminal background check with the Oklahoma State Bureau of Investigation ("OSBI"). The criminal background check shall be conducted through submission of a Criminal History Record Information Request Form ("Form") to the OSBI. The Form can be found on the OSBI website. An individual navigator registration applicant shall submit to the following searches with the OSBI: name based, sex offender, and Mary Rippe Violent Offender. The individual navigator registration applicant shall submit a completed OSBI criminal background check report to the OID at the time of application.

(1) An individual navigator registration applicant who is not a resident of the State of Oklahoma shall submit with his or her initial application the results of a criminal background check conducted by the state in which the applicant maintains his or her principal place of residence.

(2) The background check required by this Section may be requested and paid for by the individual navigator or by the navigator entity employing or supervising the navigator.

(3) The background check required by this Section shall be current as of a date no more than thirty (30) days prior to the date of application.

(c) An individual navigator registration shall continue in force no longer than twelve (12) months from the month of issuance. If the individual navigator fails to timely apply for renewal of his or

her registration or fails to pay any applicable fees or outstanding fines by the last day of the month in which the registration was originally issued, the registration shall expire automatically and the individual shall be required to apply for a registration in the same manner as an initial individual navigator registration application.

(d) Upon filing an individual navigator registration renewal application on a form provided by the Commissioner, and upon payment of a renewal fee of Twenty-Five Dollars (\$25.00), a renewal registration shall be issued by the Commissioner to an individual navigator registrant who has continuously maintained such registration. The registration renewal fee may be paid by the individual navigator or by the navigator entity employing or supervising the navigator. An applicant for renewal of an individual navigator registration shall not be required to submit to a new criminal background check with the OSBI.

(e) In the event that the Commissioner declines to issue or renew an individual navigator registration for any reason provided by law, the Commissioner shall notify the individual of such declination and advise the individual, in writing, of the reason for the denial or nonrenewal of the individual's navigator registration. The individual may make written demand upon the Commissioner within thirty (30) days of the date of notification by the Commissioner for a hearing before the Commissioner or an independent hearing examiner appointed by the Commissioner to determine the existence of the grounds for the Commissioner's action. The hearing shall be held within a reasonable time period pursuant to the Oklahoma Administrative Procedures Act.

(f) After notice and opportunity for hearing, and upon determining that an individual navigator has violated any of the provisions of Title 36 of the Oklahoma Statutes, or any rules promulgated by the Commissioner, the Commissioner or his or her duly appointed hearing examiner may suspend or revoke an individual navigator registration and assess a civil penalty for each occurrence, or both, as set out by 36 O.S. §§ 1415.3 and 1415.4.

365:10-31-5. Navigator entity registration application, registration renewals, fees, and civil penalties

(a) An application for a navigator entity registration shall be on a form provided by the Commissioner and shall be accompanied by a fee of Fifty Dollars (\$50.00). This fee shall be deemed earned and not refundable if the application is denied, withdrawn, cancelled, or refused for any reason by either the applicant or the Commissioner. Subject to the OID's ability to accept electronic applications, all applicants for a navigator entity registration shall apply electronically.

(b) The navigator entity registration shall continue in force no longer than twelve (12) months from the month of issuance. If the navigator entity fails to timely apply for renewal of its registration or fails to pay any applicable fees or outstanding fines by the last day of the month in which the license was originally issued, the registration shall expire automatically and the navigator entity shall be required to apply for a registration in the same manner as an initial navigator entity registration application.

(c) Upon filing a navigator entity registration renewal application on a form provided by the Commissioner, and upon payment of a renewal fee of Fifty Dollars (\$50.00), a renewal registration shall be issued by the Commissioner to a navigator entity registrant which has continuously maintained such registration.

(d) In the event that the Commissioner declines to issue or renew a navigator entity registration for any of the reasons provided by law, the Commissioner shall notify the entity of such declination and advise the entity, in writing, of the reason for the denial or nonrenewal of the

navigator entity registration. The entity may make written demand upon the Commissioner within thirty (30) days of the date of notification by the Commissioner for a hearing before the Commissioner or an independent hearing examiner appointed by the Commissioner to determine the existence of the grounds for the Commissioner's action. The hearing shall be held within a reasonable time period pursuant to the Oklahoma Administrative Procedures Act.

(e) After notice and opportunity for hearing, and upon determining that a navigator entity has violated any of the provisions of Title 36 of the Oklahoma Statutes, or any rules promulgated by the Commissioner, the Commissioner or his or her duly appointed hearing examiner may suspend or revoke the navigator entity's registration.

(f) After notice and opportunity for hearing, and upon determining that a navigator entity has allowed an individual who is employed or overseen by the navigator entity to interact with individuals or employer groups while performing any of the functions of a navigator without an active registration, the Commissioner or his or her duly appointed hearing examiner may assess a civil penalty as set out by 36 O.S. § 1415.3.

365:10-31-6. Individual navigator requirements

(a) For the purpose of this Subchapter, the term "assist" shall mean:

(1) facilitating the application for or enrollment of an individual or employer group in a qualified health plan (QHP) on the exchange, either through an in-person meeting, telephone conversation, video conference, mail, or any other electronic means, regardless of whether the individual or employer group completes final enrollment in a QHP, or

(2) assisting in determining an individual's eligibility for premium tax credits and cost sharing reductions available for QHPs, including but not limited to receiving an individual's financial information for the purpose of determining said eligibility.

(b) "Assist" shall not include answering general questions about the exchange such as the website address or phone number of the exchange.

(c) If an individual navigator obtains authorization to provide assistance to an individual or employer group pursuant to 45 C.F.R. § 155.210(e)(6)(ii), the navigator shall provide a disclaimer to the individual or employer group on a form provided by the Commissioner. If the navigator assists an individual or employer group via telephone, the navigator shall read the contents of the disclaimer to the individual or employer group, confirm that the individual or employer group understands the disclaimer, and shall send a signed copy of the disclaimer to the individual or employer group via certified mail, e-mail, or facsimile.

(d) If an individual navigator obtains authorization to provide assistance to an individual or employer group pursuant to 45 C.F.R. § 155.210(e)(6)(ii), the navigator shall record the contact information and the date of contact for the individual or employer group and provide such information to the navigator entity within three (3) business days after the date of contact. "Contact information" shall mean, but is not limited to, an individual or employer group's name, mailing address, phone number, and e-mail address. A navigator shall only be required to record an individual or employer group's contact information which is available.

(e) Any individual or employer group receiving assistance from a navigator may refuse, in writing, to allow the individual or employer group's contact information from being disclosed to the Oklahoma Insurance Department. Provided, however, that no individual navigator shall instruct, coerce, or otherwise direct the individual or employer group to make such a refusal. An individual navigator shall provide a copy of the written refusal to the navigator entity within three (3) business days after the date of refusal. If the individual or employer group receiving

assistance from a navigator refuses in writing to allow the individual or employer group's contact information from being disclosed to the Oklahoma Insurance Department, the disclaimer form shall still be provided to the individual or employer group pursuant to paragraph (c) of this Section.

(f) An individual navigator shall allow for an inspection of operations and records related to the fulfillment of the enrollment or assistance with enrollment duties of the individual navigator at the discretion of the Commissioner. In order to safeguard consumer privacy, such an inspection of operations and records shall not include the observation of an enrollment session.

(g) An individual navigator shall submit to the Commissioner, at the request of the Commissioner, a report setting forth the individuals or employer groups which have received a disclaimer form from the navigator pursuant to paragraph (c) of this Section. The report shall include the contact information of any individual or employer group received by the navigator pursuant to paragraph (d) of this Section.

(h) Any notification or report submitted to the Commissioner shall be submitted electronically. Any navigator or navigator entity submitting information to the Commissioner shall take appropriate steps to safeguard the transmission of the information in compliance with applicable federal and state laws governing the security of such information.

365:10-31-7. Navigator entity requirements

(a) A navigator entity shall maintain a record of all individuals employed or overseen as an individual navigator for a period of three (3) years following the date of termination of the employment or oversight of the individual as a navigator. This record shall include the name, date of hiring, job title, job description, length of employment, and date of termination for each individual navigator. Subject to the ability of the navigator entity, these records shall be maintained electronically.

(b) A navigator entity shall maintain all records required to be provided to the navigator entity by registered individual navigators for a period of three (3) years following the date of termination of the employment or oversight of each individual navigator. Subject to the ability of the navigator entity, these records shall be maintained electronically.

(c) A navigator entity shall allow for an inspection of operations and records related to the fulfillment of the enrollment or assistance with enrollment duties at the discretion of the Commissioner. In order to safeguard consumer privacy, such an inspection of operations and records shall not include the observation of an enrollment session.

(d) A navigator entity shall submit to the Commissioner, at the request of the Commissioner, a report setting forth the individuals or employer groups which have received a disclaimer from any navigator employed or supervised by the navigator entity pursuant to paragraph (c) of Section 6 of this Subchapter. The report shall include the contact information of any individual or employer group received by the navigator pursuant to paragraph (d) of Section 6 of this Subchapter.

(e) At the time of application, a navigator entity shall provide the Commissioner with a list of all individual navigators whom, at the time of application, it is employing, supervising or affiliated with or has, during the previous year while registered as a navigator entity, employed, supervised or been affiliated with. Subject to the ability of the navigator entity, this list shall be submitted to the OID electronically.

(f) A navigator entity registrant shall report to the Commissioner any termination of employment, engagement, affiliation or other relationship with an individual navigator within

thirty (30) days if the individual navigator registrant is terminated for failing to comply with any requirement of Title 36 of the Oklahoma Statutes. Subject to the ability of the navigator entity, this report shall be submitted electronically to the OID.