**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 21 TO CHAPTER 71, TITLE 38 SO AS TO ENACT THE “NAVIGATOR BACKGROUND CHECK ACT”, TO PROVIDE A CITATION, TO PROVIDE NECESSARY DEFINITIONS, TO PROVIDE CRITERIA FOR REGISTRATION AS A HEALTH CARE INSURANCE NAVIGATOR, TO REQUIRE REGISTRATION OF A PERSON ACTING AS A HEALTH CARE INSURANCE NAVIGATOR, TO PROVIDE RELATED DUTIES OF THE DEPARTMENT OF INSURANCE AND THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, AND TO PROVIDE PENALTIES FOR A VIOLATION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 71, Title 38 of the 1976 Code is amended by adding:

“Article 21

Navigator Background Checks

Section 38‑71‑2110. This act must be known and may be cited as the ‘Navigator Background Check Act’.

Section 38‑71‑2120. For the purposes of this title:

(1) ‘Department’ means the South Carolina Department of Insurance.

(2) ‘Health care insurance navigator’ means a person who is selected to perform the activities and duties identified in 42 U.S.C. Section 18031(i) and includes a person who receives grant monies from the United States Department of Health and Human Services, a state or a health care exchange, or private money to perform an activity or duty identified in 42 U.S.C. Section 18031(i).

Section 38‑71‑2130. (A) A person shall not act as or hold himself out to be a health care insurance navigator in this State unless he registers with the department and meets all of the following requirements:

(1) submits application and registration fees in the amounts prescribed by the department by regulation;

(2) has received a high school diploma or general equivalency diploma;

(3) successfully completes all federally required training programs; and

(4) is found to have no conviction of a felony offense or a misdemeanor offense involving fraud or dishonesty. The department shall submit a full set of the applicant’s fingerprints to SLED for the purpose of obtaining a state criminal records check and a federal criminal records check. The department shall not issue the registration if the person has been convicted of a felony offense or a misdemeanor offense involving fraud or dishonesty.

(B) The department may deny, suspend or revoke the registration of a health care insurance navigator if:

(1) the health care insurance navigator is charged with a felony offense;

(2) the health care insurance navigator is charged with a misdemeanor offense involving fraud or dishonesty;

(3) the department receives credible reports that the health care insurance navigator has provided false or fraudulent information to consumers; or

(4) the health care insurance navigator has engaged in intentional or negligent conduct that has resulted in the release of a consumer’s personally identifiable information.

(C) The department immediately shall revoke the registration of a navigator upon his conviction of any crime other than minor traffic offenses.

(D) An organization employing a health care insurance navigator shall report to the department any event that results in the unauthorized release of a consumer’s personally identifiable information. The organization shall attempt to report this unauthorized release of personally identifiable information to the affected individual whose personal information was released within twenty‑four hours after discovering the breach. The South Carolina Department of Health and Human Services annually shall submit a written report before February first to the Speaker of the House of Representatives and the President Pro Tempore of the Senate detailing the number of breaches reported to the department pursuant to this subsection and the circumstances of each breach.

(E) Notwithstanding another provision of law, a health care insurance navigator shall not sell, solicit, or negotiate insurance in this State for any class of insurance when assisting an individual with enrollment or performing any other insurance navigator activities or duties through a health care exchange established or operating in this State, including an exchange established or operated by the United States Department of Health and Human Services.

(F) A navigator and his administrative staff shall keep all personal health information secure pursuant to regulations promulgated by the department based on applicable health care industry standards. The department shall revoke the registration of a navigator who fails to comply with the requirements of this subsection.

(G) The department shall maintain a website for the purpose of providing the public with a complete list of all currently registered health care insurance navigators in this State.

Section 38‑71‑2140. A person who is acting as a health care insurance navigator pursuant to 42 U.S.C. Section 18031(i) on the effective date of this act shall register within ninety days after the effective date of this act with the department as provided in this article in order to continue performing the duties and activities of a health care insurance navigator in this State after the effective date of this act.

Section 38‑71‑2150. A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be subject to a fine of no more than five thousand dollars in the discretion of the court or imprisoned not more than two years, or both.

Section 38‑71‑2160. The department shall promulgate regulations necessary to carry out the provisions of this article.”

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect upon approval by the Governor.

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