

MEMORANDUM

To: Mark Hamlin  
Office of the Lt. Governor, Mary Taylor

From: Tina L. Chubb  
Rule Administrator

Date: June 14, 2013

Re: Insurance Navigator Certification and Agent Exchange Requirements Rule (OAC 3901-5-13)

I am in receipt of your June 11, 2013 memo recommending that the Department of Insurance should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review (JCARR). The Department intends to proceed with filing this rule with JCARR and is outlining changes to the rule below.

**Response**

The CSI memo notes that “The Department’s BIA describes outreach to a number of stakeholders prior to the actual development of rule language. As a result, much of the input received was conceptual in nature, and the Department states that most was incorporated into the rule, with the exception of suggestions that would have exceeded statutory authority.”

Additionally, the Department received 15 comments on the rule package while it was in the CSI process, most of which were suggesting technical or clarifying changes to improve the rule and make it more clear and understandable. In response, the Department is proposing a number of changes that simply clarify terms or refer back to the statute or the federal rules for definition.

However, the Department is proposing several substantive changes in response to comments received during the CSI process. All are changes in response to comments received and none of the changes increase the impact on business for compliance.

The Department is proposing the following substantive changes:

1. **Proposed change:** Adds education requirements for agents that sell insurance in the Exchange to the purpose and the title.  
**Reason:** In response to comments, the Department agrees that changing both the title and the purpose will make it easier for consumers to understand the goal of the rule.
2. **Proposed change:** Adds that results of the statutorily required background check must be satisfactory to the Department, but also that an Insurance Navigator may provide information about why a conviction noted during the process does not impact the individual’s fitness to function as an Insurance Navigator.

**Reason:** In response to comments, the Department is clarifying that the results of the background checks must be satisfactory to the Department, but agrees that there should be an ability for an applicant to provide additional information for the Department to consider, as needed.

3. **Proposed change:** Clarifies that both the federal Navigator educational training as well as the federal Navigator testing qualifies as meeting specific Ohio requirements.

**Reason:** In response to comments, the Department is clarifying that federal Navigator requirements for education and testing will meet Ohio law.

4. **Proposed change:** Removes the fee for individual Navigators, but inserts a new, tiered fee structure for business entity Navigators.

**Reason:** In response to comments, the Department agrees that this change more closely aligns with the business structure that Navigators will likely be using. Though the Department is proposing an increased fee for business entities, this change does not increase expected revenue and in fact will likely result in the Department taking in less revenue than under the previous proposal.

5. **Proposed change:** Includes contracted entities and political subdivisions in the exemption provision.

**Reason:** The Department received numerous comments on this provision ranging from removing it entirely to making the provision much broader. During the CSI process, we noted that the goal of this language is to ensure that these new requirements do not eliminate the ability of those currently providing certain types of assistance. In that spirit, the Department is clarifying that exempted entities may continue utilizing political subdivisions or contracted entities to provide services as long as those services provided by contractors are being provided on the premises of the exempted entity.

6. **Proposed change:** Removing specific Department requirements for agent training.

**Reason:** The Department is required by the statute to provide education credit to agents who complete training offered by the Exchange, and is only required to set up Ohio specific training if the Exchange does not intend to offer such training. We understand that the Exchange is requiring its own training; therefore, the Department will not require duplicative training.