

# Navigator Conflict of Interest Framework

## DRAFT—FOR DISCUSSION

It is COHBE's intent that the Navigator Program provides Exchange customers with high quality, community based education, in-person information and guidance that is unbiased and impartial. In order to assure the delivery of high quality navigator services, and to minimize or eliminate the existence of conflicts of interest or the appearance of impropriety, COHBE will:

1. Monitor for potential conflicts of interest during the navigator entity selection process and throughout the term of engagement with the Navigator entity.
2. Provide robust initial and ongoing training that includes instruction on providing impartial education and in person assistance with customer selection of a qualified health plan.
3. Require from navigator entities and navigators disclosures of affiliations that may present a direct or indirect conflict of interest.
4. Monitor navigator enrollment practices through use of reporting in COHBE's system.
5. Monitor navigator conduct through feedback tools on COHBE's website and through use of qualitative and quantitative evaluation tools like secret shopping.
6. Actively solicit customer satisfaction feedback on their navigator experience.
7. As circumstances command where a conflict of interest arises, require mitigation, revocation of certification, or termination of the grant.

### 1. Prohibition on Navigator conduct

- 1.1. As required by 45 CFR 155.210 (d) a **Navigator** or **Navigator entity** must not:
  - 1.1.1. Be a health insurance issuer
  - 1.1.2. Be a subsidiary of a health insurance issuer
  - 1.1.3. Be an association that includes members of, or lobbies on behalf of, the insurance industry; or
  - 1.1.4. Receive any consideration directly or indirectly from any health insurance issuer in connection with the enrollment of any individuals or employees in a QHP [qualified health plan] or non-QHP [qualified health plan].<sup>1</sup>
- 1.2. A Navigator or Navigator entity must not:
  - 1.2.1. Be a provider entity (including, but not limited to, hospitals, clinics, and physician practices) that is directly owned by, a subsidiary of, or exclusively contracts with, a single insurer or its subsidiaries., except in cases where the provider can demonstrate that due to geography or other factors, there are significant limitations on available insurers with whom to contract.

### 2. Navigator conflict of interest

- 2.1. A Navigator shall not allow any philosophical, professional or personal financial or non-financial interests to influence or appear to influence the ability of the Navigator to perform his/her duties impartially.
- 2.2. Navigators shall attest that they are not a prohibited entity or employed by a prohibited entity as described in Paragraph 1.

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<sup>1</sup> COHBE interprets the word "indirect" consideration to mean in-kind compensation. COHBE further interprets this provision to say that navigators cannot receive compensation (cash or in-kind) for enrollment.

- 2.3. Navigators shall not receive consideration directly or indirectly from any health insurance issuer in connection with enrollment of individuals or employees.
- 2.4. Navigators shall disclose personal and professional financial and non-financial interests to COHBE and to customers prior to assistance.
- 2.5. Navigators shall provide to customers impartial information about all plans for which customers are eligible and shall not allow personal or professional interests to influence the customers' decisions. In an effort to maintain impartiality in providing assistance:
  - 2.5.1. Navigators must not in any way solicit or persuade customers to enroll in any specific health insurance plan.
  - 2.5.2. Navigators must not in any way solicit or persuade customers to switch from one carrier to another.
  - 2.5.3. Navigators must not in any way persuade or compel customers to select a particular provider.
  - 2.5.4. Navigators must not in any way solicit or persuade customers to engage a particular agent or broker.
- 2.6. Navigators shall not charge for navigator services.
- 2.7. Navigators shall not use their role as a Navigator for lead generation or profit.
- 2.8. Navigators shall adhere to COHBE monitoring and evaluation requirements.

### **3. Navigator Entity conflict of interest**

- 3.1. A Navigator Entity shall not allow any philosophical, financial or non-financial interests or affiliations to influence or appear to influence the ability of the Navigator entity to impartially deliver Navigator services or assure that the Navigators employed, contracted or otherwise supervised by the Navigator entity are able to impartially perform their duties as Navigators.
- 3.2. Navigator entities shall disclose all philosophical, financial and non-financial interests or affiliations that may present a conflict of interest to COHBE and to customers.
- 3.3. Navigator entities shall not be any of the prohibited entities described in Paragraph 1.
  - 3.3.1. Navigator entities shall disclose all relationships with prohibited entities as described in paragraph 1.
  - 3.3.2. Navigator entities receiving any cash or in-kind compensation from health insurance issuers shall disclose the nature of the compensation, what the compensation is intended to support, and from whom it is received.
- 3.4. Navigator entities shall not direct or permit Navigators to solicit or persuade customers to enroll in any specific health insurance plan, switch from one carrier to another, or select a particular provider.
- 3.5. Navigator entities shall not charge for navigator services or otherwise utilize the Navigator Program, or their association with the Navigator Program for lead generation or profit.
- 3.6. Navigator Entities shall not utilize interests or affiliations for purposes of soliciting or persuading customers to enroll in a specific health insurance plan, switch from one plan to another, or to select a particular provider.
- 3.7. Navigator entities shall monitor Navigators it employs, contracts with or otherwise supervises for fair and impartial performance of Navigator duties.
- 3.8. Navigator entities shall adhere to COHBE monitoring and reporting requirements.