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NARAB II - Big I Member Guide

Applying for Membership

The new law authorizes the creation of a non-governmental, membership-based, nonprofit corporation known as the National Association of Registered Agents and Brokers (NARAB). Membership and participation in NARAB is optional and voluntary, but an agent or broker must first become a member of the organization in order to take advantage of the benefits available under the statute.

In order to become a member of NARAB, an insurance producer must be licensed in his/her/its home state and not have an active license suspension or revocation in place at the time of application. The producer must also satisfy the membership criteria that will be established by NARAB's board of directors, and those criteria will address such issues as personal qualifications and professional education and training. The board is directed to consider the highest levels of producer qualifications that exist in the states and to not adopt any qualification requirement that is less protective to the public than that contained in the National Association of Insurance Commissioners' Producer Licensing Model Act. Membership is open to individuals and business entities, and the new law prohibits the adoption of any membership requirement, standard, or fee structure that unfairly limits participation by small insurance producers.

Prospective NARAB members must also successfully complete a criminal background check. Many state insurance departments already require license applicants to satisfy such requirements, and producers that have undergone a state-imposed criminal history check within the previous two years will be exempt from completing a duplicative NARAB process. NARAB applicants that must complete the background check will be required to submit their fingerprints, and a review of federal criminal records will be performed. Membership in NARAB may be denied based on a person's criminal history, and any applicant who is denied membership on this basis may obtain a copy of the information that was considered and may challenge the decision based on the accuracy and completeness of that material. The new law also establishes privacy protections for the handling of criminal history information, and it imposes penalties for those who use the records in an unauthorized manner.

If a producer appears to satisfy the NARAB membership criteria, NARAB will then notify the state insurance regulators and the NAIC of its intention to approve the person's application. The states then have the opportunity to present NARAB with evidence that

the applicant does not satisfy the criteria, but any such evidence must be brought to NARAB with ten business days or the agent's membership application will be approved.

NARAB's board of directors will establish and collect membership fees to cover the costs of NARAB's operations, and membership will be renewable on a biannual basis. These fees are not yet determined and will be established by the board. NARAB will also have the authority to place a member on probation, suspend or revoke membership privileges, or assess monetary penalties if the person fails to meet membership criteria or standards or is found to have engaged in certain types of misconduct.

Benefits of Membership

The primary benefit of NARAB is that it creates a portal, mechanism, or central clearinghouse that enables individuals and business entities to satisfy the licensing requirements that exist in nonresident states. Once approved for membership, an insurance producer can utilize NARAB to obtain the regulatory authority needed to operate in any state and do so in an efficient and expedited manner. The process will operate in this manner:

- A NARAB member will identify the jurisdictions in which he/she/it seeks the authority to operate as an insurance producer, and that individual or entity can utilize NARAB to operate as a producer in any number of states.
- NARAB will collect the licensing fees for the states selected by the NARAB member, and these fees will be remitted back to the appropriate jurisdictions. While state licensing fees are not eliminated by this statute, the fees collected from NARAB members may not be higher than those imposed on nonresident producers that are not members of NARAB.
- Once a NARAB member designates a state and pays the appropriate fee, then that individual or entity is authorized to engage in producer activities (e.g. the sale, solicitation, and negotiation of insurance) in that jurisdiction. The authorization granted is the equivalent of that provided to nonresident producers that are not members of NARAB.
- Nonresident jurisdictions may not impose any licensing, application, or market entry-related requirements on NARAB members. In addition, these states are also prohibited from requiring any NARAB member to register as a foreign corporation.
- NARAB will notify state insurance regulators and the NAIC when a NARAB member is newly authorized to operate in one or more states or when a person is no longer authorized to operate.

- While the mechanics of this process will be specified in procedures developed by the board of directors, the expectation is that this will be an electronic and instantaneous process. An individual or entity who utilizes the NARAB platform in this manner will obtain the authorization to act as an insurance producer in a particular state as soon as the fee associated with that state is collected.

Insurance agents and brokers who utilize NARAB to obtain the authorization necessary to operate on a nonresident basis are not exempt from state oversight. NARAB simplifies and streamlines the licensing and market entry process, but NARAB members must comply with state marketplace requirements. The new law does not limit or restrict the ability of state regulators to enforce marketplace, unfair trade practice, and consumer protection laws, and states will continue to investigate complaints and take enforcement and disciplinary action against any nonresident producer who violates the law.

Role of the Board of Directors

NARAB will have a 13-member board of directors to govern and supervise the organization's activities and establish initial membership criteria, and the members will be appointed by the President and approved by the Senate using expedited procedures established by that chamber in 2011. The board will be comprised of eight state insurance commissioners, three individuals with "demonstrated expertise and experience with property and casualty insurance producer licensing", and three individuals with similar expertise and experience in the life or health insurance arena. The new law directs the President to request a list of recommended regulator candidates from the NAIC prior to making any regulator appointments, but this list is non-binding and may be ignored. The President may also request recommendations from industry groups before appointing private sector board members, but any lists of candidates provided are also non-binding.

The statute directs the President to make his initial board appointments within 90 days of the law's enactment, with the first meeting of the board of directors to occur no later than 45 days after all initial board members have been appointed. Board members will generally be appointed for two-year terms, but six of the initial board members (four commissioners and two private sector representatives) will serve one-year terms. This means that appointment of board members will occur on a staggered basis in subsequent years. Board members may be reappointed and are permitted to serve successive terms without limitation.

The board of directors will be responsible for establishing and operating NARAB in a manner that is consistent with the parameters specified in statute. The board will be required to operate transparently, and it must consider and develop bylaws and standards under procedures that are similar to those required by the federal Administrative Procedure Act. The board must, for example, expose all proposed bylaws and standards for public comment before taking final action.

The new law gives the board of directors the authority to enter into contracts, hire staff, and engage in certain other activities that are necessary to establish and operate NARAB. One of the most significant responsibilities of the board of directors will be to secure startup funding for the establishment of NARAB. The statute prohibits NARAB from accepting or borrowing any funds from the federal government, so the necessary funding must come from other sources.

Next Steps

Although the enactment of the NARAB II legislation is a significant step forward and sign of progress for the countless producers who struggle with the inefficiencies, unwarranted expense, redundancy, and lack of true reciprocity associated with the existing licensing system, it is important to recognize that the desired reforms will not be implemented overnight. The new law establishes an important and much-needed framework, but there is considerable work that must be completed and hurdles that must be cleared in order for the NARAB vision to be realized as intended. The statute calls for NARAB to be operational within two years of enactment or the date of NARAB's incorporation, whichever comes later, and meeting that timeline will require extraordinary work from many different parties. The good news is that the legislation had widespread support from the agent, carrier, and regulator communities, and these constituencies appear to be equally committed to establishing a successful NARAB.

Implementation of the NARAB II legislation will require the ongoing work of Big "I" government affairs staff as well as our members. We anticipate having a seat at the table at every step of the way in order to help the board develop the appropriate membership criteria and bylaws. We are committed to making this new law work for our members across the country. Of course, we will also continue to provide our membership with information of value to our members as it becomes available.