

**Establishment of an Exchange
Governance Through a Division of the Insurance Department
With an Independent Advisory Committee**

A. *Establishment of Exchange.* –

- (1) There is a [insert official title of the Exchange] in the [Administration].
- (2) The head of the Exchange is an [Executive Director] within the [Administration].

NOTE: *Substitute the appropriate title for the appropriate salary level within state government for the head of the Exchange.*

NOTE: *Substitute the appropriate terminology for the Insurance Administration.*

B. *Establishment of Committee* –

There is an Exchange Advisory Committee.

C. *Composition; appointment of members*

- 1) The Exchange Advisory Committee consists of thirteen members.
- 2) Of the [thirteen members]:
 - a) [three] members must be individuals who are affiliated with a health benefit plan issuer authorized to write qualified health benefit plans in this state;
 - b) [two] members must be consumer representatives who have purchased policies, or are reasonably expected to purchase policies through the Exchange;
 - c) [two] members shall be health care providers;
 - d) [three] members shall be representatives of employers;
 - e) [two] members shall be insurance agents or brokers; and
 - f) one shall be the Executive Director.
- (3) The Executive Director may vote on all matters before the Exchange Advisory Committee.
- (4) Circumstances Requiring Recusal
 - (a) The Board is required to adopt conflict of interest rules and recusal procedures. Such rules and procedures must include the requirement that a Board member recuse himself or herself from an official matter if he or she had any financial involvement or interest in that matter, prior to the commencement of Board service.
 - (b) PROCEDURES FOR RECUSAL- All recusals must be in advance, in writing and specify the

reason and date of the recusal.]

(5) The Governor, with the advice and consent of the Senate shall appoint the members of the Exchange Advisory Committee for calendar year [20XX].

D. *Tenure; vacancies.* –

(1) Members of the Exchange Advisory Committee shall serve staggered six-year terms.

(2) (a) At the end of a term, the Exchange Advisory Committee shall by majority vote fill the vacancy with an individual who has the appropriate qualifications to fill that position.

(b) At the end of a term, a member continues to serve until a successor is chosen and qualifies.

E. *Chairman.* –

(1) The Exchange Advisory Committee shall choose a chairman from among its members.

(2) The Executive Director may not serve as chairman.

(3) The chairman shall serve for a one year term.

F. *Reimbursement for expenses.* –

A member of the Exchange Advisory Committee is entitled to reimbursement of expenses incurred while performing duties as a Committee member in the amount provided by the [General Appropriations Act] for state officials.

G. *No liability.* –

A member of the Exchange Advisory Committee is not liable for an act or omission made in good faith in the performance of powers and duties under this Act.

H. *Powers and Duties.* –

The Exchange Advisory Committee shall provide advice and policy direction to the Commissioner regarding the operation of the Exchange. Additionally, the Exchange Advisory Committee shall report to the Legislature on an annual basis, a report on the activities and financial health of the Exchange along with recommendations about any legislative modifications that would improve Exchange operations.

I. *Executive Director.* –

(1) The [Executive Director] shall be appointed by the Commissioner with the approval of the Governor.

(2) The [Executive Director] is an employee of the [Administration].

(3) The [Executive Director] reports directly to and is under the direct supervision of the Commissioner.

(4) The [Executive Director] of the Exchange is unclassified and is entitled to annual compensation as provided in the State budget.

(5) The [Executive Director] of the Exchange is responsible for the operation of the Exchange and the exercise of all authority granted to the Exchange under this article.

(6) The [Executive Director] shall have the ability, under the direction and supervision of the Commissioner to hire such additional staff and technical experts as the [Executive Director] deems necessary and as provided in the State budget.

NOTE: *The Exchanges are intended to be self-supporting by 2015. Exchanges that are divisions of state government will need dedicated funding sources, and will need to develop legislative language giving the Exchange/Commissioner the power to broadly assess the appropriate constituencies. Insert those provisions IN J. (1) BELOW*

J. *Powers and Duties of the Exchange.*