



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4141

Introduced 1/30/2012, by Rep. Frank J. Mautino

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Insurance Code to set forth provisions concerning insurance consulting. Provides that the relationship between an insurance consultant and the person or public entity that retains the insurance consultant is a fiduciary relationship. Provides that an insurance producer, limited lines producer, or temporary insurance producer shall be prohibited from selling, soliciting, or negotiating insurance or limited lines insurance if the producer, an employee or contractor of the producer, or the producer's employer has been an insurance consultant for the purchaser or prospective purchaser within the previous 5 years concerning the insurance or limited lines insurance being sold, solicited, or negotiated. Sets forth provisions concerning violations. Provides that any knowing violation of the provisions concerning insurance consulting constitutes a violation of the Consumer Fraud and Deceptive Business Practices Act and amends that Act to make a corresponding change. Amends the Illinois Health Benefits Exchange Law. Sets forth definitions. Establishes the Illinois Health Benefits Exchange as a political subdivision, body politic, and corporate and not as a State agency. Makes changes to the provision concerning Exchange functions. Sets forth provisions concerning the Health Benefits Exchange Board's powers and authorities, Exchange governance, the Exchange Legislative Oversight Committee, and enrollment through brokers and agents and producer compensation. Establishes the Illinois Health Benefit Exchange Fund as a special fund outside of the State treasury and amends the State Finance Act to create the Fund. Repeals provisions concerning the Illinois Health Benefits Exchange Legislative Study Committee and the Committee's study. Contains a severability provision. Effective immediately.

LRB097 17396 RPM 62598 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by adding
5 Section 500-123 as follows:

6 (215 ILCS 5/500-123 new)

7 Sec. 500-123. Insurance consulting.

8 (a) The relationship between an insurance consultant and
9 the person or public entity that retains the insurance
10 consultant is a fiduciary relationship. Pursuant to this
11 relationship, the insurance consultant shall perform its
12 duties solely in the interest of the person or public entity
13 and for the exclusive purpose of providing benefits to the
14 person or public entity.

15 (b) A producer shall be prohibited from selling,
16 soliciting, or negotiating insurance or limited lines
17 insurance if the producer, an employee or contractor of the
18 producer, or the producer's employer has been an insurance
19 consultant for the purchaser or prospective purchaser within
20 the previous 5 years concerning the insurance or limited lines
21 insurance being sold, solicited, or negotiated.

22 (c) The following provisions shall apply concerning
23 violations of this Section:

1 (1) In the event of a violation of subsection (b) of
2 this Section where the purchaser is a public entity, any
3 contract for insurance or limited lines insurance entered
4 into in violation of subsection (b) of this Section is void
5 unless, within 30 days after discovery of the violation,
6 the governing council or board of the public entity or, if
7 none, then the head of the public entity certifies in
8 writing that, notwithstanding the violation, it is in the
9 public interest to continue the contract. Any such action
10 taken by a governing council or board shall be by a
11 three-fifths vote of the members elected or appointed and
12 shall take place in a public hearing or meeting. The
13 certification shall be posted on the public entity's
14 Internet website and shall be transmitted, in the case of a
15 statewide public entity, to the Secretary of State and, in
16 all other cases, to the clerk of the county in which the
17 public entity's principal place of operations is located.

18 (2) In the event of a violation of this Section where
19 the purchaser or prospective purchaser is a public entity,
20 any contract between the public entity and the insurance
21 consultant that committed the violation is void.

22 (3) In the event of a violation of this Section where
23 the purchaser or prospective purchaser is a person, the
24 person may, notwithstanding the contract's terms, rescind
25 any contract entered into for insurance or limited lines
26 insurance in violation of subsection (b) of this Section

1 and any contract with the insurance consultant that
2 committed the violation.

3 (4) In addition to any other cause of action that may
4 accrue, any knowing violation of this Section constitutes a
5 violation of the Consumer Fraud and Deceptive Business
6 Practices Act.

7 (d) For the purposes of this Section:

8 "Insurance consultant" means any person who, for
9 compensation, advises, counsels, consults, or otherwise
10 provides information to any person or public entity concerning
11 the purchase, retention, exchange, surrender, exercise of
12 rights, or disposition of insurance or limited lines insurance
13 contracts. "Insurance consultant" does not include attorneys
14 licensed or otherwise authorized to practice in this State who
15 are engaged in the practice of law.

16 "Producer" means an insurance producer, limited lines
17 producer, or temporary insurance producer.

18 Section 10. The Illinois Health Benefits Exchange Law is
19 amended by adding Sections 5-4, 5-5, 5-8, 5-11, 5-12, 5-13,
20 5-14, 5-17, and 5-18 and by changing Section 5-10 as follows:

21 (215 ILCS 122/5-4 new)

22 Sec. 5-4. Definitions. For purposes of this Law:

23 "Board" means the Illinois Health Benefits Exchange Board
24 established pursuant to this Law.

1 "Director" means the Director of Insurance.

2 "Educated health care consumer" means an individual who is
3 knowledgeable about the health care system and has a background
4 or experience in making informed decisions regarding health,
5 medical, and scientific matters.

6 "Employee" has the meaning given that term in the Illinois
7 Health Insurance Portability and Accountability Act.

8 "Essential community provider" means a health care
9 provider that serves predominately low-income,
10 medically-underserved individuals, such as health care
11 providers as defined in Section 340B(a)(4) of the federal
12 Public Health Service Act.

13 "Essential health benefits" has the meaning provided under
14 Section 1302(b) of the Federal Act.

15 "Exchange" means the Illinois Health Benefits Exchange
16 established by this Law and includes the Individual Exchange
17 and the SHOP Exchange, unless otherwise specified.

18 "Executive Director" means the Executive Director of the
19 Illinois Health Benefits Exchange.

20 "Federal Act" means the federal Patient Protection and
21 Affordable Care Act (Public Law 111-148), as amended by the
22 federal Health Care and Education Reconciliation Act of 2010
23 (Public Law 111-152), and any amendments thereto or regulations
24 or guidance issued under those Acts.

25 "Health benefit plan" means a policy, contract,
26 certificate, or agreement offered or issued by a health carrier

1 to provide, deliver, arrange for, pay for, or reimburse any of
2 the costs of health care services. "Health benefit plan" does
3 not include the following excepted benefits as set forth in
4 Section 2791(c) of the federal Public Health Service Act:

5 (1) benefits not subject to requirements:

6 (a) coverage for accident only or disability
7 income insurance or any combination thereof;

8 (b) coverage issued as a supplement to liability
9 insurance;

10 (c) liability insurance, including general
11 liability insurance and automobile liability
12 insurance;

13 (d) workers' compensation or similar insurance;

14 (e) automobile medical payment insurance;

15 (f) credit-only insurance;

16 (g) coverage for on-site medical clinics; or

17 (h) other similar insurance coverage, specified in
18 federal regulations issued pursuant to Pub. L. No.
19 104-191, under which benefits for health care services
20 are secondary or incidental to other insurance
21 benefits;

22 (2) benefits not subject to requirements if offered
23 separately:

24 (a) limited scope dental or vision benefits;

25 (b) benefits for long-term care, nursing home
26 care, home health care, community-based care, or any

1 combination thereof; or
2 (c) such other similar, limited benefits as are
3 specified in regulations;
4 (3) benefits not subject to requirements if offered as
5 independent, noncoordinated benefits:

6 (a) coverage only for a specified disease or
7 illness; or

8 (b) hospital indemnity or other fixed indemnity
9 insurance; or

10 (4) benefits not subject to requirements if offered as
11 a separate insurance policy; Medicare supplemental health
12 insurance (as defined under Section 1882(g)(1) of the
13 federal Social Security Act), coverage supplemental to the
14 coverage provided under Chapter 55 of Title 10, United
15 States Code, and similar supplemental coverage provided to
16 coverage under a group health plan.

17 "Health carrier" or "carrier" means an entity subject to
18 the insurance laws and regulations of this State, or subject to
19 the jurisdiction of the Director, that contracts or offers to
20 contract to provide, deliver, arrange for, pay for, or
21 reimburse any of the costs of health care services, including a
22 sickness and accident insurance company, a health maintenance
23 organization, a non-profit hospital and health service
24 corporation, or any other entity providing a plan of health
25 insurance, health benefits, or health services.

26 "Individual Exchange" means the exchange marketplace

1 established by this Law through which qualified individuals may
2 obtain coverage through an individual market qualified health
3 plan.

4 "Principal place of business" means the location in a state
5 where an employer has its headquarters or significant place of
6 business and where the persons with direction and control
7 authority over the business are employed.

8 "Qualified dental plan" means a limited scope dental plan
9 that has been certified in accordance with this Law.

10 "Qualified employee" means an eligible individual employed
11 by a qualified employer who has been offered health insurance
12 coverage by that qualified employer through the SHOP on the
13 Exchange.

14 "Qualified employer" means a small employer that elects to
15 make its full-time employees eligible for one or more qualified
16 health plans or qualified dental plans offered through the SHOP
17 Exchange, and at the option of the employer, some or all of its
18 part-time employees, provided that the employer has its
19 principal place of business in this State and elects to provide
20 coverage through the SHOP Exchange to all of its eligible
21 employees, wherever employed.

22 "Qualified health plan" or "QHP" means a health benefit
23 plan that has in effect a certification that the plan meets the
24 criteria for certification described in Section 1311(c) of the
25 Federal Act.

26 "Qualified health plan issuer" or "QHP issuer" means a

1 health insurance issuer that offers a health plan that the
2 Exchange has certified as a qualified health plan.

3 "Qualified individual" means an individual, including a
4 minor, who:

5 (i) is seeking to enroll in a qualified health plan or
6 qualified dental plan offered to individuals through the
7 Exchange;

8 (ii) resides in this State;

9 (iii) at the time of enrollment, is not incarcerated,
10 other than incarceration pending the disposition of
11 charges; and

12 (iv) is, and is reasonably expected to be, for the
13 entire period for which enrollment is sought, a citizen or
14 national of the United States or an alien lawfully present
15 in the United States.

16 "Secretary" means the Secretary of the federal Department
17 of Health and Human Services.

18 "SHOP Exchange" means the Small Business Health Options
19 Program established under this Law through which a qualified
20 employer can provide small group qualified health plans to its
21 qualified employees.

22 "Small employer" means, in connection with a group health
23 plan with respect to a calendar year and a plan year, an
24 employer who employed an average of at least 2 but not more
25 than 50 employees on business days during the preceding
26 calendar year and who employs at least one employee on the

1 first day of the plan year. Beginning January 1, 2016, the
2 definition of a "small employer" shall mean, in connection with
3 a group health plan with respect to a calendar year and a plan
4 year, an employer who employed an average of at least 2 but not
5 more than 100 employees on business days during the preceding
6 calendar year and who employs at least one employee on the
7 first day of the plan year. For purposes of this definition:

8 (a) all persons treated as a single employer under
9 subsection (b), (c), (m), or (o) of Section 414 of the
10 federal Internal Revenue Code of 1986 shall be treated as a
11 single employer;

12 (b) an employer and any predecessor employer shall be
13 treated as a single employer;

14 (c) employees shall be counted in accordance with
15 federal law and regulations and State law and regulations;

16 (d) if an employer was not in existence throughout the
17 preceding calendar year, then the determination of whether
18 that employer is a small employer shall be based on the
19 average number of employees that is reasonably expected
20 that the employer will employ on business days in the
21 current calendar year; and

22 (e) an employer that makes enrollment in qualified
23 health plans or qualified dental plans available to its
24 employees through the SHOP Exchange and would cease to be a
25 small employer by reason of an increase in the number of
26 its employees shall continue to be treated as a small

1 employer for purposes of this Law as long as it
2 continuously makes enrollment through the SHOP Exchange
3 available to its employees.

4 (215 ILCS 122/5-5)

5 Sec. 5-5. Establishment of a State Health Benefits Exchange
6 ~~State health benefits exchange.~~

7 (a) It is declared that this State, beginning October 1,
8 2013, in accordance with Section 1311 of the federal Patient
9 Protection and Affordable Care Act, shall establish a State
10 health benefits exchange to be known as the Illinois Health
11 Benefits Exchange in order to help individuals and small
12 employers with no more than 50 employees shop for, select, and
13 enroll in qualified, affordable private health plans that fit
14 their needs at competitive prices. The Exchange shall separate
15 coverage pools for individuals and small employers and shall
16 supplement and not supplant any existing private health
17 insurance market for individuals and small employers.

18 (b) There is hereby created a political subdivision, body
19 politic and corporate named the Illinois Health Benefits
20 Exchange that is not a State agency.

21 (c) The Exchange shall be comprised of an individual and a
22 small business health options (SHOP) exchange. Pursuant to
23 Section 1311(b)(2) of the Federal Act, the Exchange shall
24 provide individual exchange services to qualified individuals
25 and SHOP exchange services to qualified employers under a

1 single governance and administrative structure.

2 (d) The Exchange shall not duplicate or replace the
3 regulatory functions of the Department of Insurance,
4 including, but not limited to, the Department of Insurance's
5 rate review authority.

6 (Source: P.A. 97-142, eff. 7-14-11.)

7 (215 ILCS 122/5-10)

8 Sec. 5-10. Exchange functions.

9 (a) On or before January 1, 2014, in compliance with
10 paragraph (4) of subdivision (d) of Section 1311 of the federal
11 Patient Protection and Affordable Care Act, the Exchange shall,
12 at a minimum, do all of the following to implement Section 1311
13 of the federal Patient Protection and Affordable Care Act:

14 (1) Make qualified health plans available to qualified
15 individuals and qualified employers.

16 (2) Implement procedures for the certification,
17 recertification, and decertification, consistent with
18 guidelines established by the U.S. Secretary of Health and
19 Human Services, of health plans as qualified health plans.
20 The Board shall require health plans seeking certification
21 as qualified health plans to do all of the following:

22 (A) Submit a justification for any premium
23 increase prior to the implementation of the increase.

24 The plans shall prominently post that information on
25 their Internet web sites. The Board shall take this

1 information, and the information and the
2 recommendations provided to the Board by the
3 Department of Insurance or the Department of Managed
4 Health Care under paragraph (1) of subdivision (b) of
5 Section 2794 of the federal Public Health Service Act,
6 into consideration when determining whether to make
7 the health plan available through the Exchange. The
8 Board shall take into account any excess of premium
9 growth outside the Exchange as compared to the rate of
10 that growth inside the Exchange, including information
11 reported by the Department of Insurance and the
12 Department of Managed Health Care.

13 (B) Make available to the public and submit to the
14 Board, the U.S. Secretary of Health and Human Services,
15 and the Department of Insurance or the Department of
16 Public Health, as applicable, accurate and timely
17 disclosure of the following information:

18 (i) Claims payment policies and practices.

19 (ii) Periodic financial disclosures.

20 (iii) Data on enrollment.

21 (iv) Data on disenrollment.

22 (v) Data on the number of claims that are
23 denied.

24 (vi) Data on rating practices.

25 (vii) Information on cost sharing and payments
26 with respect to any out-of-network coverage.

1 (viii) Information on enrollee and participant
2 rights under Title I of the federal Patient
3 Protection and Affordable Care Act.

4 (ix) Other information as determined
5 appropriate by the U.S. Secretary of Health and
6 Human Services.

7 The information required under this paragraph (b)
8 shall be provided in plain language, as defined in
9 subparagraph (B) of paragraph (3) of subdivision (e) of
10 Section 1311 of the federal Patient Protection and
11 Affordable Care Act.

12 (C) Permit individuals to learn, in a timely manner
13 upon the request of the individual, the amount of cost
14 sharing, including, but not limited to, deductibles,
15 copayments, and coinsurance, under the individual's
16 plan or coverage that the individual would be
17 responsible for paying with respect to the furnishing
18 of a specific item or service by a participating
19 provider. At a minimum, this information shall be made
20 available to the individual through an Internet web
21 site and through other means for individuals without
22 access to the Internet.

23 (3) Provide for the operation of a toll-free telephone
24 hotline to respond to requests for assistance.

25 (4) Maintain an Internet web site through which
26 enrollees and prospective enrollees of qualified health

1 plans may obtain standardized comparative information on
2 those plans.

3 (5) With respect to each qualified health plan offered
4 through the Exchange, do both of the following:

5 (A) assign a rating to each qualified health plan
6 offered through the Exchange in accordance with the
7 criteria developed by the U.S. Secretary of Health and
8 Human Services; and

9 (B) determine each qualified health plan's level
10 of coverage in accordance with regulations adopted by
11 the Secretary under paragraph (A) of subdivision (2) of
12 Section 1302(d) of the federal Patient Protection and
13 Affordable Care Act and any additional regulations
14 adopted by the Exchange under this Law.

15 (6) Utilize a standardized format for presenting
16 health benefits plan options in the Exchange, including the
17 use of the uniform outline of coverage established under
18 Section 2715 of the federal Public Health Service Act.

19 (7) Inform individuals of eligibility requirements for
20 the Medicaid program, the Covering ALL KIDS Health
21 Insurance Program, or any applicable State or local public
22 program and, if through screening of the application by the
23 Exchange the Exchange determines that an individual is
24 eligible for any such program, enroll that individual in
25 the program.

26 (8) Establish and make available by electronic means a

1 calculator to determine the actual cost of coverage after
2 the application of any premium tax credit under Section 36B
3 of the Internal Revenue Code of 1986 and any cost sharing
4 reduction under Section 1402 of the federal Patient
5 Protection and Affordable Care Act.

6 (9) Grant a certification attesting that, for purposes
7 of the individual responsibility penalty under Section
8 5000A of the Internal Revenue Code of 1986, an individual
9 is exempt from the individual requirement or from the
10 penalty imposed by that Section because of either of the
11 following:

12 (A) There is no affordable qualified health plan
13 available through the Exchange or the individual's
14 employer covering the individual.

15 (B) The individual meets the requirements for any
16 other exemption from the individual responsibility
17 requirement or penalty.

18 (10) Transfer to the Secretary of the Treasury all of
19 the following:

20 (A) a list of the individuals who are issued a
21 certification, including the name and taxpayer
22 identification number of each individual;

23 (B) the name and taxpayer identification number of
24 each individual who was an employee of an employer but
25 who was determined to be eligible for the premium tax
26 credit under Section 36B of the Internal Revenue Code

1 of 1986 because:

2 (i) the employer did not provide the minimum
3 essential coverage or the employer provided the
4 minimum essential coverage but it was determined
5 under item (C) of paragraph (2) of subdivision (c)
6 of Section 36B of the Code to either be
7 unaffordable to the employee or not provide the
8 required minimum actuarial value; and

9 (ii) the name and taxpayer identification
10 number of each individual who notifies the
11 Exchange under paragraph (4) of subdivision (b) of
12 Section 1411 of the federal Patient Protection and
13 Affordable Care Act that they have changed
14 employers and of each individual who ceases
15 coverage under a qualified health plan during a
16 plan year, and the effective date of such
17 cessation;

18 (11) Provide to each employer the name of each employee
19 of the employer described in subdivision (i) of Section
20 1311 of the federal Patient Protection and Affordable Care
21 Act who ceases coverage under a qualified health plan
22 during a plan year and the effective date of that
23 cessation.

24 (12) Perform duties required of, or delegated to, the
25 Exchange by the U.S. Secretary of Health and Human Services
26 or the Secretary of the Treasury related to the following:

1 (A) Determining eligibility for premium tax
2 credits, reduced cost sharing, or individual
3 responsibility exemptions.

4 (B) Establishing procedures necessary for the
5 operation of the program, including, but not limited
6 to, procedures for application, enrollment, risk
7 assessment, risk adjustment, plan administration,
8 performance monitoring, and consumer education.

9 (C) Arranging for collection of contributions from
10 participating employers and individuals.

11 (D) Arranging for payment of premiums and other
12 appropriate disbursements based on the selections of
13 products and services by the individual participants.

14 (E) Establishing criteria for disenrollment of
15 participating individuals based on failure to pay the
16 individual's share of any contribution required to
17 maintain enrollment in selected products.

18 (F) Establishing criteria for exclusion of
19 vendors.

20 (G) Developing and implementing a plan for
21 promoting public awareness of and participation in the
22 program.

23 (H) Evaluating options for employer participation
24 which may conform with common insurance practices.

25 (I) Providing for initial, annual, and special
26 enrollment periods, in accordance with guidelines

1 adopted by the Secretary under paragraph (6) of
2 subdivision (c) of Section 1311 of the federal Patient
3 Protection and Affordable Care Act.

4 (13) Establish the Navigator Program in accordance
5 with subdivision (i) of Section 1311 of the federal Patient
6 Protection and Affordable Care Act. The Exchange shall
7 award grants to certain entities to do the following:

8 (A) Conduct public education activities to raise
9 awareness of the availability of qualified health
10 plans.

11 (B) Distribute fair and impartial information
12 concerning enrollment in qualified health plans and
13 the availability of premium tax credits under Section
14 36B of the Internal Revenue Code of 1986 and
15 cost-sharing reductions under Section 1402 of the
16 federal Patient Protection and Affordable Care Act.

17 (C) Facilitate enrollment in qualified health
18 plans.

19 (D) Provide referrals to any applicable office of
20 health insurance consumer assistance or health
21 insurance ombudsman established under Section 2793 of
22 the federal Public Health Service Act, or any other
23 appropriate State agency or agencies, for any enrollee
24 with a grievance, complaint, or question regarding his
25 or her health plan, coverage, or a determination under
26 that plan or coverage.

1 (E) Refer individuals with a grievance, complaint,
2 or question regarding a plan, a plan's coverage, or a
3 determination under a plan's coverage to a customer
4 relations unit established by the Exchange.

5 (F) Provide information in a manner that is
6 culturally and linguistically appropriate to the needs
7 of the population being served by the Exchange.

8 (14) Establish the Small Business Health Options
9 Program, separate from the activities of the Board related
10 to the individual market, to assist qualified small
11 employers in facilitating the enrollment of their
12 employees in qualified health plans offered through the
13 Exchange in the small employer market in a manner
14 consistent with paragraph (2) of subdivision (a) of Section
15 1312 of the Federal Act. ~~The Illinois Health Benefits~~
16 ~~Exchange shall meet the core functions identified by~~
17 ~~Section 1311 of the Patient Protection and Affordable Care~~
18 ~~Act and subsequent federal guidance and regulations.~~

19 (b) In order to meet the deadline of October 1, 2013
20 established by federal law to have operational a State
21 exchange, the Department of Insurance and the Commission on
22 Governmental Forecasting and Accountability is authorized to
23 apply for, accept, receive, and use as appropriate for and on
24 behalf of the State any grant money provided by the federal
25 government and to share federal grant funding with, give
26 support to, and coordinate with other agencies of the State and

1 federal government or third parties as determined by the
2 Governor, until the Board has the ability to do so, at which
3 time the Board is authorized to apply for, accept, receive, and
4 use as appropriate for and on behalf of the State any grant
5 money provided by the federal government and to share federal
6 grant funding with, give support to, and coordinate with other
7 agencies of the State and federal government or third parties
8 pursuant to Section 5-11 of this Law.

9 (Source: P.A. 97-142, eff. 7-14-11.)

10 (215 ILCS 122/5-11 new)

11 Sec. 5-11. Board powers and authorities.

12 (a) In addition to powers set forth elsewhere in this Law,
13 the Board is authorized do the following:

14 (1) Have perpetual successions as a political
15 subdivision, body politic and corporate and adopt bylaws,
16 rules, and regulations to carry out the provisions of this
17 Law. The bylaws may permit the Board to meet by
18 telecommunication or electronic communication.

19 (2) Adopt an official seal and alter the same at
20 pleasure.

21 (3) Maintain an office in the State at such place or
22 places as it may designate.

23 (4) Acquire, lease, purchase, own, manage, hold, and
24 dispose of real and personal property.

25 (5) Apply for, accept, and spend as appropriate any

1 federal or State grant money made available through or
2 pursuant to the Affordable Care Act or any other federal or
3 State-related opportunity in order to assist the Board as
4 it implements the provisions of this Law.

5 (6) Enter into contracts or intergovernmental
6 cooperation agreements as are necessary or proper to carry
7 out the provisions and purposes or perform any of the
8 functions described in this Law.

9 (7) Enter into commercial, banking, and financial
10 arrangements as needed to manage the day-to-day operations
11 of the Exchange.

12 (8) Take or defend any legal actions necessary to
13 effectuate the purposes of this Law.

14 (9) Charge assessments to generate funding necessary
15 to support the operation of the Exchange (assessments or
16 fees charged to carriers shall not include any amount based
17 on coverage, or premiums associated with such coverage,
18 that is defined as an "excepted benefit" under Section
19 2791(c) of the Public Health Service Act (42 U.S.C.
20 300gg-91)).

21 (10) Create an administration fund under direction of
22 the Board and management by the Executive Director to:

23 (A) fund administrative and any other expenses of
24 the Exchange; and

25 (B) receive and deposit into the administration
26 fund any money collected or received by the Board

1 pursuant to this Law.

2 (215 ILCS 122/5-12 new)

3 Sec. 5-12. Exchange governance.

4 (a) The governing and administrative powers of the Exchange
5 shall be vested in a body known as the Illinois Health Benefits
6 Exchange Board. The following provisions shall apply:

7 (1) The Board shall consist of 9 voting members, seven
8 of whom shall be appointed by the Governor and 2 of whom
9 shall be appointed by the Attorney General. Board
10 Appointees shall be subject to the advice and consent of a
11 two-thirds vote of the members elected to the Senate.

12 (2) The members appointed by the Governor shall
13 include: (A) one educated health care consumer; (B) one
14 representative of small employers with 50 or fewer
15 employees that has direct, long-term experience operating
16 a business in Illinois; (C) one individual with
17 demonstrated and acknowledged expertise in the business of
18 health insurance or health benefits administration with a
19 retired inactive status; (D) one health economist,
20 certified health actuary, or expert in health care finance;
21 (E) one individual with experience in bargaining
22 collectively for the provision of health insurance
23 coverage; (F) one individual with knowledge and expertise
24 in purchasing and facilitating enrollment in health plan
25 coverage, including demonstrated knowledge and expertise

1 of the role of licensed health insurance producers and
2 third-party administrators in connecting employers and
3 individual consumers to health plan coverage a retired
4 inactive status; and (G) one individual with experience as
5 an essential community provider serving primarily
6 underserved individuals living under 200% of the federal
7 poverty level.

8 (3) The members appointed by the Attorney General shall
9 include: one attorney with experience with public programs
10 such as Medicaid and one attorney with experience working
11 with the Attorney General's Health Care Bureau.

12 (4) The Senate shall confirm or reject appointments
13 within 30 session days or 60 calendar days after they are
14 submitted by the Governor, whichever occurs first. Except
15 in the case of appointments to fill vacancies, the
16 confirmation time period specified in this Section shall
17 not commence until all appointments required to be made in
18 that year have been submitted by the Governor.

19 (5) The Governor and the Attorney General shall
20 coordinate appointments so as to reflect no less than
21 proportional representation of the geographic, gender,
22 cultural, racial, and ethnic composition of this State.

23 (6) The Director of Insurance, the Director of the
24 Healthcare and Family Services, Director of Human
25 Services, Director of Public Health, a representative from
26 the Office of the Governor, and the Executive Director of

1 the Exchange shall serve as ex-officio, non-voting members
2 of the Board.

3 (7) Within 60 days after the effective date of this
4 amendatory Act of the 97th General Assembly, the Governor
5 shall appoint 3 voting members of the Board for initial
6 terms expiring June 30, 2015; the Governor shall appoint 2
7 public members and the Attorney General shall appoint one
8 voting member of the Board for initial terms expiring June
9 30, 2014; and the Governor shall appoint 2 voting members
10 and the Attorney General shall appoint one voting member of
11 the Board for initial terms expiring June 30, 2013. All
12 successors shall hold office for a term of 3 years from the
13 first day of July in the year of appointment and running
14 through June 30 of the third year, except in case of an
15 appointment to fill a vacancy. A Board member shall hold
16 office until the expiration of that member's term and until
17 that member's successor is appointed and qualified.

18 (8) A person appointed to fill a vacancy and complete
19 the unexpired term of a member of the Board shall only be
20 appointed to serve out the unexpired term by the individual
21 who made the original appointment within 45 days of the
22 initial vacancy. A person appointed to fill a vacancy and
23 complete the unexpired term of a member of the Board may be
24 re-appointed to the Board for another term, but shall not
25 serve than more than 3 consecutive terms following their
26 completion of the unexpired term of a member of the Board.

1 (9) The Board shall elect one voting member of the
2 Board to serve as chairperson and one voting member to
3 serve as vice-chairperson, upon approval of at least 5
4 voting members of the Board.

5 (10) If a voting Board member's qualifications change
6 due to a change in employment during the term of their
7 appointment, the Board member shall resign their position,
8 subject to reappointment by the individual who made the
9 original appointment.

10 (11) Five voting members present shall constitute a
11 quorum and the affirmative vote of at least 5 voting
12 members is necessary for any action of the Board.

13 (12) The Board shall meet no less than quarterly on a
14 schedule established by the chairperson. Meetings shall be
15 public and public records shall be maintained subject to
16 the Open Meetings Act. The Board must afford an opportunity
17 for public comment at each of its meetings. No vacancy
18 shall impair the ability for the Board to act provided a
19 quorum is reached. Members shall serve without pay, but
20 they are entitled to be reimbursed for their actual and
21 reasonable expenses incurred in the performance of their
22 duties, including travel expenses.

23 (13) The chairperson of the Board shall file a written
24 report regarding the activities of the Board and the
25 Exchange to the Governor and General Assembly annually, and
26 the Legislative Oversight Committee established in Section

1 5-35 of this Law quarterly, beginning on July 1, 2012 and
2 until December 31, 2014.

3 (14) There is no liability on the part of, and no cause
4 of action shall arise against, any member of the Board or
5 its employees or agents for any action taken by them in the
6 performance of their powers and duties under this Law, with
7 the exception of willful and wanton misconduct.

8 (15) The Board shall adopt conflict of interest rules
9 and recusal procedures. Such rules and procedures shall (A)
10 prohibit a member of the Board from performing an official
11 act that may have a direct economic benefit on a business
12 or other endeavor in which that member has a direct or
13 substantial financial interest and (B) require a member of
14 the Board to recuse himself or herself from an official
15 matter, whether direct or indirect. All recusals must be in
16 advance, in writing and specify the reason and date of the
17 recusal. All recusals shall be maintained by the Executive
18 Director and shall be disclosed to any person upon written
19 request.

20 (16) A member of the Board or of the staff of the
21 Exchange shall not be employed by or be affiliated with a
22 health care provider, a health care facility, a medical
23 clinic, an insurer, or a trade association of insurers,
24 insurance producers or brokers, health care providers, or
25 health care facilities or health or medical clinics while
26 serving on the Board or on the staff of the Exchange, with

1 the exception of (i) health care providers not receiving
2 compensation for rendering services as a provider who do
3 not have an ownership interest in a professional health
4 care practice, (ii) health care providers who are retired
5 or inactive, and (iii) essential community providers.

6 (17) No employee of the Exchange shall be a member of
7 the Board.

8 (18) No Board member shall, for one year after the end
9 of the member's service on the Board, accept employment
10 with any health carrier that offers a qualified health
11 benefit plan through the Exchange.

12 (19) The Exchange shall be administered by an Executive
13 Director, who shall be appointed, and may be removed, by a
14 vote of at least 5 voting members the Board. The Board
15 shall have the power to determine compensation for the
16 Executive Director. The Executive Director shall be
17 responsible for the selection of such other staff as may be
18 authorized by the Board's operating budget as adopted by
19 the Board.

20 (20) No employee of the Exchange shall, for one year
21 after terminating employment with the Exchange, accept
22 employment with any health carrier that offers a qualified
23 health benefit plan through the Exchange.

24 (21) No member of the Board nor employee of the
25 Exchange shall make, participate in making, or in any way
26 attempt to use his or her official position to influence

1 the making of any decision that he or she knows or has any
2 reason to know will have a reasonably foreseeable material
3 financial effect, distinguishable from its effect on the
4 public generally, on him or her or a member of his or her
5 family or on either of the following: (A) any source of
6 income provided to, received by, or promised to a member
7 within 12 months prior to the time when a decision is made;
8 or (B) any business entity in which the member is a
9 director, officer, partner, trustee, or employee or holds
10 any position of management.

11 (22) No member of the Board nor employee of the
12 Exchange may be licensed, registered, or authorized to do
13 business in this State by the Director. Nor may any member
14 of the Board or employee of the Exchange receive
15 compensation from any person or entity licensed,
16 registered, or authorized to do business in this State by
17 the Director.

18 (23) The Board may, as necessary, create and appoint
19 qualified persons with requisite expertise to Exchange
20 technical advisory groups. These Exchange technical
21 advisory groups shall meet in a manner and frequency
22 determined by the Board to discuss Exchange-related issues
23 and to provide Exchange-related guidance, advice, and
24 recommendation to the Board and the Exchange.

1 Sec. 5-14. Illinois Health Benefits Exchange Legislative
2 Oversight Committee.

3 (a) There is created an Illinois Health Benefits Exchange
4 Legislative Oversight Committee within the Commission on
5 Government Forecasting and Accountability to provide
6 accountability for the Illinois Health Benefits Exchange and to
7 ensure that Exchange operations and functions align with the
8 goals and duties outlined by this Law. The Committee shall also
9 be responsible for providing policy recommendations to ensure
10 that the Exchange aligns with the Federal Act, amendments to
11 the Federal Act, and regulations promulgated pursuant to the
12 Federal Act.

13 (b) Members of the Legislative Oversight Committee shall be
14 appointed as follows: 3 members of the Senate shall be
15 appointed by the President of the Senate; 3 members of the
16 Senate shall be appointed by the Minority Leader of the Senate;
17 3 members of the House of Representatives shall be appointed by
18 the Speaker of the House of Representatives; and 3 members of
19 the House of Representatives shall be appointed by the Minority
20 Leader of the House of Representatives. Each legislative leader
21 shall select one member to serve as co-chair of the Committee.

22 (c) Members of the Legislative Oversight Committee shall be
23 appointed within 30 days after the effective date of this
24 amendatory Act of the 97th General Assembly. The co-chairs
25 shall convene the first meeting of the Committee no later than
26 45 days after the effective date of this Law.

1 (d) The Executive Director of the Exchange must provide
2 updates to the Legislative Oversight Committee in person about
3 the Exchange's progress every quarter for the first 2 years
4 beginning at the start of employment on the Exchange.

5 (215 ILCS 122/5-17 new)

6 Sec. 5-17. Enrollment through brokers and agents; producer
7 compensation.

8 (a) In accordance with Section 1312(e) of the Federal Act,
9 the Exchange shall allow licensed insurance producers to (1)
10 enroll qualified individuals in any qualified health plan, for
11 which the individual is eligible, in the individual exchange,
12 (2) assist qualified individuals in applying for premium tax
13 credits and cost-sharing reductions for qualified health plans
14 purchased through the individual exchange, and (3) enroll
15 qualified employers in any qualified health plan, for which the
16 employer is eligible, offered through the SHOP exchange.
17 Nothing in this subsection (a) shall be construed as to require
18 a qualified individual or qualified employer to utilize a
19 licensed insurance producer for any of the purposes outlined in
20 this subsection (a).

21 (b) In order to enroll individuals and small employers in
22 qualified health plans on the Exchange, licensed producers must
23 complete a certification program. The Department of Insurance
24 may develop and implement a certification program for licensed
25 insurance producers who enroll individuals and employers in the

1 Exchange. The Department of Insurance may charge a reasonable
2 fee, by regulation, to producers for the certification program.
3 The Department of Insurance may approve certification programs
4 developed and instructed by others, charging a reasonable fee,
5 by regulation, for approval.

6 (c) The Exchange shall include on its website a producer
7 locator section, featured prominently, through which
8 individuals and small employers can find Exchange-certified
9 producers.

10 (d) All licensed producers certified by the Department to
11 enroll individuals and employers in qualified health plans
12 shall be compensated by qualified health plan issuers in the
13 same manner as qualified health plan issuers compensate
14 producers for comparable health plans sold outside of the
15 Exchange.

16 (215 ILCS 122/5-18 new)

17 Sec. 5-18. Illinois Health Benefit Exchange Fund. There is
18 hereby created as a special fund outside of the State treasury
19 the Illinois Health Benefit Exchange Fund to be used, subject
20 to appropriation, exclusively by the Exchange to provide
21 funding for the operation and administration of the Exchange in
22 carrying out the purposes authorized in this Law. The Fund
23 shall consist of the following:

24 (1) assessment collected by the Exchange (assessments
25 or fees charged to carriers shall not include any amount

1 based on coverage, or premiums associated with such
2 coverage, that is defined as an "excepted benefit" under
3 Section 2791(c) of the Public Health Service Act (42 U.S.C.
4 300gg-91));

5 (2) income from investments made on behalf of the Fund;

6 (3) interest on deposits or investments of money in the
7 Fund;

8 (4) money collected by the Board as a result of legal
9 or other action taken by the Board on behalf of the
10 Exchange or the Fund;

11 (5) money donated to the Fund;

12 (6) money awarded to the Fund through grants; and

13 (7) any other money from any other source accepted for
14 the benefit of the Fund.

15 Any investment earnings of the Fund shall be credited to
16 the Fund. No part of the Fund may revert or be credited to the
17 General Revenue Fund or any special fund in the State Treasury.
18 A debt or an obligation of the Fund is not a debt of the State
19 or a pledge of credit of the State.

20 Section 15. The Consumer Fraud and Deceptive Business
21 Practices Act is amended by changing Section 2Z as follows:

22 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

23 Sec. 2Z. Violations of other Acts. Any person who knowingly
24 violates the Automotive Repair Act, the Automotive Collision

1 Repair Act, the Home Repair and Remodeling Act, the Dance
2 Studio Act, the Physical Fitness Services Act, the Hearing
3 Instrument Consumer Protection Act, the Illinois Union Label
4 Act, the Job Referral and Job Listing Services Consumer
5 Protection Act, the Travel Promotion Consumer Protection Act,
6 the Credit Services Organizations Act, the Automatic Telephone
7 Dialers Act, the Pay-Per-Call Services Consumer Protection
8 Act, the Telephone Solicitations Act, the Illinois Funeral or
9 Burial Funds Act, the Cemetery Oversight Act, the Cemetery Care
10 Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery Sales
11 Act, the High Risk Home Loan Act, the Payday Loan Reform Act,
12 the Mortgage Rescue Fraud Act, subsection (a) or (b) of Section
13 3-10 of the Cigarette Tax Act, subsection (a) or (b) of Section
14 3-10 of the Cigarette Use Tax Act, the Electronic Mail Act, the
15 Internet Caller Identification Act, paragraph (6) of
16 subsection (k) of Section 6-305 of the Illinois Vehicle Code,
17 Section 11-1431, 18d-115, 18d-120, 18d-125, 18d-135, 18d-150,
18 or 18d-153 of the Illinois Vehicle Code, Section 500-123 of the
19 Illinois Insurance Code, Article 3 of the Residential Real
20 Property Disclosure Act, the Automatic Contract Renewal Act, or
21 the Personal Information Protection Act commits an unlawful
22 practice within the meaning of this Act.

23 (Source: P.A. 96-863, eff. 1-19-10; 96-1369, eff. 1-1-11;
24 96-1376, eff. 7-29-10; 97-333, eff. 8-12-11.)

25 Section 90. The State Finance Act is amended by adding

1 Section 5.811 as follows:

2 (30 ILCS 105/5.811 new)

3 Sec. 5.811. The Illinois Health Benefit Exchange Fund.

4 (215 ILCS 122/5-15 rep.)

5 (215 ILCS 122/5-20 rep.)

6 Section 95. The Illinois Health Benefits Exchange Law is
7 amended by repealing Sections 5-15 and 5-20.

8 Section 97. Severability. The provisions of this Act are
9 severable under Section 1.31 of the Statute on Statutes.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.

1		INDEX
2		Statutes amended in order of appearance
3	215 ILCS 5/500-123	new
4	215 ILCS 122/5-4	new
5	215 ILCS 122/5-5	
6	215 ILCS 122/5-10	
7	215 ILCS 122/5-11	new
8	215 ILCS 122/5-12	new
9	215 ILCS 122/5-14	new
10	215 ILCS 122/5-17	new
11	215 ILCS 122/5-18	new
12	815 ILCS 505/2Z	from Ch. 121 1/2, par. 262Z
13	30 ILCS 105/5.811	new
14	215 ILCS 122/5-15	rep.
15	215 ILCS 122/5-20	rep.