



RESOLUTION

EXECUTIVE BOARD OF THE DISTRICT OF COLUMBIA HEALTH BENEFIT EXCHANGE AUTHORITY

To update the HBX enabling legislation to protect the District of Columbia’s health insurance marketplace from efforts to repeal or invalidate the federal Affordable Care Act; to make conforming amendments to HBX post-employment and financial conflict of interest provisions to be consistent with the District’s Comprehensive Code of Conduct; and to make permanent HBX’s independent procurement authority.

WHEREAS, the Health Benefit Exchange Authority Establishment Act of 2011, effective March 4, 2012 (D.C. Law 19-94; D.C. Official Code § 31-3171.01 et seq.) (“Act”) created the District of Columbia Health Benefit Exchange Authority (“HBX”), an independent authority of the Government of the District of Columbia, and its governing Executive Board;

WHEREAS, in December 2018, the HBX Executive Board established the Ad Hoc Executive Board Committee on HBX Legislation, comprised of Board Members Tamara Watkins, Henry Aaron, and Khalid Pitts, to review and develop recommendations to update the Act.

WHEREAS, the Ad Hoc Executive Board Committee reviewed the Act and discussed three areas requiring legislative updates, specifically: 1) revising statutory references to the federal Affordable Care Act (“ACA”) to protect, where possible, against efforts to repeal or invalidate the ACA; 2) revising HBX conflict of interest provisions for HBX Board members and staff to be consistent with the District’s Comprehensive Code of Conduct; and 3) making permanent HBX’s independent procurement authority;

WHEREAS, the Ad Hoc Executive Board Committee on HBX Legislation solicited the recommendations and consulted with the HBX Standing Advisory Board (SAB) on these three areas;

WHEREAS, the SAB held five public meetings to review and discuss these three areas;

WHEREAS, the SAB discussed that there are numerous legislative and administrative proposals and lawsuits to repeal or invalidate parts or all of the ACA, and that HBX should clarify the Act

to maintain ACA consumer protections and insurance market rules in the District and that HBX remains the state-based exchange marketplace for the District;

WHEREAS, the SAB discussed making conforming updates to the Act’s conflict of interest provisions because it was enacted prior to enactment of detailed conflict of interest provisions and post-employment restrictions in the Comprehensive Code of Conduct of the District of Columbia Establishment and BEGA Amendment Act;

WHEREAS, the SAB discussed making permanent HBX’s temporary independent procurement authority which expires September 30, 2025, because it is important for stability, to HBX’s certification as a state-based marketplace which requires financial sustainability, and to serving partners such as the Massachusetts Health Connector and Congress;

WHEREAS, on June 18, 2019, the SAB voted unanimously to recommend updates to the Act on the three areas where the Ad Hoc Executive Board Committee on HBX Legislation sought input;

NOW, THEREFORE, BE IT RESOLVED that the Executive Board hereby approves the following recommendations from the Standard Advisory Board and authorizes HBX staff to collaborate with appropriate officials to draft legislative language for consideration by the City Council of the District of Columbia to:

1. Amend the Act to ensure that HBX continues as the District’s state-based exchange marketplace and that, if the Affordable Care Act were repealed or invalidated, the statutory references in the Act to the ACA would not result in a loss of consumer protections or market rules in the District.
2. Make amendments to the conflict of interest provisions (DC Official Code § 31-3171.10) in the Act to be consistent with provisions of the subsequently enacted Comprehensive Code of Conduct of the District of Columbia Establishment and BEGA Amendment Act and implementing regulations by the Board of Ethics and Government Accountability (“BEGA”). Specifically, the conforming amendments would:
 - Insert a provision stating that the District’s ethics laws and regulations, as implemented and enforced by BEGA, apply to HBX Executive Board members and HBX staff.
 - Strike conflicting and redundant post-employment and financial conflict of interest restrictions in the Act (current subsections (b) and (c)) and to clarify that such restrictions are governed by the District’s ethics laws and regulations as implemented and enforced by BEGA.
 - Retain specific prohibitions in subsection (a), and clarify the term “affiliations” as “financial affiliations.”
 - Insert a prohibition for “third party administrators” in subsection (a).

- Narrow the professional trade association membership prohibition in subsection (a)(2) to holding a senior leadership position in a professional trade association, thus allowing professionals to retain non-leadership membership in a professional trade association.
3. Make permanent HBX's independent procurement authority. Importantly, this independent procurement authority maintains all oversight currently required under the temporary independent procurement authority such as Council review of multi-year contracts and all contracts over \$1 million.

I HEREBY CERTIFY that the foregoing Resolution was adopted on this 11th day of September, 2019, by the Executive Board of the District of Columbia Health Benefit Exchange Authority in an open meeting.

Khalid Pitts, Secretary/Treasurer
District of Columbia Health Benefits Exchange Authority

9/11/2019

Date