

## **HBX Clean-Up Legislation Proposal Standing Advisory Board - June 2019**

Proposal for legislative updates to 3 parts of the Health Benefit Exchange Authority Establishment Act:

1. Revising the HBX enabling legislation to ensure that if the Affordable Care Act were repealed, the references to the ACA wouldn't result in a loss of consumer protections or market rules and would ensure that the Health Benefit Exchange Authority continues as the District's exchange marketplace.

Background:

There are numerous legislative and administrative proposals and lawsuits to repeal or invalidate parts or all of the ACA. The DC Department of Insurance, Securities and Banking has completed some technical edits in parts of the insurance code.

2. Revising the conflict of interest provision applicable to HBX Board members and staff, specifically:
  - Adding a provision to state that the District's ethics laws, as implemented and enforced by the Board of Ethics and Government Accountability (BEGA), apply to HBX Executive Board members and HBX staff.
  - Having post-employment conflict of interest restrictions and financial conflict of interest restrictions governed by the District's ethics laws as implemented and enforced by BEGA. Thus, striking the conflicting and additional post-employment restrictions and financial conflict of interest provisions (striking current subsections (b) and (c)).
  - Retaining specific prohibitions in subsection (a), but adding that conflicts of interest arising from affiliations with an entity are for purposes of *financial affiliation* as opposed to any other affiliations.
  - Adding a prohibition for "third party administrators" to subsection (a).
  - Clarifying that only holding a senior leadership position in a professional trade association creates a conflict of interest, thus allowing professionals to retain their non-leadership membership in a professional trade association.

Background:

- The Health Benefit Exchange Authority Establishment Act of 2011 became effective March 2, 2012, prior to enactment of the Comprehensive Code of Conduct of the District of Columbia Establishment and BEGA Amendment Act of 2015 (Ethics Act).
- The current, more comprehensive Ethics Act and related ethics statutes and implementing regulations established a higher standard for financial conflicts of interest prohibitions (section (c)) than was included in the HBX enabling legislation.
- The current, more comprehensive Ethics Act and related ethics statutes and implementing regulations established detailed post-employment restrictions and prohibitions similar to those in place for the federal government employees different from the specific restrictions in subsection (b).

3. Provide HBX permanent independent procurement authority.

Background:

- HBX was granted independent procurement authority in the Permanent Supportive Housing Applications Streamlining Amendment Act of 2013 which sunset September 30, 2018.
- HBX's independent procurement authority was extended to September 30, 2023 in the Fiscal Year 2019 Budget Support Act of 2018.
- Council continues to maintain review of multi-year contracts and contracts over \$1 million as is currently the law (this is *not* being proposed for revision).