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Councilmember David. A Catania	2
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A BILL	5
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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA	7
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Councilmember Catania introduced the following bill, which was referred to the Committee on	9
_____.	10
To authorize the Department of Health Care Finance to establish the Health Care Exchange, to	11
provide for the appointment of executive and advisory boards for the Exchange, to limit	12
the liability of the executive and advisory boards, and to provide the Council with passive	13
review of Exchange policies and rules.	14
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BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this	16
act may be cited as the “Department of Health Care Finance District of Columbia Health Care	17
Exchange Authorizing Act of 2011”.	18
Sec. 2. District of Columbia Health Care Exchange established.	19
(a) The Department of Health Care Finance shall establish the District of Columbia Health	20
Care Exchange (Exchange) as an independent public entity. The Exchange shall be housed at the	21
Department of Health Care Finance.	22
(b) The Exchange shall have independent hiring and procurement authority and adopt	23
hiring and procurement procedures that reflect the intent of the District’s hiring and procurement	24
law.	25
Sec 3. Executive Board.	26
(a) The Exchange shall be governed by an executive board, consisting of seven members	27
who are residents of the District of Columbia. Of the members of the executive board, three shall	28

be selected the Mayor, and four shall be appointed by the Council. The Director of the Department
of Health Care Finance or his or her designee shall serve as a voting, ex officio member of the
executive board.

(b) (1) Members of the executive board, other than an ex officio member, shall be
appointed for a term of four years, except that:

(A) Two of the initial appointments by the Council shall be for a term of
five years;

(B) One of the initial appointments by the Council shall be for a term of
two years; and

(C) Two of the initial appointments by the Mayor shall be for a term of
three years.

(2) Appointments by the Mayor after September 30, 2011, shall be subject to
confirmation by the Council. A member of the executive board may continue to serve until the
appointment and qualification of his or her successor. Vacancies shall be filled by appointment for
the unexpired term. The executive board shall elect a chairperson on an annual basis.

(c)(1) Each person appointed to the board shall have demonstrated and acknowledged
expertise in at least two of the following areas:

(A) Individual or small employer health care coverage;

(B) Health benefits plan administration;

(C) Health care finance;

(D) Administering a public or private health care delivery system;

(E) Purchasing health plan coverage;

- (F) Prior experience in commercial insurance management; 1
- (G) Actuarial analysis; 2
- (H) Health care economics; and 3
- (I) Human services administration. 4

(2) Appointing authorities shall consider the expertise of the other members of the 5
executive board and attempt to make appointments so that the executive board's composition 6
reflects a diversity of expertise. 7

(d) Each member of the executive board shall have the responsibility and duty to meet the 8
requirements of this act, the Patient Protection and Affordable Care Act of 2010, approved March 9
23, 2010 (Public Law No. 111-148; 31 U.S. Code 1105 *et seq.*) (federal act), and all applicable 10
District and federal laws and regulations, to serve the public interest of the individuals and small 11
businesses seeking health care coverage through the Exchange, and to ensure the operational well- 12
being and fiscal solvency of the Exchange. 13

(e) (1) A member of the executive board or of the staff of the Exchange shall not be 14
employed by, a consultant to, a member of the board of directors of, affiliated with, or otherwise a 15
representative of, a carrier or other insurer, an agent or broker, a health professional, or a health 16
care facility or health clinic while serving on the board or on the staff of the Exchange. A member 17
of the executive board or of the staff of the Exchange shall not be a member, a board member, or 18
an employee of a trade association of carriers, health facilities, health clinics, or health 19
professionals while serving on the board or on the staff of the Exchange. A member of the 20
executive board or of the staff of the Exchange shall not be a health professional unless he or she 21

receives no compensation for rendering services as a health professional and does not have an ownership interest in a professional health care practice.

(2) For purposes of this act, “health professional” shall have the same meaning as it does in the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01).

(f) No member of the executive board shall make, participate in making, or in any way attempt to use his or her official position to influence the making, of any decision that he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on him or her or a member of his or her immediate family, or on either of the following:

(1) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the member within 12 months prior to the time when the decision is made.

(2) Any business entity in which the member is a director, officer, partner, trustee, employee, or holds any position of management.

(g) The executive board shall hire an executive director to organize, administer, and manage the operations of the Exchange. The executive director shall be exempt from civil service and shall serve at the pleasure of the board.

(h) The executive and advisory boards shall be subject to the Open Meetings Amendment Act of 2010, approved December 7, 2010 (Bill No. 18-716), except that the executive board may

hold closed sessions when considering matters related to litigation, personnel, contracting, and rates. 1 2

(i) (1) The executive board shall apply for planning and establishment grants made available to the Exchange pursuant to Section 1311 of the federal act. If an executive director has not been hired under subdivision (h) when the United States Secretary of Health and Human Services makes the planning and establishment grants available, the Department of Health Care Finance shall submit the application for planning and establishment grants to the United States Secretary of Health and Human Services. 3 4 5 6 7 8

(2) If a majority of the executive board has not been appointed when the United States Secretary of Health and Human Services makes the planning and establishment grants available, the Department of Health Care Finance shall submit the application for planning and establishment grants to the United States Secretary of Health and Human Services. Any subsequent applications shall be made as described in paragraph (1) once a majority of the members have been appointed to the executive board. 9 10 11 12 13 14

(3) The executive board shall be responsible for using the funds awarded by the United States Secretary of Health and Human Services for the planning and establishment of the Exchange, consistent with subdivision (b) of Section 1311 of the federal act. 15 16 17

Sec. 4. Advisory Board. 18

In addition to the executive board, there shall be an advisory board consisting of 6 members. The executive board shall solicit the recommendations of the advisory board on insurance standards, covered benefits, premiums, plan certification, internet technology system development, and any other policy or operational issues, within the executive board's discretion. 19 20 21 22

Of the members of the board, three shall be selected the Mayor, and three shall be appointed by the Council. The Director of the Department of Health Care Finance or his or her designee shall serve as the chair of the advisory board. Members of the advisory board, other than the chair, shall be appointed for a term of four years. A member may continue to serve until the appointment and qualification of his or her successor. Vacancies shall be filled by appointment for the unexpired term. Each person appointed to the advisory board shall have demonstrated and acknowledged expertise and represent one of the following groups:

- (1) Health professionals;
- (2) Health insurance consumers;
- (3) Disease-specific advocacy groups;
- (4) Commercial and public sector health plans;
- (5) Public sector health plans;
- (6) Health insurance brokers;
- (7) Health care foundations; and
- (8) Exchange consumers.

Sec. 5. Limitation of Liability.

There shall not be any liability in a private capacity on the part of the executive or advisory board or any member of the executive or advisory board, or any officer or employee of the executive or advisory board, for or on account of any act performed or obligation entered into in an official capacity, when done in good faith, without intent to defraud, and in connection with the administration, management, or conduct of this act or affairs related to this act.

Sec. 6. Passive Council Review of Exchange Policies and Rules.

The Exchange shall submit all proposed policies and rules adopted by the Exchange to the Council for a 30-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution, within this 30-day review period, the proposed rules shall be deemed approved.

Sec. 7. Fiscal Impact Statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, as amended, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 8. Effective Date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, as amended, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.