

Senate Bill 46

By: Senators Orrock of the 36th, Davis of the 22nd, Tate of the 38th, Harbison of the 15th,
Lucas of the 26th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 establish the Georgia Health Insurance Marketplace Authority; to provide for legislative
3 intent; to provide for definitions; to provide for a board of directors; to provide for
4 composition, terms, and officers; to provide for powers and duties of the authority; to provide
5 for the state's American Health Benefit Exchange and Small Business Health Options
6 Program Exchange; to provide for a trust fund; to provide for advisory committees; to
7 provide for limited liability; to provide for rules and regulations; to provide for accounts and
8 audits; to provide for related matters; to provide for an effective date; to repeal conflicting
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 The purpose of this Act is to provide for this state's American Health Benefit Exchange to
13 facilitate the purchase and sale of qualified health plans in the individual market in this state
14 in accordance with federal law. This Act also provides for the establishment of a Small
15 Business Health Options Program Exchange to assist qualified small employers in this state
16 in facilitating the enrollment of their employees in qualified health plans offered in the small
17 group market. The intent of the insurance marketplaces is to reduce the number of uninsured
18 people in this state, provide a transparent marketplace, provide consumer education, and
19 assist individuals with access to programs, premium assistance tax credits, and cost-sharing
20 reductions.

21 **SECTION 2.**

22 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
23 adding a new chapter to read as follows:

24 "CHAPTER 65

25 33-65-1.

26 This chapter shall be known and may be cited as the 'Georgia Health Insurance
27 Marketplace Act.'

28 33-65-2.

29 As used in this chapter, the term:

30 (1) 'Authority' means the Georgia Health Insurance Marketplace Authority established
31 pursuant to Code Section 33-65-3.

32 (2) 'Board' means the board of directors of the Georgia Health Insurance Marketplace
33 Authority.

34 (3) 'Federal act' means the federal Patient Protection and Affordable Care Act (Public
35 Law 111-148), as amended by the federal Health Care and Education Reconciliation Act
36 of 2010 (Public Law 111-152), and any regulations or guidance issued under such acts.

37 (4) 'Fund' means the Georgia Health Insurance Marketplace Trust Fund, established
38 pursuant to Code Section 33-65-6.

39 (5) 'Georgia Health Insurance Marketplace' means the marketplace established as this
40 state's American Health Benefit Exchange and the marketplace established as this state's
41 Small Business Health Options Program Exchange in accordance with the federal act.

42 (6) 'Insurer' means any insurer or nonprofit organization authorized to sell accident and
43 sickness policies, subscriber contracts, certificates, or agreements of any form under
44 Chapter 15, 18, 19, 20, 21, 29, or 30 of this title.

45 33-65-3.

46 (a) There is established the Georgia Health Insurance Marketplace Authority as a body
47 corporate and politic, an instrumentality of this state, and a public corporation; and by that
48 name the authority may contract and be contracted with and bring and defend actions. The
49 authority shall have perpetual existence.

50 (b) The authority shall be governed by a board of directors composed of nine members
51 who shall be residents of the State of Georgia as follows:

52 (1) The commissioner of community health, or his or her designee;

53 (2) The Commissioner;

54 (3) Seven members appointed by the Governor from the general public, one of whom
55 shall represent a consumer organization or health advocacy organization and one of
56 whom shall represent small businesses. The balance of the appointments to the board

57 shall be made to provide demonstrated and acknowledged expertise in a diverse range of
 58 health care areas including, but not limited to, the following:

- 59 (A) Individual health care coverage;
- 60 (B) Small employer health care coverage;
- 61 (C) Health benefits plan administration;
- 62 (D) Health care finance;
- 63 (E) Administering a public or private health care delivery system;
- 64 (F) Purchasing health plan coverage; and
- 65 (G) State employee health care coverage.

66 The Governor shall consider the expertise of the other members of the board and attempt
 67 to make appointments so that the board's composition reflects a range and diversity of
 68 skills, backgrounds, and geographic and stakeholder perspectives; and

69 (4) Three ex officio members as follows:

- 70 (A) The director of the Office of Planning and Budget, or his or her designee;
- 71 (B) The Governor's executive counsel, or his or her designee; and
- 72 (C) The executive director of the Georgia Technology Authority, or his or her
 73 designee.

74 (c) The initial members of the board appointed pursuant to paragraph (3) of subsection (b)
 75 of this Code section shall be appointed to terms of office beginning July 1, 2013. All
 76 members appointed pursuant to paragraph (3) of subsection (b) of this Code section shall
 77 serve for terms of three years; provided, however, that for the purpose of providing for
 78 staggered terms, three members shall have initial terms of three years, two members shall
 79 have initial terms of two years, and two members shall have initial terms of one year. Any
 80 vacancy on the board shall be filled in the same manner as the original appointment, and
 81 any member appointed to fill a vacancy occurring because of death, resignation, or
 82 ineligibility for membership shall serve only for the unexpired term of the member's
 83 predecessor. A member shall be eligible for reappointment. All members of the board
 84 shall serve until the appointment and qualification of a successor.

85 (d) The board chairperson shall be appointed by the Governor from his or her appointees
 86 and the board shall at its initial meeting and the first meeting of each calendar year
 87 thereafter select from among its members a vice chairperson and other officers. Meetings
 88 shall be held at the call of the chairperson or whenever any two members so request.

89 (e) The members of the board who are not public officers shall be entitled to an expense
 90 allowance and reimbursement from funds of the authority for their actual travel expenses
 91 necessarily incurred in the performance of their duties and for each day actually spent in
 92 performance of their duties in the same manner as provided in Code Section 45-7-21.

93 (f) A majority of the members of the board shall constitute a quorum for the transaction
 94 of business of the authority. The vote of at least a majority of the members present at any
 95 meeting at which a quorum is present is necessary for any action to be taken by the board.
 96 No vacancy in the membership of the board shall impair the right of a quorum to exercise
 97 all rights and perform all duties of the board.

98 (g) A member of the board or of the staff of the authority shall not be employed by, a
 99 consultant to, a member of the board of directors of, affiliated with, or otherwise a
 100 representative of an insurer, a health insurance agent or broker, a health care provider, a
 101 health care facility, or a health care clinic while serving on the board or on the staff of the
 102 authority. A member of the board or of the staff of the authority shall not be a member, a
 103 board member, or an employee of a trade association of insurers, health facility, health
 104 clinic, or health care provider while serving on the board or on the staff of the authority.
 105 A member of the board or of the staff of the authority shall not be a health care provider
 106 unless he or she receives no compensation for rendering services as a health care provider
 107 and does not have an ownership interest in a professional health care practice.

108 (h) The authority is assigned to the Department of Community Health for administrative
 109 purposes only, as prescribed in Code Section 50-4-3.

110 (i) The executive director of the authority shall be appointed by the Governor.

111 33-65-4.

112 The authority shall have the following powers:

113 (1) To elect, appoint, or hire officers, employees, and other agents of the authority,
 114 including experts and fiscal agents, define their duties, and fix their compensation;

115 (2) To have a seal and alter the same at its pleasure;

116 (3) To make and execute contracts, lease agreements, and all other instruments necessary
 117 or convenient to exercise the powers of the authority or to further the public purpose for
 118 which the authority is created;

119 (4) To adopt, amend, and repeal bylaws, regulations, and policies and procedures for the
 120 regulation of its affairs and the conduct of its business; to elect and prescribe the duties
 121 of officers and employees; and to perform such other matters as the authority may
 122 determine. In the adoption of bylaws, regulations, policies, and procedures or in the
 123 exercise of any regulatory power, the authority shall be exempt from the requirements of
 124 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act';

125 (5) To acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real or
 126 personal property of every kind and character, or any interest therein, in furtherance of
 127 the public purpose of the authority;

128 (6) To apply for and to accept any gifts or grants or loan guarantees or loans of funds or
 129 property or financial or other aid in any form from the federal government or any agency
 130 or instrumentality thereof or from this state or any agency or instrumentality thereof or
 131 from any other source for any or all of the purposes specified in this chapter and to
 132 comply, subject to the provisions of this chapter, with the terms and conditions thereof;
 133 (7) To solicit, receive, and review proposals from technology vendors for the
 134 development and implementation of technology to operate and maintain the Georgia
 135 Health Insurance Marketplace, including an Internet website and call center accessible
 136 to all Georgians;
 137 (8) To work with advisory groups, state agencies, nonprofit entities, consumer groups,
 138 corporations, universities, and other persons and organizations to research and make
 139 recommendations to the Governor and General Assembly on the creation of the Georgia
 140 Health Insurance Marketplace;
 141 (9) To administer the Georgia Health Insurance Marketplace Trust Fund, as established
 142 pursuant to Code Section 33-65-6;
 143 (10) To deposit or invest funds held by it in any state depository or in any investment
 144 which is authorized for the investment of proceeds of state general obligation bonds and
 145 to use for its corporate purposes or redeposit or reinvest interest earned on such funds;
 146 (11) To exercise any power granted by the laws of this state to public or private
 147 corporations which is not in conflict with the public purpose of the authority; and
 148 (12) To do all things necessary or convenient to carry out the powers conferred by this
 149 chapter.

150 33-65-5.

151 (a) The board may seek federal funding and other grants necessary to plan and implement
 152 the Georgia Health Insurance Marketplace.

153 (b) The authority shall be the entity designated to operate this state's American Health
 154 Benefit Exchange and Small Business Health Options Program Exchange pursuant to the
 155 federal act.

156 (c) The authority shall be authorized to provide for the sale of qualified health insurance
 157 plans through the Georgia Health Insurance Marketplace in compliance with the federal
 158 act.

159 (d) The authority may establish a Small Business Health Options Program Exchange to
 160 facilitate enrollment of qualified small employers in qualified health plans offered in the
 161 small group insurance market.

162 (e) The authority may coordinate the planning and future policy and operations of the
 163 Georgia Health Insurance Marketplace with those of other state agencies whose policies

164 and operations relate to those of the Georgia Health Insurance Marketplace, including, but
165 not limited to, the state agency that administers Title XIX of the federal Social Security
166 Act, the state agency that administers Title XXI of the federal Social Security Act, the
167 department, and other state agencies as necessary.

168 (f) The authority may contract with or enter into a memorandum of understanding with an
169 eligible entity for any of its functions described in this chapter. An eligible entity includes,
170 but is not limited to, the Department of Community Health or an entity that has experience
171 in individual and small group health insurance, benefit administration, or other experience
172 relevant to the responsibilities to be assumed by the entity, but a health insurance carrier
173 or an affiliate of a health insurance carrier shall not be an eligible entity.

174 (g) Prior to January 1, 2015, in the event of a decrease in anticipated funding from the
175 federal government or other sources, the board may reassess the feasibility of meeting each
176 of the requirements contained in this Code section and make appropriate adjustments to the
177 functions of the Georgia Health Insurance Marketplace as are deemed necessary.

178 33-65-6.

179 (a) There is created the Georgia Health Insurance Marketplace Trust Fund as a separate
180 fund in the state treasury. The trust fund shall be administered by the authority.

181 (b) The trust fund shall consist of such moneys as provided by grants from the federal
182 government and revenue from and private contributions from any source.

183 33-65-7.

184 (a) The board shall appoint two advisory committees consisting of up to ten members
185 each. The Business Advisory Committee shall be composed of the broadest possible
186 spectrum of geographical and business characteristics of business health insurance
187 purchasers throughout this state and in the state's American Health Benefit Exchange. The
188 Consumer Advisory Committee shall reflect the broadest possible geographic
189 characteristics of consumer purchasers and members of the state's American Health Benefit
190 Exchange. Members of both advisory committees must be active purchasers or members
191 of the state's American Health Benefit Exchange.

192 (b) The function of the advisory committees shall be to advise the board on aspects of the
193 health insurance marketplace and to present the concerns of purchasers and members
194 throughout this state, but shall have no authority to promulgate rules or regulations or enter
195 into contracts on behalf of the authority.

196 (c) Members appointed to the advisory committees shall serve terms of two years;
197 however, to provide staggered terms, five of the initial appointees of each advisory
198 committee shall serve initial terms of one year.

199 (d) The advisory committees will appoint their own chairpersons, vice chairpersons, and
 200 secretary-treasurers, who will serve for a period of two years, and may be reelected for no
 201 more than one additional term.

202 (e) The advisory committees shall abide by the rules and regulations noted in the Georgia
 203 Health Insurance Marketplace Authority bylaws, and by internal operating procedures.
 204 Members of the advisory committees shall serve without compensation or reimbursement
 205 of expenses. The advisory committees may report to the board in writing at any time, but
 206 no less than once yearly. The board may invite the advisory committees to make an oral
 207 presentation to the board of directors at regular meetings of the board.

208 33-65-8.

209 (a) The authority shall not be liable for any acts or omissions of an insurer related to its
 210 participation in the Georgia Health Insurance Marketplace.

211 (b) Consumer complaints relating to health care products and programs purchased or
 212 enrolled in through the Georgia Health Insurance Marketplace shall be handled in the same
 213 manner as would be applicable if the consumer purchased or enrolled in the health care
 214 product or program through other means.

215 33-65-9.

216 The authority and the Commissioner, as appropriate, shall be authorized to adopt rules and
 217 regulations to effect the implementation of this chapter.

218 33-65-10.

219 The accounts of the authority created in this chapter shall be kept as separate and distinct
 220 accounts and shall be audited by the Department of Audits and Accounts of this state."

221 **SECTION 3.**

222 This Act shall become effective upon its approval by the Governor or upon its becoming law
 223 without such approval.

224 **SECTION 4.**

225 All laws and parts of laws in conflict with this Act are repealed.