

VIRGINIA ACTS OF ASSEMBLY -- 2011 RECONVENED SESSION

CHAPTER 823

An Act to state the intent of the General Assembly to create and operate a health benefits exchange.

[H 2434]

Approved April 6, 2011

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That it is the intent of the General Assembly that the Commonwealth create and operate its own health benefits exchange or exchanges, hereafter referred to collectively as the "Virginia Exchange," to preserve and enhance competition in the health insurance market. The purpose of the Virginia Exchange shall be to facilitate the purchase and sale of qualified health plans in the individual market and to assist qualified small employers in facilitating the enrollment of their employees in qualified health plans offered in the small group market. To accomplish this purpose, the Virginia Exchange shall, at a minimum: (i) meet the relevant requirements of the Patient Protection and Affordable Care Act (P.L. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152) (collectively referred to as the Affordable Care Act), regarding the establishment of an American Health Benefit Exchange or Small Business Health Options Program by the prescribed deadline imposed by the Affordable Care Act in order to avoid development and implementation of a federal exchange in the Commonwealth; (ii) ensure that no qualified health insurance plan that is sold or offered for sale through an exchange established or operating in the Commonwealth shall provide coverage for abortions, regardless of whether such coverage is provided through the plan or is offered as a separate optional rider thereto; and (iii) the limitation set forth in (ii) shall not apply to an abortion performed (a) when the life of the mother is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or (b) when the pregnancy is the result of an alleged act of rape or incest.*

§ 2. The General Assembly requests the Governor, through the Secretary of Health and Human Resources and with the State Corporation Commission's Bureau of Insurance, to work with the General Assembly, relevant experts, and stakeholders generally to provide recommendations for consideration by the 2012 Session of the General Assembly regarding the structure and governance of the Virginia Exchange. The Governor's recommendations shall address, at a minimum, the following: (i) whether to create the Virginia Exchange within an existing governmental agency, as a new governmental agency, or as a not-for-profit private entity; (ii) the make-up of a governing board for the Virginia Exchange; (iii) an analysis of resource needs and sustainability of such resources for the Virginia Exchange; (iv) a delineation of specific functions to be conducted by the Virginia Exchange; and (v) an analysis of the potential effects of the interactions between the Virginia Exchange and relevant insurance markets or health programs, including Medicaid. These recommendations shall be presented to the General Assembly by October 1, 2011, in order that any necessary amendments to the Code of Virginia and any appropriation necessary for establishment of the Virginia Exchange may be considered during the 2012 Session of the General Assembly.

2. *That the provisions of this act shall expire on July 1, 2014.*

3. *That nothing in this act shall be construed or implied to recognize the constitutionality of the Patient Protection and Affordable Care Act (P.L. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152).*

4. *That the provisions of this act constitute the election of the Commonwealth to prohibit abortion coverage in qualified health plans offered through an exchange in the Commonwealth as amended by § 1303(a)(1) of the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152).*