

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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An Act to amend and reenact §§ 38.2-326, 38.2-3455, 38.2-3456, 38.2-3457, 38.2-3459, 38.2-3460, 38.2-4214, 38.2-4319, 38.2-4509, 58.1-3, and 58.1-341.1 of the Code of Virginia; to amend the Code of Virginia by adding in Title 38.2 a chapter numbered 65, consisting of sections numbered 38.2-6500 through 38.2-6517; and to repeal the second enactment of Chapter 670 and the second enactment of Chapter 679 of the Acts of Assembly of 2013, relating to the establishment and operation of a health benefit exchange for the Commonwealth; assessments; Department of Taxation; information sharing.

[H 1428]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-326, 38.2-3455, 38.2-3456, 38.2-3457, 38.2-3459, 38.2-3460, 38.2-4214, 38.2-4319, 38.2-4509, 58.1-3, and 58.1-341.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 38.2 a chapter numbered 65, consisting of sections numbered 38.2-6500 through 38.2-6517, as follows:

§ 38.2-326. Plan management functions.

A. As used in this section:

"Exchange" means either the (i) federal health benefit exchange established by the Secretary of the U.S. Department of Health and Human Services pursuant to § 1321 of the Patient Protection and Affordable Care Act codified as 42 U.S.C. § 18041(c) in the Commonwealth or (ii) state-based exchange established pursuant to Chapter 65 (§ 38.2-6500 et seq.) and § 1311(b) of the Patient Protection and Affordable Care Act codified as 42 U.S.C. § 18031.

"Plan management functions" means analyses and reviews necessary to support the certification, decertification, and recertification of qualified health plans and stand-alone dental plans for the participation in an exchange and the collection of data necessary to perform the above functions.

B. The ~~Commission~~ Commission's Bureau of Insurance, with the assistance of the Virginia Department of Health, shall perform plan management functions required to certify health benefit plans and stand-alone dental plans for participation in the federal health benefit exchange established by the Secretary of the U.S. Department of Health and Human Services pursuant to § 1321 of the Patient Protection and Affordable Care Act codified as 42 U.S.C. § 18041(e) in the Commonwealth, provided that: (i) full funding is available; (ii) the technology infrastructure, including integration with federal, state, and other necessary entities, is made available to the Commission by or through the U.S. Department of Health and Human Services or the Virginia Secretary of Health and Human Resources in order for it to carry out the plan management functions authorized in this section; and (iii) there are no other impediments that effectively prevent the Commission from performing any required plan management functions; and (iv) the performance of such plan management functions is not deemed to establish a health benefit exchange pursuant to § 1311 of the Patient Protection and Affordable Care Act codified as 42 U.S.C. § 18031. For purposes of this section, "plan management functions" means analyses and reviews necessary to support the certification, decertification, and recertification of qualified health plans and stand-alone dental plans for the federal health benefit exchange established by the Secretary of the U.S. Department of Health and Human Services pursuant to § 1321 of the Patient Protection and Affordable Care Act codified as 42 U.S.C. § 18041(e), and the collection of data necessary to perform the above functions.

B. C. The ~~Commission~~ Commission's Bureau of Insurance may contract with and enter into memoranda of understanding to carry out its plan management functions with the U.S. Department of Health and Human Services or any other state or federal agency, provided that entering into such contracts or memoranda of understanding are not deemed to establish a health benefit exchange pursuant to § 1311 of the Patient Protection and Affordable Care Act codified as 42 U.S.C. § 18031.

C. The Commission's obligation to perform plan management functions described in subsection A is contingent upon receiving federal funding sufficient to pay the operating expenses necessary to carry out the plan management functions. The Commission shall seek full reimbursement from the U.S. Department of Health and Human Services for such expenses.

D. The Commission shall not use any special fund revenues dedicated to its other functions and duties unrelated to exchange operations, including, but not limited to, revenues from utility consumer taxes or fees from licensees or registrants regulated by the Commission or fees paid to the Clerk's Office, to fund the plan management functions.

57 E. Technology resources provided by the Commission in carrying out the plan management functions
 58 shall be limited to existing Commission technology support functions such as desktop support, network
 59 administration support, web services support, or other similar support functions.

60 F. The Commission shall make available to the public on its website a written report on the
 61 implementation and performance of its plan management functions during the preceding fiscal year,
 62 including, at a minimum, the manner in which all funds utilized for its plan management functions were
 63 expended.

64 **§ 38.2-3455. Definitions.**

65 As used in this article, unless the context requires otherwise:

66 "Exchange" means a health benefit exchange established or operated in the Commonwealth, including
 67 a health benefit exchange established or operated by the U.S. Secretary of Health and Human Services,
 68 pursuant to § 1311(b) of the Patient Protection and Affordable Care Act, P.L. 111-148, as amended
 69 either a (i) federal health benefit exchange established by the Secretary of the U.S. Department of
 70 Health and Human Services pursuant to § 1321 of the Patient Protection and Affordable Care Act
 71 codified as 42 U.S.C. § 18041(c) in the Commonwealth or (ii) state-based exchange established pursuant
 72 to Chapter 65 (§ 38.2-6500 et seq.) and § 1311 (b) of the Patient Protection and Affordable Care Act
 73 codified as 42 U.S.C. § 18031.

74 "Health carrier" has the same meaning assigned to that term in § 38.2-3438.

75 "Navigator" means an individual or entity described in 42 U.S.C. § 1311(i)(2) that is selected to
 76 perform the activities and duties identified in 42 U.S.C. § 18031 (i) in the Commonwealth. "Navigator"
 77 does not include an individual or entity licensed as an agent under Chapter 18 (§ 38.2-1800 et seq.) of
 78 this title to sell, solicit, or negotiate contracts of insurance or annuity in the Commonwealth.

79 "Other affordable care options" means the programs provided under the state plan for medical
 80 assistance services pursuant to Title XIX of the Social Security Act, as amended, and the
 81 Family Access to Medical Insurance Security (FAMIS) Plan developed pursuant to Title XXI of the
 82 Social Security Act, as amended.

83 "Qualified dental plan" means a limited scope dental plan that has in effect a certification that the
 84 plan meets the criteria for certification described in § 1311(d)(2)(B)(ii) of the Patient Protection and
 85 Affordable Care Act, P.L. 111-148, as amended.

86 "Qualified health plan" means a health benefit plan that has in effect a certification that the plan
 87 meets the criteria for certification described in § 1311(c) of the Patient Protection and Affordable Care
 88 Act, P.L. 111-148, as amended.

89 "Secretary" means the Secretary of the U.S. Department of Health and Human Services.

90 **§ 38.2-3456. Prohibited activities.**

91 A. A navigator shall not:

- 92 1. Engage in any activity that would require an insurance agent license under this title;
- 93 2. Offer advice about which qualified health plan or qualified dental plan is better or worse for a
 94 particular individual or employer;
- 95 3. Act as an intermediary between an employer and an insurer that offers a qualified health plan or
 96 qualified dental plan offered through an exchange;
- 97 4. Violate any unfair trade practice and privacy requirements in §§ 38.2-502, 38.2-503, 38.2-506,
 98 38.2-509, 38.2-512, 38.2-515, 38.2-612.1, 38.2-613, and 38.2-614 to the extent such requirements are
 99 applicable to the activities of navigators; or
- 100 5. Receive compensation for services or duties as a navigator that are prohibited by federal law,
 101 including compensation from a health carrier.

102 B. An individual or entity shall not claim to be, or otherwise hold himself or itself out as, a
 103 navigator or conduct business as a navigator in the Commonwealth without:

- 104 1. Having been selected as a navigator in accordance with applicable federal *or state* law;
- 105 2. Having evidence of successful completion of all navigator requirements prescribed by the
 106 Secretary *or the Exchange*; and
- 107 3. Having met requirements established pursuant to § 38.2-3457.

108 C. If an individual or entity has engaged in the Commonwealth in one or more of the prohibited
 109 activities identified in this section, a complaint may be filed with the Commission. The Commission,
 110 upon investigation and verification of the prohibited activity or activities, may order such individual or
 111 entity to cease and desist such prohibited conduct.

112 **§ 38.2-3457. Application for registration.**

113 A. On or after September 1, 2014, no individual or entity shall act as a navigator in the
 114 Commonwealth unless such individual or entity has been certified by the U.S. Department of Health and
 115 Human Services *or the Exchange* and registered with the Commission.

116 B. An application for registration under this article shall be in the form and containing the
 117 information the Commission prescribes. Each applicant shall, at the time of applying for registration, pay

118 a nonrefundable application processing fee in an amount and in a manner prescribed by the Commission.
119 A criminal history record report shall accompany each individual registration application.

120 C. The Commission shall register the applicant if it finds that the character and general fitness of the
121 applicant are such as to warrant belief that the applicant will act as a navigator fairly, in the public
122 interest, and in accordance with law.

123 **§ 38.2-3459. Grounds for termination, placing on probation, revocation, or suspension of**
124 **registration.**

125 A. If the Commission determines that a registered navigator has violated this article, or any order or
126 regulation adopted thereunder, after notice and opportunity to be heard, the Commission may impose a
127 penalty in accordance with §§ 38.2-218 and 38.2-219 and place on probation, suspend, or revoke any
128 individual's or entity's registration.

129 B. The registration of any navigator shall terminate immediately when such navigator becomes
130 decertified by the U.S. Department of Health and Human Services; ~~whether or not the Commission has~~
131 ~~been notified of such decertification or the Exchange, as applicable.~~

132 **§ 38.2-3460. Sufficiency of federal requirements; additional standards and qualifications for**
133 **navigators.**

134 The Commission may determine whether the standards and qualifications for navigators provided by
135 42 U.S.C. § 18031 and any regulations enacted thereunder are sufficient to ensure that navigators can
136 perform the required duties. If the Commission determines that the standards and qualifications are
137 insufficient, the Commission shall ~~make a good faith effort to work in cooperation with the Secretary to~~
138 ~~propose improvements. If after a reasonable interval the Commission determines that the standards and~~
139 ~~qualifications remain insufficient, the Commission shall adopt regulations establishing additional~~
140 standards and qualifications to ensure that navigators can perform their required duties.

141 **§ 38.2-4214. Application of certain provisions of law.**

142 No provision of this title except this chapter and, insofar as they are not inconsistent with this
143 chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230,
144 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through
145 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, 38.2-700 through 38.2-705, 38.2-900
146 through 38.2-904, 38.2-1017, 38.2-1018, 38.2-1038, 38.2-1040 through 38.2-1044, Articles 1
147 (§ 38.2-1300 et seq.) and 2 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1315.1,
148 38.2-1317 through 38.2-1328, 38.2-1334, 38.2-1340, 38.2-1400 through 38.2-1442, 38.2-1446,
149 38.2-1447, 38.2-1800 through 38.2-1836, 38.2-3400, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3405.1,
150 38.2-3406.1, 38.2-3406.2, 38.2-3407.1 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.20,
151 38.2-3409, 38.2-3411 through 38.2-3419.1, 38.2-3430.1 through 38.2-3454, Article 8 (§ 38.2-3461 et
152 seq.) of Chapter 34, 38.2-3501, 38.2-3502, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504,
153 §§ 38.2-3514.1, 38.2-3514.2, §§ 38.2-3516 through 38.2-3520 as they apply to Medicare supplement
154 policies, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3541 through 38.2-3542,
155 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.),
156 § 38.2-3600 through 38.2-3607, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and
157 Chapter 58 (§ 38.2-5800 et seq.) of this title, and Chapter 65 (§ 38.2-6500 et seq.) shall apply to the
158 operation of a plan.

159 **§ 38.2-4319. Statutory construction and relationship to other laws.**

160 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this
161 chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218
162 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326,
163 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9
164 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2
165 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et
166 seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400
167 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, Chapter 15 (§ 38.2-1500 et
168 seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405,
169 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.20,
170 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1, 38.2-3414.1, 38.2-3418.1 through
171 38.2-3418.17, 38.2-3419.1, 38.2-3430.1 through 38.2-3454, Article 8 (§ 38.2-3461 et seq.) of Chapter 34,
172 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2,
173 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542,
174 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), Chapter
175 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.), and
176 Chapter 65 (§ 38.2-6500 et seq.) shall be applicable to any health maintenance organization granted a
177 license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and
178 regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with

179 respect to the activities of its health maintenance organization.

180 B. For plans administered by the Department of Medical Assistance Services that provide benefits
 181 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title
 182 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,
 183 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229,
 184 38.2-232, 38.2-322, 38.2-325, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600
 185 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057,
 186 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4
 187 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et
 188 seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.)
 189 of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 38.2-3407.6:1,
 190 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions F 1, F 2, and F 3 of § 38.2-3407.10,
 191 §§ 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 38.2-3411.2, 38.2-3418.1,
 192 38.2-3418.2, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, subdivision 13 of § 38.2-3503,
 193 subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525,
 194 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.),
 195 Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.), and Chapter 65 (§ 38.2-6500 et
 196 seq.) shall be applicable to any health maintenance organization granted a license under this chapter.
 197 This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance
 198 with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its
 199 health maintenance organization.

200 C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives
 201 shall not be construed to violate any provisions of law relating to solicitation or advertising by health
 202 professionals.

203 D. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful
 204 practice of medicine. All health care providers associated with a health maintenance organization shall
 205 be subject to all provisions of law.

206 E. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health
 207 maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to
 208 offer coverage to or accept applications from an employee who does not reside within the health
 209 maintenance organization's service area.

210 F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and
 211 B shall be construed to mean and include "health maintenance organizations" unless the section cited
 212 clearly applies to health maintenance organizations without such construction.

213 **§ 38.2-4509. Application of certain laws.**

214 A. No provision of this title except this chapter and, insofar as they are not inconsistent with this
 215 chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229,
 216 38.2-316, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through
 217 38.2-620, 38.2-900 through 38.2-904, 38.2-1038, 38.2-1040 through 38.2-1044, Articles 1 (§ 38.2-1300
 218 et seq.) and 2 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1315.1, Articles 4
 219 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), and 6 (§ 38.2-1335 et seq.) of Chapter 13, §§ 38.2-1400
 220 through 38.2-1442, 38.2-1446, 38.2-1447, 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3404,
 221 38.2-3405, 38.2-3407.1, 38.2-3407.4, 38.2-3407.10, 38.2-3407.13, 38.2-3407.14, 38.2-3407.15,
 222 38.2-3407.17, 38.2-3407.17:1, 38.2-3407.19, 38.2-3415, 38.2-3541, Article 5 (§ 38.2-3551 et seq.) of
 223 Chapter 35, §§ 38.2-3600 through 38.2-3603, Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58
 224 (§ 38.2-5800 et seq.), and Chapter 65 (§ 38.2-6500 et seq.) shall apply to the operation of a plan.

225 B. The provisions of subsection A of § 38.2-322 shall apply to an optometric services plan. The
 226 provisions of subsection C of § 38.2-322 shall apply to a dental services plan.

227 C. The provisions of Article 1.2 (§ 32.1-137.7 et seq.) of Chapter 5 of Title 32.1 shall not apply to
 228 either an optometric or dental services plan.

229 D. The provisions of § 38.2-3407.1 shall apply to claim payments made on or after January 1, 2014.
 230 No optometric or dental services plan shall be required to pay interest computed under § 38.2-3407.1 if
 231 the total interest is less than \$5.

232 **CHAPTER 65.**

233 **VIRGINIA HEALTH BENEFIT EXCHANGE.**

234 **§ 38.2-6500. Definitions.**

235 *As used in this chapter, unless the context requires a different meaning:*

236 *"American Health Benefit Exchange" means the program established as a component of the*
 237 *Exchange pursuant to this chapter that is designed to facilitate the purchase of qualified health plans or*
 238 *qualified dental plans by qualified individuals.*

239 *"Bureau" means the Bureau of Insurance, a division within the Commission through which it*

240 administers insurance law.

241 "Certified application counselor" means individuals certified by the Exchange to perform the duties
242 described in 45 C.F.R. § 155.255(c).

243 "Commission" means the State Corporation Commission.

244 "Committee" means the Advisory Committee established pursuant to § 38.2-6503.

245 "Director" means the Director of the Division appointed by the Commission pursuant to § 38.2-6502.

246 "Division" means the Health Benefit Exchange Division, a division within the Commission through
247 which it administers the Exchange.

248 "Eligible employee" means an individual employed by a qualified employer who has been offered
249 health insurance coverage by such qualified employer through the SHOP exchange.

250 "Eligible entity" means the Bureau, the Department of Medical Assistance Services, or a qualified
251 vendor that has demonstrated experience on a statewide or regional basis in individual and small group
252 health insurance markets and in benefits coverage; however, a health carrier or an affiliate of a health
253 carrier is not an eligible entity.

254 "Essential health benefits package" means the scope of covered benefits and associated limits of a
255 health benefit plan that (i) provides benefits pursuant to § 38.2-3451; (ii) provides the benefits in the
256 manner described in 45 C.F.R. § 156.115; (iii) limits cost-sharing for such coverage as described in 45
257 C.F.R. § 156.130; and (iv) subject to offering catastrophic plans as described in § 1302(e) of the
258 Federal Act, provides distinct levels of coverage as described in 45 C.F.R. § 156.140.

259 "Exchange" means, as the context requires, either (i) the Division or (ii) the Virginia Health Benefit
260 Exchange established pursuant to the provisions of this chapter and in accordance with § 1311(b) of the
261 Federal Act, through which qualified health plans and qualified dental plans are made available to
262 qualified individuals through the American Health Benefit Exchange and to qualified employers through
263 the SHOP exchange. "Exchange," when referring to the Virginia Health Benefit Exchange, collectively
264 refers to both the American Health Benefit Exchange and the SHOP exchange.

265 "FAMIS" means the Family Access to Medical Insurance Security Plan, including the FAMIS Plus
266 program, established pursuant to Chapter 13 (§ 32.1-351 et seq.) of Title 32.1.

267 "Federal Act" means the federal Patient Protection and Affordable Care Act, P.L. 111-148, as
268 amended by the Health Care and Education Reconciliation Act of 2010, P.L. 111-152, and as it may
269 further be amended, and regulations issued thereunder.

270 "Health benefit plan" or "plan" means a policy, contract, certificate, or agreement offered or issued
271 by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care
272 services. The term does not include coverage only for accident or disability income insurance, or any
273 combination thereof; coverage issued as a supplement to liability insurance; liability insurance,
274 including general liability insurance and automobile liability insurance; workers' compensation or
275 similar insurance; automobile medical payment insurance; credit-only insurance; coverage for onsite
276 medical clinics; or other similar insurance coverage, specified in federal regulations issued pursuant to
277 the Federal Act, under which benefits for medical care are secondary or incidental to other insurance
278 benefits. The term does not include the following benefits if they are provided under a separate policy,
279 certificate, or contract of insurance or are otherwise not an integral part of the plan: limited scope
280 dental or vision benefits; benefits for long-term care, nursing home care, home health care,
281 community-based care, or any combination thereof; or other similar limited benefits specified in federal
282 regulations issued pursuant to the Federal Act. The term does not include the following benefits if the
283 benefits are provided under a separate policy, certificate, or contract of insurance; there is no
284 coordination between the provision of the benefits and any exclusion of benefits under any group health
285 plan maintained by the same plan sponsor; and the benefits are paid with respect to an event without
286 regard to whether benefits are provided with respect to such an event under any group health plan
287 maintained by the same plan sponsor: coverage only for a specified disease or illness, for hospital
288 indemnity, or other fixed indemnity insurance. The term does not include the following if offered as a
289 separate policy, certificate, or contract of insurance: Medicare supplemental health insurance as defined
290 under § 1882(g)(1) of the U.S. Social Security Act; coverage supplemental to the coverage provided
291 under 10 U.S.C. § 1071 et seq. (TRICARE); or similar supplemental coverage provided under a group
292 health plan.

293 "Health carrier" or "carrier" means an entity subject to the insurance laws and regulations of the
294 Commonwealth and subject to the jurisdiction of the Commission that contracts or offers to contract to
295 provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including an
296 insurer licensed to sell accident and sickness insurance, a health maintenance organization, a health
297 services plan, a dental plan organization, a dental services plan, or any other entity providing a plan of
298 health insurance, health benefits, or health care services.

299 "Insurance agent" has the same meaning as provided in § 38.2-1800.

300 "Minimum essential coverage" means coverage defined in 45 C.F.R. § 156.600.

301 "Navigator" means an individual or entity that is registered pursuant to § 38.2-3457.

302 "PHSA" means the federal Public Health Service Act, Chapter 6A of Title 42 of the United States
303 Code, as amended.

304 "Qualified dental plan" means a limited scope dental plan that has been certified in accordance with
305 § 38.2-6506.

306 "Qualified employer" means a small employer that elects to make all of its full-time employees
307 eligible for one or more qualified health plans or qualified dental plans in the small group market
308 offered through the SHOP exchange and, at the employer's option, some or all of its part-time
309 employees, provided that the employer (i) has its principal place of business in the Commonwealth and
310 elects to provide coverage through the SHOP exchange to all of its eligible employees, wherever
311 employed, or (ii) elects to provide coverage through the SHOP exchange to all of its eligible employees
312 who are principally employed in the Commonwealth.

313 "Qualified health plan" means a health benefit plan that has in effect a certification that the plan
314 meets the criteria for certification described in § 1311(c) of the Federal Act and § 38.2-6506.

315 "Qualified individual" means an individual, including a minor, who (i) is seeking to enroll in a
316 qualified health plan or qualified dental plan offered to individuals through the Exchange; (ii) resides in
317 the Commonwealth; (iii) is not incarcerated at the time of enrollment, other than incarceration pending
318 the disposition of charges; and (iv) is, and is reasonably expected to be, for the entire period for which
319 enrollment is sought, a citizen or a national of the United States or an alien lawfully present in the
320 United States.

321 "Secretary" means the Secretary of the U.S. Department of Health and Human Services.

322 "SHOP exchange" means the Small Business Health Options Program, established as a component of
323 the Exchange pursuant to this chapter, through which a qualified employer can provide its eligible
324 employees and their dependents with access to one or more qualified health plans or qualified dental
325 plans.

326 "Small employer" means an employer that employed an average of not more than 50 employees
327 during the preceding calendar year. For the purposes of this definition: (a) all persons treated as a
328 single employer under subsection (b), (c), (m), or (o) of 26 U.S.C. § 414 shall be treated as a single
329 employer; (b) an employer and any predecessor employer shall be treated as a single employer; and (c)
330 all employees shall be counted, including part-time employees and employees who are not eligible for
331 health insurance coverage through the employer. If an employer was not in existence throughout the
332 preceding calendar year, the determination of whether the employer is a small employer shall be based
333 on the average number of employees reasonably expected to be employed by the employer on business
334 days in the current calendar year. An employer that makes enrollment in qualified health plans or
335 qualified dental plans available to its eligible employees through the SHOP exchange and that no longer
336 meets the definition of a small employer because of an increase in the number of its employees shall
337 continue to be treated as a small employer for purposes of this chapter as long as that employer
338 continuously makes enrollment through the SHOP exchange available to its eligible employees.

339 "Small group market" means the health insurance market under which individuals obtain health
340 insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents
341 through a group health plan maintained by a small employer.

342 "State-mandated health benefit" means coverage required under this title or other laws of the
343 Commonwealth to be provided in a policy of accident and sickness insurance, an accident and sickness
344 subscription contract, or a health maintenance organization health care plan that includes coverage for
345 specific health care services or benefits.

346 "State Medicaid Program" means the Commonwealth's Medicaid program under Title XIX of the
347 Social Security Act, as amended from time to time.

348 **§ 38.2-6501. Exchange objectives.**

349 The Virginia Health Benefit Exchange shall make qualified health plans and qualified dental plans
350 available to qualified individuals in the Commonwealth and provide for the establishment of a Small
351 Business Health Options Program to assist qualified small employers in the Commonwealth in
352 facilitating the enrollment of their eligible employees in qualified health plans and qualified dental plans
353 offered in the small group market. The Exchange shall promote a transparent and competitive
354 marketplace, promote consumer choice and education, and assist individuals with access to programs,
355 policies and procedures, premium assistance tax credits, and cost-sharing reductions to support the
356 continuity of coverage and reduce the number of uninsured.

357 **§ 38.2-6502. Division established; Exchange created.**

358 A. The Commission shall establish the Health Benefit Exchange Division as a separate division
359 within the Commission. The Virginia Health Benefit Exchange shall be established and administered by
360 the Commission, through the Division, in compliance with the requirements of this chapter and the
361 Federal Act. The Exchange shall facilitate the purchase and sale of qualified health plans and qualified

362 dental plans to qualified individuals and qualified employers. The Commission shall ensure that the
 363 Exchange and Bureau Divisions work in agreement to administer consistent regulation of Exchange
 364 plans.

365 B. The Commission shall appoint a Director of the Division, who shall have overall management
 366 responsibility for the Exchange.

367 C. The Commission, through the Division, shall have governing power and authority in any matter
 368 pertaining to the Exchange. The Commission may delegate as it may deem proper such powers and
 369 duties to the Director.

370 D. The Commission shall carry out its duties and responsibilities under this chapter in accordance
 371 with its rules of practice and procedure and shall decide all matters related to the Exchange in the
 372 same manner as it does when performing its other regulatory, judicial, and administrative duties and
 373 responsibilities under this Code.

374 E. The Commission may adopt rules and regulations pursuant to § 38.2-223 as may be necessary or
 375 appropriate for the administration of the Exchange.

376 **§ 38.2-6503. Advisory Committee.**

377 A. There is hereby established an Advisory Committee in accordance with § 1311 (d) of the Federal
 378 Act and 45 C.F.R. § 155.110 to advise and provide recommendations to the Commission and the
 379 Director in carrying out the purposes and duties of the Exchange. The Committee shall consist of up to
 380 15 members. Members shall be appointed as follows: five nonlegislative citizen members to be appointed
 381 by the Governor, each of whom shall have demonstrated and acknowledged expertise in individual
 382 health coverage, small employer health coverage, health benefits plan administration, health care
 383 finance and economics, actuarial science, or with expertise in eligibility and enrollment in health care
 384 affordability programs and public health insurance; at least three nonlegislative citizen members
 385 appointed by the Commission, including an individual representing an organization that represents the
 386 Virginia insurance industry, an individual representing insurance agents, and a consumer representative;
 387 and any other members determined by the Commission. The Commissioner of Insurance, the Director of
 388 the Department of Medical Assistance Services, the State Health Commissioner, the Commissioner of the
 389 Department of Social Services, and the Secretary of Health and Human Resources, or their designees,
 390 shall serve as *ex officio* nonvoting members of the Committee.

391 B. No member of the Committee shall be a legislator or hold any elective office in state government.

392 C. A majority of the members appointed by the Governor and a majority of the members appointed
 393 by the Commission shall have no conflict of interest as set forth in the Federal Act.

394 D. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term
 395 of four years. No nonlegislative citizen member shall serve more than two consecutive four-year terms.
 396 The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term
 397 in determining the member's eligibility for reappointment.

398 E. The Committee shall elect a chairman and vice-chairman from among its membership. A majority
 399 of the appointed members shall constitute a quorum.

400 F. All meetings of the Committee shall be announced at least one week in advance on the Exchange
 401 website and shall be open to the public. The Committee shall permit reasonable public comment
 402 concerning matters on a meeting's agenda at meetings not less frequently than biennially. The
 403 Committee shall announce prior to its meetings whether public comment will be accepted. The
 404 Committee shall accept written comment from the public on an ongoing basis.

405 G. Minutes of meetings of the Committee, which shall include the Committee's recommendations and
 406 responses to its recommendations, shall be available to the public and posted on the Exchange's website.

407 **§ 38.2-6504. Exchange requirements.**

408 A. The Exchange shall make qualified health plans and qualified dental plans available to qualified
 409 individuals and qualified employers, beginning on a date set by the Commission, which date shall not be
 410 later than January 1, 2023, unless the Commission determines that postponement of such date is
 411 necessary to complete the establishment of the Exchange. The Exchange shall not make available any
 412 health benefit plan that is not a qualified health plan. The Exchange shall allow a health carrier to
 413 offer a qualified dental plan either to supplement a qualified health plan or separately, as practicable.

414 B. The Exchange shall provide for the establishment of a SHOP exchange that will permit enrollment
 415 of eligible employees of qualified small employers in the Commonwealth directly through qualified
 416 health plan issuers, qualified dental plan issuers, or licensed agents that meet established Exchange
 417 standards.

418 C. The Exchange shall allow a health carrier to offer a plan that provides limited scope dental
 419 benefits meeting the requirements of § 9832(c)(2)(A) of the Internal Revenue Code of 1986 through the
 420 Exchange, if the plan provides pediatric dental benefits meeting the requirements of § 1302(b)(1)(J) of
 421 the Federal Act.

422 D. Neither the Exchange nor a carrier offering qualified health benefit plans through the Exchange

423 may charge an individual a fee or penalty for termination of coverage if the individual enrolls in
 424 another type of minimum essential coverage because the individual has become newly eligible for that
 425 coverage or because the individual's employer-sponsored coverage has become affordable under the
 426 standards of § 36B(c)(2)(C) of the Internal Revenue Code of 1986.

427 E. The Exchange and any associated programs shall be established and operated and offer plans in
 428 compliance with § 1321 (b) of the Federal Act.

429 **§ 38.2-6505. Duties of Exchange.**

430 The Exchange shall:

431 1. Implement procedures for the certification, recertification, and decertification of qualified health
 432 plans and qualified dental plans consistent with guidelines developed by the Secretary under § 1311(c)
 433 of the Federal Act and § 38.2-6506;

434 2. Provide for enrollment periods under § 1311(c)(6) of the Federal Act;

435 3. Provide for the operation of a toll-free telephone hotline to respond to requests for assistance;

436 4. Utilize a website on which enrollees and prospective enrollees of qualified health plans and
 437 qualified dental plans may obtain standardized comparative information. Information on qualified health
 438 plans shall include, at a minimum, (i) premium and cost-sharing information; (ii) the summary of
 439 benefits and coverage offered; (iii) identification of a qualified health plan as a bronze-level,
 440 silver-level, gold-level, or platinum-level plan as defined by § 1302(d) of the Federal Act or a
 441 catastrophic plan as defined by § 1302(e) of the Federal Act; (iv) the results of enrollee satisfaction
 442 surveys, described in § 1311(c)(4) of the Federal Act; (v) quality ratings assigned pursuant to
 443 § 1311(c)(3) of the Federal Act; (vi) medical loss ratio information as reported to the Secretary in
 444 accordance with 45 C.F.R. Part 158; (vii) transparency of coverage measures reported to the Exchange
 445 during certification processes; and (viii) the provider directory made available to the Exchange. The
 446 website shall be accessible to persons with disabilities, shall provide meaningful access for persons with
 447 limited English proficiency, and shall contain the information described in clauses (i) through (viii)
 448 without diversion to a website of a carrier;

449 5. Assign a rating to each qualified health plan offered through the Exchange in accordance with the
 450 criteria developed by the Secretary under § 1311(c)(3) of the Federal Act;

451 6. Determine each qualified health plan's level of coverage in accordance with regulations issued by
 452 the Secretary under § 1302(d)(2)(A) of the Federal Act;

453 7. Use a standardized format for presenting health benefit options in the Exchange, including the use
 454 of the uniform outline of coverage as established under § 2715 of the PHSA, 42 U.S.C. § 300gg-15;

455 8. Inform individuals, in accordance with § 1413 of the Federal Act, of eligibility requirements for (i)
 456 the State Medicaid Program; (ii) the Children's Health Insurance Program (CHIP) under Title XXI of
 457 the Social Security Act, including FAMIS, as amended from time to time; or (iii) any applicable state or
 458 local public health subsidy program, and enroll an individual in such program if it is determined,
 459 through screening of the application, that such individual is eligible for any such program;

460 9. Make available by electronic means through the website described in subdivision 4 a calculator to
 461 determine the actual cost of coverage after application of any premium assistance tax credit under 26
 462 U.S.C. § 36B and any cost-sharing reduction under § 1402 of the Federal Act;

463 10. Establish an American Health Benefit Exchange through which qualified individuals may enroll
 464 in any qualified health plan or qualified dental plan offered through the American Health Benefit
 465 Exchange for which they are eligible and establish a SHOP exchange through which qualified employers
 466 may make their eligible employees eligible for one or more qualified health plans or qualified dental
 467 plans offered through the SHOP exchange or specify a level of coverage so that any of their eligible
 468 employees may enroll in any qualified health plan or qualified dental plan offered through the SHOP
 469 exchange at the specified level of coverage;

470 11. Subject to § 1411 of the Federal Act, grant a certification attesting that, for purposes of the
 471 individual responsibility penalty under § 5000A of the Internal Revenue Code of 1986, an individual is
 472 exempt from the individual responsibility requirement or from the penalty imposed by that section
 473 because there is no affordable qualified health plan available through the Exchange, or the individual's
 474 employer, covering the individual or the individual meets the requirements for any other such exemption
 475 from the individual responsibility requirement or penalty;

476 12. Transfer to the U.S. Secretary of the Treasury the following:

477 a. A list of the individuals who are issued a certification under subdivision 11, including the name
 478 and taxpayer identification number of each individual;

479 b. The name and taxpayer identification number of each individual who was an employee of an
 480 employer but who was determined to be eligible for the premium assistance tax credit under 26 U.S.C.
 481 § 36B because (i) the employer did not provide minimum essential coverage or (ii) the employer
 482 provided minimum essential coverage but a determination under 26 U.S.C. § 36B(c)(2)(C) found that
 483 either the coverage was unaffordable for the employee or did not provide the required minimum

484 actuarial value; and

485 c. The name and taxpayer identification number of (i) each individual who notifies the Exchange
486 under 42 U.S.C. § 18081 that the individual has changed employers and (ii) each individual who ceases
487 coverage under a qualified health plan and the effective date of the cessation;

488 13. Provide to each employer the name of each of the employer's employees described in subdivision
489 12 b who ceases coverage under a qualified health plan during a plan year and the effective date of the
490 cessation;

491 14. Perform duties required of the Exchange by the Secretary or the U.S. Secretary of the Treasury
492 related to determining eligibility for premium assistance tax credits, reduced cost-sharing, or individual
493 responsibility requirement exemptions;

494 15. Certify entities qualified to serve as Navigators in accordance with § 1311(i) of the Federal Act
495 and § 38.2-6513;

496 16. Consult with stakeholders relevant to carrying out the activities required under this chapter,
497 including:

498 a. Health care consumers who are enrollees in qualified health plans and qualified dental plans;

499 b. Individuals and entities with experience in facilitating enrollment in qualified health plans and
500 qualified dental plans;

501 c. Advocates for enrolling hard-to-reach populations, which include individuals with mental health or
502 substance use disorders;

503 d. Representatives of small businesses and self-employed individuals;

504 e. The Department of Medical Assistance Services;

505 f. Federally recognized tribes, as defined in the Federally Recognized Indian Tribe List Act of 1994
506 (25 U.S.C. § 479a), that are located within the Exchange's geographic area;

507 g. Public health experts;

508 h. Health care providers;

509 i. Large employers;

510 j. Health carriers; and

511 k. Insurance agents;

512 17. Meet the following financial integrity requirements:

513 a. Keep an accurate accounting of all activities, receipts, and expenditures and annually submit to
514 the Secretary, the Governor, and the Commission a report concerning such accountings;

515 b. Fully cooperate with any investigation conducted by the Secretary pursuant to the Secretary's
516 authority under the Federal Act and allow the Secretary, in coordination with the Inspector General of
517 the U.S. Department of Health and Human Services, to:

518 (1) Investigate the affairs of the Exchange;

519 (2) Examine the properties and records of the Exchange; and

520 (3) Require periodic reports in relation to the activities undertaken by the Exchange; and

521 c. Not use any funds in carrying out its activities under this chapter that are intended for the
522 administrative and operational expenses of the Exchange for staff retreats, promotional giveaways,
523 excessive executive compensation, or promotion of federal or state legislative and regulatory
524 modifications;

525 18. In collaboration with the Department of Medical Assistance Services, coordinate the operations
526 of the Exchange with the operations of the state plan for medical assistance to determine initial and
527 ongoing eligibility for those programs in a streamlined fashion; and

528 19. Take any other actions necessary and appropriate to ensure that the Exchange complies with the
529 requirements of the Federal Act.

530 **§ 38.2-6506. Certification of health benefit plans as qualified health plans.**

531 A. The Exchange, in consultation with the Bureau, shall certify a health benefit plan as a qualified
532 health plan, unless the Exchange determines that making the plan available through the Exchange is not
533 in the interest of qualified individuals and qualified employers in the Commonwealth, if:

534 1. The plan provides the essential health benefits package, except that (i) the plan shall not provide
535 any state-mandated health benefit that is not provided in the essential health benefits package and (ii)
536 the plan is not required to provide benefits that duplicate the minimum benefits of qualified dental
537 plans, as set forth in subsection F, if (a) the Exchange has determined that at least one qualified dental
538 plan is available to supplement the plan's coverage and (b) the health carrier makes prominent
539 disclosure at the time it offers the plan, in a form approved by the Bureau, that such plan does not
540 provide the full range of pediatric dental benefits included in the essential health benefits package and
541 that qualified dental plans providing those benefits and other dental benefits not covered by such plan
542 are offered through the Exchange;

543 2. The premium rates and policy forms have been approved by or filed with the Commission, in
544 accordance with §§ 38.2-316 and 38.2-316.1;

545 3. The plan provides at least a bronze level of coverage unless the plan is certified as a qualified
 546 catastrophic plan, meets the requirements of the Federal Act for catastrophic plans, and will only be
 547 offered to individuals eligible for catastrophic coverage;

548 4. The plan's cost-sharing requirements do not exceed the limits established under § 1302(c)(1) of the
 549 Federal Act;

550 5. The health carrier offering the plan:

551 a. Is licensed and in good standing to offer health insurance coverage in the Commonwealth;

552 b. Offers (i) at least one qualified health plan in the silver level of coverage and one qualified health
 553 plan at a gold level of coverage throughout each service area in which it offers coverage through the
 554 Exchange and (ii) a child-only plan at the same level of coverage as any qualified health plan offered
 555 through the Exchange to individuals who, as of the beginning of the plan year, are less than 21 years of
 556 age;

557 c. Charges the same premium rate for each qualified health plan without regard to whether the plan
 558 is offered through the Exchange or directly by the health carrier or through an agent;

559 d. Does not charge any cancellation fees or penalties in violation of subsection D of § 38.2-6504;
 560 and

561 e. Complies with the regulations developed by the Secretary under § 1311(d) of the Federal Act and
 562 such other requirements as the Exchange may establish; and

563 6. The plan meets the requirements of certification as adopted by regulation pursuant to § 38.2-6514
 564 or promulgated by the Secretary under § 1311(c) of the Federal Act, which include minimum standards
 565 in the areas of marketing practices, network adequacy, essential community providers in underserved
 566 areas, accreditation, quality improvement, uniform enrollment forms, and descriptions of coverage and
 567 information on quality measures for health benefit plan performance.

568 B. The Exchange shall not refuse to certify a health benefit plan as a qualified health plan (i) on the
 569 basis that the plan is a fee-for-service plan, (ii) through the imposition of premium price controls by the
 570 Exchange, or (iii) on the basis that the health benefit plan provides treatments necessary to prevent
 571 patients' deaths in circumstances that the Exchange determines are inappropriate or too costly.

572 C. In order to foster a competitive marketplace and consumer choice, the Exchange shall certify all
 573 health benefit plans recommended by the Bureau meeting the requirements of § 1311(c) of the Federal
 574 Act for participation in the Exchange unless it is not in the interest of qualified individuals and qualified
 575 employers. The Exchange shall establish and publish a transparent, objective process for decertifying
 576 qualified health plans if it is determined that it is not in the public interest to permit such plans to be
 577 offered through the Exchange.

578 D. The Exchange shall require each health carrier seeking certification of a health benefit plan as a
 579 qualified health plan to permit individuals to learn, in a timely manner upon the request of the
 580 individual, the amount of cost-sharing, including deductibles, copayments, and coinsurance, under the
 581 individual's plan or coverage that such individual would be responsible for paying with respect to the
 582 furnishing of a specific item or service by a participating provider. At a minimum, this information shall
 583 be made available to the individual through the Exchange's website and through other means for
 584 individuals without access to the Internet.

585 E. The Exchange shall apply the criteria of this section in a manner that assures a level playing field
 586 between or among health carriers participating in the Exchange.

587 F. The provisions of this chapter that are applicable to qualified health plans shall also apply to the
 588 extent applicable to qualified dental plans, except as modified (i) by regulations adopted by the
 589 Commission or (ii) in accordance with the following:

590 1. A health carrier seeking certification of a dental benefit plan as a qualified dental plan shall be
 591 licensed in the Commonwealth to offer dental coverage but need not be licensed to offer other health
 592 benefits;

593 2. Qualified dental plans shall be limited to dental and oral health benefits, without substantial
 594 duplication of the benefits typically offered by health benefit plans without dental coverage, and shall
 595 include, at a minimum, the pediatric dental benefits prescribed by the Secretary pursuant to
 596 § 1302(b)(1)(J) of the Federal Act and such other dental benefits as the Exchange may specify or the
 597 Secretary may specify by regulation; and

598 3. Participants in the Exchange shall have the option to purchase at least the pediatric dental benefit
 599 component of the essential health benefits package either through a separate qualified dental plan or as
 600 a part of a combined offer by a qualified health plan, provided that, with respect to a combined offer,
 601 the health and dental benefits are priced separately and also made available for purchase separately at
 602 the same price.

603 **§ 38.2-6507. Appeal of decertification or denial of certification.**

604 A. The Exchange shall give each health carrier the opportunity to appeal a decertification decision
 605 or the denial of certification as a qualified health plan or qualified dental plan.

606 B. The Exchange shall give each health carrier that appeals a decertification decision or the denial
607 of certification the opportunity for:

608 1. The submission and consideration of facts, arguments, or proposals of adjustment of the plan or
609 plans at issue; and

610 2. A hearing and a decision on the record, to the extent that the Exchange and the health carrier are
611 unable to reach agreement following the submission of the information in subdivision 1.

612 C. Any hearing held pursuant to subsection B shall be conducted by the Commission in accordance
613 with its rules of practice and procedure.

614 D. Any final action or order of the Commission shall be subject to judicial review in accordance
615 with the provisions of §§ 12.1-39, 12.1-40, and 12.1-41.

616 **§ 38.2-6508. Open enrollment periods.**

617 Health carriers shall be permitted to utilize open enrollment periods outside of an Exchange as
618 permitted inside of an Exchange pursuant to § 1311(c)(6) of the Federal Act.

619 **§ 38.2-6509. Choice.**

620 A. In accordance with § 1312(f)(2)(A) of the Federal Act, a qualified employer may either designate
621 one or more qualified health plans from which its eligible employees may choose or designate any level
622 of coverage to be made available to eligible employees through an Exchange.

623 B. In accordance with § 1312(b) of the Federal Act, a qualified individual enrolled in any qualified
624 health plan may pay any applicable premium owed by such individual to the health carrier issuing such
625 qualified health plan.

626 C. In accordance with § 1312(d) of the Federal Act:

627 1. This section shall not prohibit:

628 a. A health carrier from offering outside of an Exchange a health benefit plan to a qualified
629 individual or qualified employer; or

630 b. A qualified individual from enrolling in, or a qualified employer from selecting for its eligible
631 employees, a health benefit plan offered outside of an Exchange; and

632 2. This section shall not limit the operation of any requirement under state law or regulation with
633 respect to any policy or plan that is offered outside of the Exchange with respect to any requirement to
634 offer benefits.

635 D. Nothing in this section shall restrict the choice of a qualified individual to enroll or not to enroll
636 in a qualified health plan or to participate in an Exchange.

637 E. Nothing in this section shall compel an individual to enroll in a qualified health plan or to
638 participate in an Exchange.

639 F. A qualified individual may enroll in any qualified health plan, except that in the case of a
640 catastrophic plan described in § 1302(e) of the Federal Act, a qualified individual may enroll in the
641 plan only if the individual is eligible to enroll in the plan under § 1302(e)(2) of the Federal Act.

642 G. In accordance with § 1312(e) of the Federal Act, the Exchange may, for a licensed agent who
643 agrees to comply with regulatory requirements, including advance registration with the Exchange,
644 completion of training, and adherence to privacy and security standards set by the Exchange, allow
645 such licensed agents:

646 1. To enroll qualified individuals and qualified employers in any qualified health plan or any
647 qualified dental plan offered through the Exchange for which the individual or employer is eligible; and

648 2. To assist qualified individuals in applying for premium tax credits and cost-sharing reductions for
649 qualified health plans purchased through the Exchange.

650 **§ 38.2-6510. Health Insurance Exchange Fund; assessment.**

651 A. The Exchange shall be authorized to fund its operations through (i) special fund revenues
652 generated by assessment fees on health carriers offering plans through the Exchange, (ii) funds
653 described in subsection H, or (iii) such funds as the General Assembly may from time to time
654 appropriate. All such funds received under this section and paid into the state treasury shall be
655 deposited to a special fund designated "Health Insurance Exchange Special Fund State Corporation
656 Commission." Interest earned on moneys in the Fund shall remain in the Fund and be credited to it.
657 Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not
658 revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the
659 purposes of supporting the Exchange through initial start-up costs associated with establishment of the
660 Exchange, Exchange operations, outreach, and enrollment, a Navigator program, and other means of
661 supporting the Exchange.

662 B. The Exchange shall have funding from the sources described in subsection A in an amount
663 sufficient to support its ongoing operations.

664 C. Assessments on health carriers shall be reasonable and necessary to support the development,
665 operations, and prudent cash management of the Exchange. Assessments shall be approved by the
666 Commission prior to implementation and shall not exceed three percent of the carrier's total monthly

667 premium as described in this subsection, except that the Commission may, after notice and opportunity
668 to be heard, adjust the assessment rate if necessary to ensure that the Exchange is fully funded. The
669 assessment shall be based on the premium charged by a carrier for health benefits plans issued on the
670 American Health Benefits Exchange and each qualified dental plan offered on the American Health
671 Benefits Exchange during any period in which qualified health plans and qualified dental plans are
672 effective on the American Health Benefits Exchange.

673 D. Taxes, fees, or assessments used to finance the Exchange shall be clearly disclosed by the
674 Exchange as such.

675 E. Taxes, fees, or assessments used to finance the Exchange shall be considered a state tax or
676 assessment, as defined in § 2718(a) of the PHSA and its implementing regulations, and shall be
677 excluded from health carrier administrative costs for the purpose of calculating medical loss ratios or
678 rebates.

679 F. Assessments and fees shall not affect the requirement under § 1301 of the Federal Act that
680 carriers charge the same premium rate for each qualified health plan whether offered inside or outside
681 the Exchange.

682 G. A written report on the implementation and performance of the Exchange functions during the
683 preceding fiscal year, including, at a minimum, the manner in which funds were expended, shall be
684 made available to the public on the website of the Exchange.

685 H. The Exchange is authorized to apply for and accept federal grants, other federal funds, and
686 grants from nongovernmental organizations for the purposes of developing, implementing, and
687 administering the Exchange.

688 I. The Commission shall not use any special fund revenues dedicated to its other functions and
689 duties, including revenues from utility consumer taxes or fees from licensees regulated by the
690 Commission, or fees paid to the office of the clerk of the Commission, to fund any of the activities or
691 operating expenses of the Exchange.

692 **§ 38.2-6511. Procurement, contracting, and personnel.**

693 A. The Commission may contract with other eligible entities and enter into memoranda of
694 understanding with other agencies of the Commonwealth to carry out any of the functions of the
695 Exchange, including agreements with other states or federal agencies to perform joint administrative
696 functions. Such contracts are not subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

697 B. The Exchange shall not enter into contracts with any health carrier or an affiliate of a health
698 carrier.

699 C. Employees of the Exchange shall be (i) exempt from application of the Virginia Personnel Act
700 (§ 2.2-2900 et seq.) and Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2, as hereinafter amended or
701 recodified, to the same extent as other employees of the Commission; (ii) eligible for participation in the
702 Virginia Retirement System to the same extent as other similarly situated employees of the Commission;
703 and (iii) compensated and managed in accordance with the Commission's practices and policies
704 applicable to all Commission employees.

705 **§ 38.2-6512. Confidentiality.**

706 A. Notwithstanding any other provision of law, the records of the Exchange shall be open to public
707 inspection, except that the following information shall not be subject to disclosure: (i) the names and
708 applications of individuals and employers seeking coverage through the Exchange, (ii) individuals'
709 health information, (iii) information exchanged between the Exchange and any other state agency that is
710 subject to confidentiality agreements under contracts entered into with the Exchange, and (iv)
711 communications covered by an applicable legal or other privilege or such internal communications
712 related to the Exchange that are designated confidential in regulations promulgated by the Commission
713 to implement the provisions of this chapter.

714 B. The Exchange may enter into information-sharing agreements with federal and state agencies and
715 other states' health benefit exchanges to carry out its responsibilities under this chapter, provided that
716 such agreements include adequate protections with respect to the confidentiality of the information to be
717 shared and comply with all state and federal laws and regulations.

718 **§ 38.2-6513. Navigators.**

719 A. No person shall act as a Navigator unless the person is registered pursuant to Article 7
720 (§ 38.2-3455 et seq.) of Chapter 34 and is certified by either the U.S. Department of Health and Human
721 Services or the Exchange.

722 B. The Exchange shall establish a program under which it shall award grants to Navigators to carry
723 out the following duties:

724 1. Conduct public education activities to raise awareness of the availability of qualified health plans,
725 qualified dental plans, the State Medicaid Program, and FAMIS;

726 2. Distribute fair and impartial information concerning enrollment in qualified health plans, qualified
727 dental plans, the State Medicaid Program, and FAMIS and the availability of premium tax credits under

728 § 36B of the Internal Revenue Code of 1986 and cost-sharing reductions under § 1402 of the Federal
729 Act;

730 3. Provide in-person assistance to facilitate enrollment in qualified health plans, qualified dental
731 plans, the State Medicaid Program, and FAMIS;

732 4. Provide referrals to any applicable office of health insurance consumer assistance or health
733 insurance ombudsman established under § 2793 of the PHSA, or any other appropriate state agency or
734 agencies, for any enrollee with a grievance, complaint, or question regarding his health benefit plan,
735 coverage, or a determination under that plan or coverage;

736 5. Provide information in a manner that is culturally and linguistically appropriate to the needs of
737 the population being served by the Exchange and ensure accessibility and usability of Navigator tools
738 and functions for individuals with disabilities in accordance with the Americans with Disabilities Act
739 (P.L. 101-336) and § 504 of the Rehabilitation Act as required by 45 C.F.R. § 155.210; and

740 6. Assist consumers with post-enrollment activities, including completing verification requests,
741 accessing Special Enrollment Periods, accessing health insurance related tax forms, and assisting with
742 complex cases and appeals.

743 C. To be eligible to receive a grant under subsection B, a Navigator shall demonstrate to the
744 Exchange involved that it has existing relationships, or could readily establish relationships, with
745 employers and employees, consumers, including uninsured and underinsured consumers, or
746 self-employed individuals likely to be qualified to enroll in a qualified health plan.

747 D. The Exchange shall develop standards, consistent with any standards developed by the Secretary,
748 to ensure that information made available by Navigators is fair, accurate, and impartial.

749 E. Navigators shall comply with all requirements of Article 7 (§ 38.2-3455 et seq.) of Chapter 34,
750 including successful completion of training programs established by the Exchange for individual
751 Navigators.

752 **§ 38.2-6514. Certified application counselors.**

753 A. The Exchange shall establish a Certified Application Counselor program pursuant to 45 C.F.R.
754 § 155.225 and shall (i) certify individuals as certified application counselors to perform specified duties,
755 (ii) designate an organization to certify individuals as certified application counselors to perform
756 specified duties, or (iii) implement a combination both clause (i) and (ii).

757 B. The Exchange shall ensure, either directly or through designated organizations, that certified
758 application counselors complete required Virginia-specific training on topics including qualified health
759 plan options, insurance affordability programs, eligibility and enrollment rules, and all other regulatory
760 requirements.

761 C. The Exchange shall ensure certified application counselors adhere to all terms and conditions of
762 privacy and security pursuant to 45 C.F.R. § 155.260(b).

763 D. The Exchange may decertify a certified application counselor or designated organization for
764 failure to comply with the requirements of this section or of the Exchange.

765 **§ 38.2-6515. Regulations.**

766 The Commission shall promulgate regulations to implement the provisions of this chapter in
767 accordance with the Commission's rules of practice and procedure. Regulations promulgated under this
768 section shall be consistent with applicable provisions of federal and state law.

769 **§ 38.2-6516. Reports.**

770 The Exchange, in collaboration with the Secretary of Health and Human Resources, shall submit a
771 report by November 1 of each year to the Chairs of the Senate Committees on Commerce and Labor
772 and Finance and Appropriations and the House Committees on Labor and Commerce and
773 Appropriations that shall include information on (i) Exchange operations and responsibilities, (ii) an
774 accounting of the Exchange's finances, (iii) the effectiveness of the outreach and implementation
775 activities of the Exchange in reducing the number of individuals without health insurance coverage, and
776 (iv) other relevant information.

777 **§ 38.2-6517. Relation to other laws.**

778 Nothing in this chapter, and no action taken by the Exchange pursuant to this chapter, shall be
779 construed to preempt or supersede the authority of the Commission to regulate the business of insurance
780 within the Commonwealth. Except as expressly provided to the contrary in this chapter, all health
781 carriers offering qualified health plans or qualified dental plans in the Commonwealth shall comply fully
782 with all applicable health insurance laws of the Commonwealth and regulations adopted and orders
783 issued by the Commission.

784 **§ 58.1-3. Secrecy of information; penalties.**

785 A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax
786 Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or
787 revenue officer or employee, or any person to whom tax information is divulged pursuant to this section
788 or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices

789 shall not divulge any information acquired by him in the performance of his duties with respect to the
 790 transactions, property, including personal property, income or business of any person, firm or
 791 corporation. Such prohibition specifically includes any copy of a federal return or federal return
 792 information required by Virginia law to be attached to or included in the Virginia return. This
 793 prohibition shall apply to any reports, returns, financial documents or other information filed with the
 794 Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2.
 795 Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions
 796 of this subsection shall not be applicable, however, to:

797 1. Matters required by law to be entered on any public assessment roll or book;
 798 2. Acts performed or words spoken, published, or shared with another agency or subdivision of the
 799 Commonwealth in the line of duty under state law;

800 3. Inquiries and investigations to obtain information as to the process of real estate assessments by a
 801 duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to
 802 its study, provided that any such information obtained shall be privileged;

803 4. The sales price, date of construction, physical dimensions or characteristics of real property, or any
 804 information required for building permits;

805 5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court
 806 pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent
 807 or by the commissioner of accounts making a settlement of accounts filed in such estate;

808 6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when
 809 requested by the General Assembly or any duly constituted committee of the General Assembly;

810 7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the
 811 provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the
 812 Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow
 813 fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the
 814 Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two
 815 calendar years or in any year in which the Attorney General receives Stamping Agent information that
 816 potentially alters the required escrow deposit of the manufacturer. The information shall only be
 817 provided in the following manner: the manufacturer may make a written request, on a quarterly or
 818 yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the
 819 amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who
 820 reported stamping or selling its products and the amount reported. The Attorney General shall provide
 821 the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the
 822 reports the Stamping Agents filed with the Attorney General, it must first request them from the
 823 Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the
 824 reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the
 825 Attorney General, including a copy of the prior written request to the Stamping Agent and any response
 826 received, for copies of any reports not received. The Attorney General shall provide copies of the
 827 reports within 45 days of receipt of the request.

828 B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so
 829 classified as to prevent the identification of particular reports or returns and the items thereof or the
 830 publication of delinquent lists showing the names of taxpayers who are currently delinquent, together
 831 with any relevant information which in the opinion of the Department may assist in the collection of
 832 such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department,
 833 upon request by the General Assembly or any duly constituted committee of the General Assembly,
 834 shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers,
 835 regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This
 836 section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or
 837 corporation is licensed to do business in that locality and divulging, upon written request, the name and
 838 address of any person, firm or corporation transacting business under a fictitious name. Additionally,
 839 notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon
 840 written request stating the reason for such request, the Tax Commissioner with information obtained
 841 from local tax returns and other information pertaining to the income, sales and property of any person,
 842 firm or corporation licensed to do business in that locality.

843 2. This section shall not prohibit the Department from disclosing whether a person, firm, or
 844 corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or
 845 whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding
 846 any other provision of law, the Department is hereby authorized to make available the names and
 847 certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

848 3. This section shall not prohibit the Department from disclosing information to nongovernmental
 849 entities with which the Department has entered into a contract to provide services that assist it in the

850 administration of refund processing or other services related to its administration of taxes.

851 4. This section shall not prohibit the Department from disclosing information to taxpayers regarding
 852 whether the taxpayer's employer or another person or entity required to withhold on behalf of such
 853 taxpayer submitted withholding records to the Department for a specific taxable year as required
 854 pursuant to subdivision C 1 of § 58.1-478.

855 5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or
 856 other similar local official who collects or administers taxes for a county, city, or town from disclosing
 857 information to nongovernmental entities with which the locality has entered into a contract to provide
 858 services that assist it in the administration of refund processing or other non-audit services related to its
 859 administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar
 860 local official who collects or administers taxes for a county, city, or town shall not disclose information
 861 to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality
 862 and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that
 863 such entity agrees to abide by such obligations.

864 C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax
 865 Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director
 866 of finance, or other similar collector of county, city, or town taxes who, for the performance of his
 867 official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the
 868 Commissioner of the Department of Social Services, upon entering into a written agreement, the amount
 869 of income, filing status, number and type of dependents, and Forms W-2 and 1099 to facilitate the
 870 administration of public assistance or social services benefits as defined in § 63.2-100 or child support
 871 services pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2; (iii) provide to the chief executive
 872 officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request,
 873 the names and home addresses of those persons identified by the designated guarantor as having
 874 delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon
 875 request to state agencies and institutions for their confidential use in facilitating the collection of
 876 accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating
 877 the collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide to the
 878 Commissioner of the Virginia Employment Commission, after entering into a written agreement, such
 879 tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid
 880 benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority, upon entering into a written
 881 agreement, such tax information as may be necessary to facilitate the collection of state and local taxes
 882 and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the
 883 Virginia Lottery such tax information as may be necessary to identify those lottery ticket retailers who
 884 owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax
 885 information as may be necessary to facilitate the location of owners and holders of unclaimed property,
 886 as defined in § 55.1-2500; (ix) provide to the State Corporation Commission, upon entering into a
 887 written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees
 888 administered by the Commission; (x) provide to the Executive Director of the Potomac and
 889 Rappahannock Transportation Commission for his confidential use such tax information as may be
 890 necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the
 891 Commissioner of the Department of Agriculture and Consumer Services such tax information as may be
 892 necessary to identify those applicants for registration as a supplier of charitable gaming supplies who
 893 have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing
 894 and Community Development for its confidential use such tax information as may be necessary to
 895 facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270
 896 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and
 897 address information to private collectors entering into a written agreement with the Tax Commissioner,
 898 for their confidential use when acting on behalf of the Commonwealth or any of its political
 899 subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private
 900 collector who has used or disseminated in an unauthorized or prohibited manner any such information
 901 previously provided to such collector; (xiv) provide current name and address information as to the
 902 identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any
 903 person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for
 904 injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or
 905 Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering
 906 into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid
 907 wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource
 908 Management, upon entering into a written agreement, such tax information as may be necessary to
 909 identify persons receiving workers' compensation indemnity benefits who have failed to report earnings
 910 as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any

911 other officer of any county, city, or town performing any or all of the duties of a commissioner of the
 912 revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list
 913 of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii)
 914 provide to the Executive Director of the Northern Virginia Transportation Commission for his
 915 confidential use such tax information as may be necessary to facilitate the collection of the motor
 916 vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the
 917 name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as
 918 subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx)
 919 provide to the developer or the economic development authority of a tourism project authorized by
 920 § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap
 921 financing; and (xxi) provide to the Virginia Retirement System and the Department of Human Resource
 922 Management, after entering into a written agreement, such tax information as may be necessary to
 923 facilitate the enforcement of subdivision C 4 of § 9.1-401; and (xxii) provide to the Department of
 924 Medical Assistance Services, upon entering into a written agreement, the name, address, social security
 925 number, number and type of personal exemptions, tax-filing status, and adjusted gross income of an
 926 individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to
 927 such disclosure for purposes of identifying persons who would like to newly enroll in medical assistance.
 928 The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax
 929 officials of other states and of the United States for the inspection of tax returns, the making of audits,
 930 and the exchange of information relating to any tax administered by the Department of Taxation. Any
 931 person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions
 932 and penalties prescribed herein as though he were a tax official.

933 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the
 934 commissioner of revenue or other assessing official is authorized to (i) provide, upon written request
 935 stating the reason for such request, the chief executive officer of any county or city with information
 936 furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of
 937 any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the
 938 local sales and use tax revenues payable to the county or city; (ii) provide to the Department of
 939 Professional and Occupational Regulation for its confidential use the name, address, and amount of gross
 940 receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a
 941 profession or occupation administered by the Department of Professional and Occupational Regulation,
 942 only after the Department of Professional and Occupational Regulation exhausts all other means of
 943 obtaining such information; and (iii) provide to any representative of a condominium unit owners'
 944 association, property owners' association or real estate cooperative association, or to the owner of
 945 property governed by any such association, the names and addresses of parties having a security interest
 946 in real property governed by any such association; however, such information shall be released only
 947 upon written request stating the reason for such request, which reason shall be limited to proposing or
 948 opposing changes to the governing documents of the association, and any information received by any
 949 person under this subsection shall be used only for the reason stated in the written request. The treasurer
 950 or other local assessing official may require any person requesting information pursuant to clause (iii) of
 951 this subsection to pay the reasonable cost of providing such information. Any person to whom tax
 952 information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties
 953 prescribed herein as though he were a tax official.

954 Notwithstanding the provisions of subsection A or B or any other provisions of this title, the
 955 treasurer or other collector of taxes for a county, city or town is authorized to provide information
 956 relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course
 957 of performing his duties to the commissioner of the revenue or other assessing official for such
 958 jurisdiction for use by such commissioner or other official in performing assessments.

959 This section shall not be construed to prohibit a local tax official from imprinting or displaying on a
 960 motor vehicle local license decal the year, make, and model and any other legal identification
 961 information about the particular motor vehicle for which that local license decal is assigned.

962 E. Notwithstanding any other provisions of law, state agencies and any other administrative or
 963 regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon
 964 written request, the name, address, and social security number of a taxpayer, necessary for the
 965 performance of the Commissioner's official duties regarding the administration and enforcement of laws
 966 within the jurisdiction of the Department of Taxation. The receipt of information by the Tax
 967 Commissioner or his agent which may be deemed taxpayer information shall not relieve the
 968 Commissioner of the obligations under this section.

969 F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published
 970 any confidential tax document which he knows or has reason to know is a confidential tax document. A
 971 confidential tax document is any correspondence, document, or tax return that is prohibited from being

972 divulged by subsection A, B, C, or D and includes any document containing information on the
973 transactions, property, income, or business of any person, firm, or corporation that is required to be filed
974 with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document
975 has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person
976 violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

977 **§ 58.1-341.1. Returns of individuals; required information.**

978 A. For all taxable years beginning on and after January 1, 1995, the Department of Taxation shall
979 include in any packet of instructions and forms for individual income tax returns an application to
980 register to vote by mail and appropriate instructions for the completion and mailing of the application to
981 register to vote. The form of the application shall be prescribed and the instructions shall be provided by
982 the State Board of Elections.

983 B. *For all taxable years beginning on and after January 1, 2021, the Department of Taxation shall*
984 *include on the appropriate individual income tax return forms a checkoff box or similar mechanism for*
985 *indicating whether the individual, or spouse in the case of a married taxpayer filing jointly, or any*
986 *dependent of the individual (i) is an uninsured individual at the time the return is filed and (ii)*
987 *voluntarily consents to the Department of Taxation providing the individual's tax information, as*
988 *provided in clause (xxiii) of subsection C of § 58.1-3, to the Department of Medical Assistance Services*
989 *for purposes of affirming that the individual, the individual's spouse, or any dependent of the individual*
990 *meets the income eligibility for medical assistance. Such information shall not be used to determine an*
991 *individual is ineligible for medical assistance.*

992 **2. That the second enactment of Chapter 670 and the second enactment of Chapter 679 of the**
993 **Acts of Assembly of 2013 are repealed.**

994 **3. That the Secretary of Health and Human Resources shall convene a work group that includes**
995 **representatives from the State Corporation Commission, the Department of Medical Assistance**
996 **Services, the Department of Social Services, and the Department of Taxation and a consumer**
997 **advocate with expertise in health program eligibility and enrollment to develop systems, policies,**
998 **and practices to leverage state income tax returns to facilitate the enrollment of eligible individuals**
999 **in insurance affordability programs through the Virginia Health Benefit Exchange established by**
1000 **this act. The Secretary shall report the work group's recommendations to the Governor and the**
1001 **General Assembly by September 15, 2020.**

1002 **4. That the initial appointments of nonlegislative citizen members to the Advisory Committee**
1003 **(Committee) established pursuant to § 38.2-6503 of the Code of Virginia, as created by this act,**
1004 **shall be staggered as follows: two members appointed by the Governor and one member appointed**
1005 **by the State Corporation Commission (Commission) for a term of four years; one member**
1006 **appointed by the Governor and one member appointed by the Commission for a term of three**
1007 **years; one member appointed by the Governor and one member appointed by the Commission for**
1008 **a term of two years; and one member appointed by the Governor for a term of one year. The**
1009 **Commission shall consider the continuity of the Committee if the Commission elects to make**
1010 **additional appointments, as authorized in § 38.2-6503 of the Code of Virginia, as created by this**
1011 **act.**

1012 **5. That the State Corporation Commission shall implement the provisions of this act as it receives**
1013 **notice of approval by the Centers for Medicare and Medicaid Services and to the extent of such**
1014 **approval.**