

Provisions	New York Health Exchange S.5849 (Seward-Hannon)/A. 8514 (Morelle) Governor's Program Bill 12
Governance Model	Public Authority
Board Composition	9 directors, all voting: 2 ex-officio (Superintendent of Insurance, Commissioner of Health); 2 upon recommendation of Senate President; 2 upon recommendation of Assembly Speaker; 3 appointed by the Governor. Directors may not be employed nor retained by the Board.
Board Chair	Appointed by the Governor, subject to Senate confirmation.
Advisory Committee(s) to the Board	Yes. Five Regional Advisory Committees, with five members each. Members to be appointed by Governor (3)), Senate (1) & Assembly (1), and to be drawn from stakeholders of the geographic regions including carriers, producers, agents, labor organizations, health care providers, consumers and small business consumer representatives. Regions are: NYC; Metropolitan Suburban; Northern, Central & Western.
Advisory Committee Functions	Advice and recommendations regarding the regional variations in the operation of the exchange to be made on an annual basis; findings and recommendations to be made publicly available.
Exchange Staffing	Authority to appoint employees to serve as senior managerial staff, designated in the exempt class of civil service; board has authority to fix the salaries of employees; any employee of any state agency may transfer to the exchange without examination and without loss of any civil service status.
Disclosure/Rules Applied to Board Members	Directors are considered state officers and subject to the provisions of Sections 73 and 74 of the Public Officers Law.
Functions of the Exchange	<ol style="list-style-type: none"> 1. Make available qualified health & dental plans starting 1/1/14; 2. Rate each Qualified Health Plans (QHP) in accordance with federal rules; 3. Utilize a standard format for presenting health benefit options; 4. Provide for enrollment periods pursuant to the federal act or insurance law, whichever is in the best interest of the individual or employer; 5. Implement procedures for the certification, recertification and decertification of QHPs; 6. Establish minimum requirements an insurer must meet to be considered for participation in the exchange and the criteria for selection QHPs; 7. Require QHPs to offer those benefits determined by HHS to be essential health benefits and such additional

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	<p>benefits as are mandated by state law;</p> <ol style="list-style-type: none"> 8. Ensure insurers offering health plans through the exchange do not charge an individual a fee or penalty for termination of coverage; 9. Operate a toll-free hotline to respond to requests for assistance; 10. Maintain an internet site through which enrollees and prospective enrollees of QHPs may obtain standardized comparative information on such plans and public health programs; 11. Establish and make available electronically a calculator to determine cost of coverage after application of premium tax credits and any other cost-sharing reductions; 12. Establish a program to award grants to entities to serve as navigators; 13. Inform individuals of eligibility requirements for Medicaid, Child Health Plus, and other public health programs through screening of the application by the exchange; 14. Certify individuals exempt from the individual responsibility requirements of the ACA or from the penalty imposed by the ACA; 15. Transmit to the Treasury Dept. a list of individuals granted exemption from the penalty or the individual coverage responsibility requirements; individuals that have changed employers and cease coverage under a QHP during a plan year; 16. Provide to employers the name of each employee of the employer who ceases coverage under a QHP; 17. Operate a Small Business Health Options Programs through which qualified employers access coverage for their employees and may provide premium aggregation and other related services to minimize administrative burdens for qualified employers and permit qualified employers to specify a level of coverage so employees may enroll in any QHP offered through the SHOP at the specified level of coverage, or unless prohibited by the federal act, provide a specific amount to be used as part of an employee choice plan. 18. Enter into agreements as necessary with federal and state agencies and other state exchanges to carry out its responsibilities; 19. Carry out federally mandated functions related to eligibility for premium tax credits, reduced cost-sharing, or individual responsibility requirement exemptions; 20. Consult with the Advisory Committee; stakeholders including health care consumers, facilitated enrollers; representatives of small businesses and self-employed individuals; state Medicaid offices; advocates for

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	<p>enrolling hard to reach populations; health care providers; and insurers.</p>
Special Functions Related to Health Plan Certification and QHP Oversight	<p>Insurers must be:</p> <ol style="list-style-type: none"> 1. licensed by the superintendent or commissioner of health; 2. offer at least one QHP in each of the silver and gold levels; 3. filed and received approval of premium rates with the Insurance Department; 4. not charge any cancellation fees or penalties; <p>Plans must provide the essential health benefits package, exchange they shall not be required to provide essential benefits that duplicate the minimum benefits of qualified dental plans if the exchange has determined that at least one qualified dental plan is available to supplement the health plan's coverage and that information is prominently disclosed.</p> <p>The exchange cannot exclude a health plan on the basis that it is fee for service; or the imposition of premium price controls or on the basis that the health plan provides treatments necessary to prevent patient's deaths in circumstances the exchange determines are inappropriate or too costly.</p> <p>The exchange shall require each insurer seeking certification of a plan as a QHP to submit a justification for any premium increase to the exchange prior to implementation of such increase; make available to the public accurate and timely disclosure of claims payment policies and practices; periodic financial disclosures; data on enrollment and disenrollment; data on claims denied; data on rating practices; cost sharing and payments with respect to any out of network coverage.</p>
Funding for the Exchange	<p>Authorized to receive funds, grants, gifts; separate accounts must be established and prohibition on any funds being swept into the state's general fund. Express prohibition on use of funds for staff retreats, promotional giveaways and excessive executive compensation.</p> <p>Exchange shall publish on its website the fees and other payments required by the exchange and the administrative costs of the exchange.</p>
Studies/Reports to be Conducted	<p>To be submitted to the Governor and Legislature before April 1, 2012, recommendations on the following:</p> <ol style="list-style-type: none"> 1. Whether the essential health benefits required to be included in policies should be sold to similarly situated individuals and groups purchasing coverage outside the exchange; 2. Whether any benefits required under the insurance law that are not identified as essential health benefits should no longer be required in policies or contracts sold either through the exchange or to

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	<p>similarly situated individuals and groups outside the exchange;</p> <ol style="list-style-type: none"> 3. The costs of extending any benefits required under the insurance law to policies and contracts sold through the exchange; 4. Mechanisms to finance any costs of extending any benefits required under state law not required under federal law to policies and contracts sold through the exchange. 5. Whether insurers participating in the exchange should be required to offer all health plans sold in the exchange to individuals or small groups purchasing coverage outside of the exchange; 6. Whether the individual and small group markets should be placed entirely inside the exchange; 7. Whether the benefits in the individual and small group markets should be standardized both inside and outside the exchange; 8. How to develop and implement the transitional reinsurance program for the individual market and other risk adjustment mechanisms developed in accordance with federal law; 9. Whether to merge the individual and small group health insurance markets for rating purposes including an analysis of the impact such merger would have on premiums; 10. Whether to increase the size of small employers from 1-50 to 1- 100 prior to January 1, 2016; 11. How to account for sole proprietors in defining "small employers"; 12. Whether to revise the definition of "small employer" outside the exchange to be consistent with the definition as it applies within the exchange. 13. Whether the State should establish a basic health plan program pursuant to Section 1331 of the ACA. 14. The advantages and disadvantages of the exchange serving as an active purchaser, a selective contractor, or clearinghouse of insurance. 15. Anticipated annual operating expenses of the exchange including the development of any multi-year financial models; and the Options to generate funding for the ongoing operation and self-sufficiency of the exchange including but not limited to assessments upon insurers and providers. 16. The benchmark benefits identified by HHS and of the benefits required under the public health law that are not determined by HHS to be benchmark benefits and the costs of extending any benefits to newly Medicaid-eligible individuals through the exchange;

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	<p>17. The impact of the exchange on the Health NY program and Family Health Plus;</p> <p>18. The role of licensed health insurance producers, chambers of commerce and business associations within the exchange;</p> <p>19. Criteria for eligibility to serve as a navigator;</p> <p>20. The role of the exchange in reducing health disparities in health care services and performance; and</p> <p>21. The extent to which health savings accounts should be offered through the exchange;</p> <p>22. The integration of public health programs including Medicaid, Child Health Plus, Family Health Plus.</p> <p>To be submitted to the Governor & Legislature by December 1, 2016:</p> <p>1. Whether to allow large employers to participate in the exchange 1/1/17 taking into account any excess of premium growth outside of the exchange as compared to rate of such growth inside the exchange.</p> <p>The Exchange shall have no authority to implement any recommendation on these issues – with the exception of #22 -- without further statutory authority.</p> <p>The Board has the authority to combine reports, as appropriate; and to seek new deadlines for reports if federal guidance or regulations necessary for the report have not yet been issued.</p>