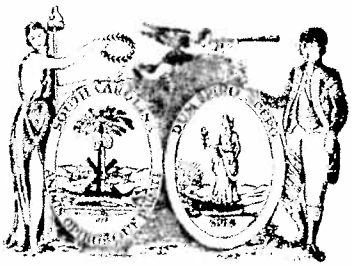
FILED
MAR 10 2011
Mark Hammond
SECRETARY OF STATE

State of South Carolina
Executive Department



Office of the Governor

EXECUTIVE ORDER NO.

2011-09

WHEREAS, the Patient Protection and Affordable Care Act was enacted by the Congress of the United States and signed into law by the President of the United States on March 23, 2010 and the Health Care and Education Reconciliation Act (hereinafter collectively referred to as the "Affordable Care Act") was enacted by the Congress of the United States and signed into law by the President of the United States on March 30, 2010 to address some of the issues associated with the affordability and availability of health insurance; and

WHEREAS, the Affordable Care Act requires the establishment of health insurance exchanges by 2014; and

WHEREAS, Section 1311 of the Affordable Care Act provides grant assistance to the States for the planning and establishment of American Health Benefit Exchanges and requires the Secretary of the United States Department of Health and Human Services to make initial awards not later than one year after enactment; and

WHEREAS, the Secretary announced the first round of grants to states, known as Exchange Planning Grants, on July 29, 2010; and

WHEREAS, the South Carolina Department of Insurance, having been designated as the lead agency for the Exchange Planning Grant, applied for and received a grant on September 30, 2010 in the amount of $1 million to determine whether the establishment of a health insurance exchange would be feasible for the State of South Carolina; and

WHEREAS, the Department of Insurance grant calls for the establishment of the South Carolina Health Exchange Planning Committee, a planning committee made up of key stakeholders to assist with the formulation of policy recommendations regarding whether it is feasible for South Carolina to establish a health insurance exchange and, if so, propose a plan for the successful implementation and ongoing sustainability of a state-based health insurance exchange; and

WHEREAS, the purpose of this Executive Order is to establish the aforementioned planning committee and set forth the general guidelines for its operation.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby establish the South Carolina Health Exchange Planning Committee (Committee) for which the composition, duties and responsibilities are set forth below. The Committee shall be an advisory group whose mission is to assist with research as determined necessary by the Director of Insurance and to provide recommendations on the health insurance exchange planning process as described in the Exchange Planning Grant application.

A. The Committee shall:
   1. Convene healthcare delivery systems stakeholders and build trust and consensus among stakeholders;
   2. Conduct a thorough review and analysis of current and new data on the operation of health insurance exchanges;
   3. Complete an in-depth study and review of alternative approaches to establishing a health insurance exchange; and
   4. Develop and submit a report to the Governor by October 28, 2011 which sets forth the Committee's recommendation regarding whether or not the State should establish a health insurance exchange. This report must also propose a plan of action based upon the aforementioned recommendation as follows:

      a. Should the Committee recommend the establishment of a state-based health insurance exchange, the Committee must recommend a plan for the successful implementation and ongoing sustainability of a state-based health insurance exchange and, at a minimum, provide recommendations relating to:

         i. The governing structure (e.g., state agency or nonprofit entity);
         ii. The role(s) and function(s) of a health insurance exchange;
         iii. The design of qualified health plans offered in a health insurance exchange, including whether existing state mandates should be included in these plans;
         iv. Coordination of eligibility determination and enrollment between Medicaid and the Exchange and establishment of a policy for insureds who fluctuate between Medicaid and subsidized insurance coverage;
         v. Premium allocation;
         vi. Process for certifying health care plans;
         vii. Method for providing consumer information through internet portals;
         viii. Premium tax credits; and
         ix. Exchange funding and ways to hold down administrative costs.

      b. Should the Committee recommend the State decline to establish a state-based health insurance exchange, the Committee must recommend alternate strategies and policies to improve the health insurance marketplace in South Carolina.

B. The Committee shall be comprised of twelve members appointed as follows:
   1. The Project Manager of the Exchange Planning Grant, who shall serve in an *ex officio* capacity as chairman of the Committee;
   2. Two members appointed by the President *Pro Tempore* of the Senate, at least one of which must be a member of the South Carolina Senate;
   3. Two members appointed by the Speaker of the House of Representatives, at least one of which must be a member of the South Carolina House of Representatives;
   4. The Director of the South Carolina Department of Health and Human Services or his designee;
   5. The Director of the South Carolina Department of Insurance or his designee;
   6. A consumer or not-for-profit representative appointed by the Governor;
   7. A small employer as defined in S.C. Code Ann. 38-71-1330(18) appointed by the Governor;
   8. A health care provider appointed by the Governor;
   9. A licensed insurance producer authorized with accident and health insurance authority appointed by the Governor; and
   10. A licensed health insurance issuer appointed by the Governor.

C. Members of the Committee must have substantial experience or expertise in one or more areas of health care delivery, health insurance, public health programs, or employer-sponsored health benefit programs. Members of the Committee shall serve without compensation, and are ineligible for the usual mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions.

D. The members of the Committee must meet as soon as practicable after appointment but no later than April 15, 2011. The Directors of the South Carolina Department of Health and Human Services and the South Carolina Department of Insurance shall determine the date, time, and place for the initial organizational meeting and give notice of such to all Committee members. Thereafter, the Committee shall meet regularly and as necessary to fulfill the duties required by this Order at the call of the chairman or by a majority of the members. The Committee's meetings shall comply with the requirements of the South Carolina Freedom of Information Act.

E. The Committee may establish task forces from within its membership or outside its membership as needed to address specific issues or to assist in its work. These groups may include representatives of nongovernmental entities including, without limitation, doctors, nurses, economists, actuaries, health care professionals, patient advocates, public health advocates, consumer advocates, representatives from health plans and insurers, and businesses.

F. The Department of Insurance shall provide the Committee with the necessary staff support and resources.

Nothing in this Executive Order shall be construed to impair or otherwise affect the authority granted by law or gubernatorial directive over the functions of the South Carolina Department of Insurance. This Executive Order is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity against the State of South Carolina, its departments, agencies, entities, officers, employees or agents or any other person.

This Order is effective immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 10th DAY OF MARCH 2011.

NIKKI R. HALEY
Governor

ATTEST:

MARK HAMMOND
Secretary of State