

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 433

BY CHEW

AN ACT

RELATING TO THE HEALTH INSURANCE EXCHANGE; AMENDING TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 63, TITLE 41, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE FOR LEGISLATIVE PURPOSE AND INTENT, TO DEFINE TERMS, TO PROVIDE FOR ESTABLISHMENT OF THE EXCHANGE AND BOARD, TO PROVIDE FOR CONFLICTS OF INTEREST, TO PROVIDE FOR A PLAN OF OPERATION FOR THE EXCHANGE, TO PROVIDE FOR POWERS AND AUTHORITY OF THE BOARD, TO PROVIDE FOR THE ROLE AND REGISTRATION OF NAVIGATORS AND TO PROVIDE FOR REPORTING BY THE EXCHANGE; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 63, Title 41, Idaho Code, and to read as follows:

CHAPTER 63
IDAHO HEALTH INSURANCE EXCHANGE ACT

41-6301. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Health Insurance Exchange Act."

41-6302. PURPOSE AND INTENT. (1) It is the public policy of the state of Idaho to provide a choice of affordable, quality health care plans while promoting the ideals of individual freedom and responsibility for the health of Idahoans.

(2) The purpose and intent of this chapter is to:

(a) Set forth a strategic plan to establish a functional, efficient and transparent health insurance exchange that provides better choices and financial benefits to individuals and businesses;

(b) Ensure that medical assistance is available when needed to eligible Idahoans to promote their health, restore their liberties and allow them to be productive in the community and workforce;

(c) Create a quasi private-public system of health care financing coupled with an excellent and predominantly private health care delivery system to benefit all Idahoans; and

(d) Receive input from the public because the support and oversight of the public is necessary to protect long-term financial interests of the private health insurers, providers and industry, as well as the future health of personal and business communities.

(3) Nothing in this chapter shall affect the eligibility or receipt of medicaid, medicare, medical benefits received from the United States department of veterans affairs or any other such governmental program.

1 41-6303. DEFINITIONS. (1) "Board" means those individuals who, acting
2 as a board of directors of the exchange, govern and act for the exchange, ac-
3 cording to section 41-6304, Idaho Code.

4 (2) "Chronic care management" means a system of coordinated health care
5 interventions and communications for individuals with chronic conditions,
6 including significant patient self-care efforts, systemic supports for
7 licensed health care practitioners and their patients, and a plan of care
8 emphasizing prevention of complications, utilizing evidence-based practice
9 guidelines, patient empowerment strategies and evaluation of clinical and
10 economic outcomes on an ongoing basis with the goal of improving overall
11 health.

12 (3) "Conflict of interest" means that by taking any action or making any
13 decision or recommendation on a matter within the authority of the board, a
14 member of the board, or a person within the member's household, or any busi-
15 ness with which the member or a person within the member's household is as-
16 sociated, would receive a private pecuniary benefit or detriment, unless the
17 pecuniary benefit or detriment would apply to the same degree to a class con-
18 sisting of all persons within the particular class in this state.

19 (4) "Director" means the director of the Idaho department of insurance.

20 (5) "Eligible employee" means an individual employed by an eligible em-
21 ployer who is offered coverage by an eligible employer under one (1) or more
22 health benefit plans offered through the exchange.

23 (6) "Eligible employer" means an employer that elects to make its
24 full-time employees eligible for one (1) or more health benefit plans of-
25 fered through the exchange, provided that the employer:

26 (a) Has its principal place of business in this state and elects to pro-
27 vide coverage through the exchange to its eligible employees, wherever
28 employed; or

29 (b) Elects to provide coverage through the exchange to its eligible em-
30 ployees who are principally employed in this state.

31 (7) "Eligible individual" means an individual, including a minor, who:

32 (a) Is seeking to enroll in a health benefit plan offered to individuals
33 through the exchange;

34 (b) Resides in this state;

35 (c) At the time of enrollment, is not incarcerated, other than incar-
36 ceration pending the disposition of charges; and

37 (d) Is, and is reasonably expected to be, for the entire period for
38 which enrollment is sought, a citizen or national of the United States
39 of America or an alien lawfully present in the United States of America.

40 (8) "Exchange" means the Idaho health insurance exchange established
41 pursuant to the provisions of this chapter to facilitate the purchase of
42 health benefit plans by individuals, eligible employees and eligible em-
43 ployers.

44 (9) "Health benefit plan" means a policy, contract, certificate or
45 agreement offered or issued by a health carrier to provide, deliver, arrange
46 for, pay for or reimburse any of the costs of health care services.

47 (a) "Health benefit plan" does not include:

48 (i) Coverage only for accident, or disability income insurance,
49 or any combination thereof;

50 (ii) Coverage issued as a supplement to liability insurance;

(iii) Liability insurance, including general liability insurance and automobile liability insurance;

(iv) Worker's compensation or similar insurance;

(v) Automobile medical payment insurance;

(vi) Credit-only insurance;

(vii) Coverage for on-site medical clinics; or

(viii) Other similar insurance coverage, specified in federal regulations issued pursuant to Public Law 104-191 (health insurance portability and accountability act of 1996), under which benefits for health care services are secondary or incidental to other insurance benefits.

(b) "Health benefit plan" does not include the following benefits if they are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of the plan:

(i) Limited scope for dental or vision benefits;

(ii) Benefits for long-term care, nursing home care, home health care, community-based care or any combination thereof; or

(iii) Other similar, limited benefits specified in federal regulations issued pursuant to Public Law 104-191.

(c) "Health benefit plan" does not include the following benefits if the benefits are provided under a separate policy, certificate or contract of insurance; there is no coordination between the provision of the benefits; and any exclusion of benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same plan sponsor:

(i) Coverage only for a specified disease or illness; or

(ii) Hospital indemnity or other fixed indemnity insurance.

(d) "Health benefit plan" does not include the following if offered as a separate policy, certificate or contract of insurance:

(i) Medicare supplemental health insurance as defined pursuant to section 1882(g)(1) of the social security act;

(ii) Coverage supplemental to the coverage provided pursuant to chapter 55 of title 10, United States Code (civilian health and medical program of the uniformed services (CHAMPUS)); or

(iii) Similar supplemental coverage provided to coverage under a group health plan.

(10) "Health carrier" means an entity with a certificate of authority subject to title 41, Idaho Code, and subject to the jurisdiction of the director of the Idaho department of insurance, that contracts or offers to contract to provide, deliver or arrange for a health benefit plan or a stand-alone dental plan, including a disability insurance company, a managed care organization and a nonprofit hospital and professional health service corporation.

(11) "Navigator" means a person who assists with eligibility, enrollment, program specifications and public education activities related to the exchange.

(12) "Person" means an individual or a business or other private or public legal entity.

1 (13) "Preventive care" means health services provided by health care
 2 professionals to identify and treat asymptomatic individuals who have risk
 3 factors or preclinical disease, but in whom the disease is not clinically
 4 apparent, including immunizations and screening, counseling, treatment and
 5 medication determined by scientific evidence to be effective in preventing
 6 or detecting a condition.

7 (14) "Primary care" means health services that act as the principal
 8 point of consultation for patients.

9 (15) "Producer" means a person required to be licensed pursuant to
 10 chapter 10, title 41, Idaho Code, to sell, solicit or negotiate disability
 11 insurance.

12 (16) "Stand-alone dental plan" means a limited scope dental plan by a
 13 health carrier that is licensed to offer dental coverage, but need not be li-
 14 censed to offer other health benefits, which plan shall be limited to den-
 15 tal and oral health benefits, without substantially duplicating the bene-
 16 fits typically offered by health benefit plans not providing dental cover-
 17 age, but which provides, at a minimum, pediatric dental and oral health bene-
 18 fits.

19 41-6304. ESTABLISHMENT OF THE EXCHANGE AND BOARD. (1) There is hereby
 20 created an independent public body corporate politic to be known as the Idaho
 21 health insurance exchange, which shall be available to all eligible individ-
 22 uals and eligible employers. The exchange will perform an essential govern-
 23 mental function in the exercise of powers conferred upon it in this chapter.

24 (2) The exchange created by this chapter shall operate subject to the
 25 supervision and control of its board. The board shall consist of nine (9)
 26 members, with seven (7) voting members. Subject to the provisions of this
 27 section, members of the board shall collectively offer expertise, knowl-
 28 edge and experience in health benefits administration, health care finance,
 29 health plan purchasing, health care delivery system administration, public
 30 health and health policy issues related to employer and individual markets
 31 and the uninsured. The members shall be appointed to the board by the gover-
 32 nor and shall be subject to confirmation by the senate. If any appointment is
 33 made during the recess of the legislature, such appointment shall be subject
 34 to confirmation by the senate during its next ensuing session. In selecting
 35 the nine (9) members of the board, the governor shall appoint:

36 (a) One (1) member representing employer business interests employing
 37 between one (1) and twenty-five (25) employees;

38 (b) One (1) member representing employer business interests employing
 39 between twenty-five (25) and one hundred (100) employees;

40 (c) One (1) member representing individual consumer interests;

41 (d) One (1) member representing a faith-based or religious organiza-
 42 tion;

43 (e) One (1) member representing the interests of minorities which in-
 44 cludes, but is not limited to, the interests of persons of Native Ameri-
 45 can, African-American and Hispanic-American descent;

46 (f) One (1) member representing the interests of women;

47 (g) One (1) member of a community health organization representing the
 48 interests of preventative community health;

1 (h) The director of the Idaho department of insurance or his designated
2 appointee as an ex officio nonvoting member; and

3 (i) The director of the Idaho department of health and welfare or his
4 designated appointee as an ex officio nonvoting member.

5 (3) All board members shall be subject to the provisions on conflicts of
6 interest as set forth in section 41-6305, Idaho Code.

7 (4) The nine (9) board members appointed by the governor shall each
8 serve a term of four (4) years or until his successor is appointed. A board
9 member may be appointed by the governor to serve subsequent terms. A vacancy
10 in a member's position on the board shall be filled in the same manner as the
11 original appointment.

12 (5) The board shall elect a chairman and vice chairman from among the
13 voting members. The board shall meet at the times and places as determined
14 appropriate by the chair or vice chair in the absence or inability of the
15 chair to serve. Notice to board members of meetings shall be given accord-
16 ing to procedures established by the board. A majority of the voting members
17 of the board shall constitute a quorum for the transaction of business; how-
18 ever, on any issue deemed by the board to be of critical importance, voting
19 members not present to cast a vote in person shall vote by telephone or elec-
20 tronic mail or by providing their vote to the board prior to such meeting.

21 (6) The exchange is deemed:

22 (a) A public agency for the purposes of the open meeting law, chapter
23 23, title 67, Idaho Code;

24 (b) A state agency for the purposes of the public records law, chapter
25 3, title 9, Idaho Code; and

26 (c) A governmental entity for the purposes of the Idaho tort claims act,
27 chapter 9, title 6, Idaho Code.

28 (7) Any board member or employee who acts on behalf of the exchange
29 shall act as a fiduciary. Such person shall ensure that the exchange is op-
30 erated in the interests of eligible individuals and eligible employers and
31 their employees participating in health benefit plans offered through the
32 exchange and for the purpose of facilitating enrollment in health benefit
33 plans and other health coverage as may be provided by other applicable law.

34 (8) Neither members of the board nor contractors working for or on be-
35 half of the exchange shall be:

36 (a) Considered employees of the state of Idaho by virtue of their ser-
37 vice on the board or performance of contract services for the exchange
38 except for purposes of the Idaho tort claims act, chapter 9, title 6,
39 Idaho Code;

40 (b) Eligible for or entitled to benefits from the public employee re-
41 tirement system of Idaho;

42 (c) Subject to or entitled to benefits from the provisions applicable
43 to nonclassified employees, chapter 16, title 59, Idaho Code.

44 Nothing in this chapter shall prevent a member of the board who is otherwise a
45 current or former state employee from receiving his usual state compensation
46 and benefits while serving on the board. Nothing in this chapter shall pre-
47 vent an individual who is otherwise a state employee from receiving his usual
48 state compensation and benefits while providing services to the exchange.
49 Members of the board who are not otherwise state employees shall be entitled
50 to receive compensation for service as prescribed in section 59-509, Idaho

1 Code, and nothing in this chapter shall preclude members of the board from
 2 being reimbursed for costs associated with travel to, from and reasonably
 3 associated with board meetings.

4 (9) The board and the exchange shall not be subject to the purchasing
 5 statutes and rules of the state of Idaho.

6 (10) The board shall appoint an industry advisory committee to aid the
 7 board in its duties. The industry advisory committee shall meet only at the
 8 request of the board and shall advise the board only on questions and issues
 9 posed to the committee by the board. The industry advisory committee shall
 10 present technical matters in such manner that can be easily understood by the
 11 public and the board. The board shall designate at least one (1) of its mem-
 12 bers to serve as a liaison to the industry advisory committee. The members of
 13 the industry advisory committee shall include one (1) member employed by or
 14 representing the following industry interests:

- 15 (a) Health carriers;
- 16 (b) Producers;
- 17 (c) Durable medical equipment; and
- 18 (d) Nursing homes.

19 (11) The board shall appoint an advisory committee consisting of health
 20 providers to aid the board in its duties. The health provider advisory com-
 21 mittee shall meet only at the request of the board and shall advise the board
 22 only on questions and issues posed to the committee by the board. The health
 23 provider advisory committee shall present technical matters in such manner
 24 that can be easily understood by the public and the board. The board shall
 25 designate at least one (1) of its members to serve as a liaison to the health
 26 provider advisory committee. The members of the health provider advisory
 27 committee shall include at least one (1) member duly licensed as, employed by
 28 or representing the following types of health providers:

- 29 (a) Community health centers;
- 30 (b) Dentists;
- 31 (c) Physicians;
- 32 (d) Pharmacists;
- 33 (e) Podiatrists;
- 34 (f) Hospitals; and
- 35 (g) Any other category of health provider the board believes would be
 36 helpful to include on the committee.

37 41-6305. CONFLICTS OF INTEREST. (1) All board members and senior staff
 38 of board members shall adhere strictly to the conflict of interest provi-
 39 sions pursuant to this section.

40 (2) No person shall be appointed to the board if a conflict of interest
 41 exists prior to such appointment.

42 (3) No board member shall, during his term or terms on the board, con-
 43 tract with, be an officer of, director of, organizer of, employee of, con-
 44 sultant to or attorney for any person subject to supervision or regulation
 45 by the board. The provisions of this subsection shall apply to any nonprofit
 46 organization with a financial interest in exchange business.

47 (4) Whenever a board member has a conflict of interest on a matter that
 48 is before the board, the member shall disclose such conflict to the board and
 49 to the public and shall not participate in creating or applying any law, rule

1 or policy, voting on any matter concerning such conflict of interest or in
 2 making any other determination on such conflict of interest.

3 (5) Consistent with section 1311(i)(4) of the patient protection and
 4 affordable care act, no person licensed as a producer pursuant to chapter 10,
 5 title 41, Idaho Code, shall act as a navigator or be licensed as a navigator
 6 pursuant to the provisions of section 41-6308, Idaho Code.

7 41-6306. EXCHANGE PLAN OF OPERATION. (1) The board shall consult with
 8 interested parties, stakeholders, advisory committees and other persons as
 9 necessary and appropriate to develop and, upon no less than twenty-one (21)
 10 days' notice to be provided pursuant to section 67-2343, Idaho Code, and in
 11 an open meeting, adopt no later than December 1, 2012, a plan of operation
 12 for the exchange that will establish requirements or guidelines for partic-
 13 ipation in the exchange and procedures for the fair, equitable and efficient
 14 administration and operation of the exchange consistent with the require-
 15 ments, purpose and intent of this chapter. The exchange plan of operation
 16 may be amended at any time by the board consistent with the requirements,
 17 purpose and intent of this chapter and after complying with the notice re-
 18 quired for initial adoption.

19 (2) The exchange plan of operation shall:

20 (a) Evaluate and approve suitable plans for the exchange with no more
 21 than twenty-five percent (25%) of health insurance coverage costs paid
 22 out of pocket by individual consumers and eligible employees;

23 (b) Establish interactive relationships with involved stakeholders
 24 including health carriers, health care providers, employers and indi-
 25 vidual Idahoans;

26 (c) Establish procedures to review the practices of each health carrier
 27 and allow input by individuals, businesses and the board;

28 (d) Establish procedures to place funds received by the exchange in
 29 trust with an intermediary;

30 (e) Consistent with Idaho's traditional set of moral principles,
 31 strive to fulfill the following functions:

32 (i) Encourage all Idahoans and businesses to contribute their
 33 proportional share of income to health coverage so as to protect
 34 the general public from paying a disproportional share of costs;

35 (ii) Ensure that contributions and coverage do not discriminate
 36 by type of illness or injury or ability to pay;

37 (iii) Ensure that all exchange issues including administration of
 38 the exchange and accountability for costs, quality and value are
 39 openly and publicly debated;

40 (iv) Provide for simplified administration of the exchange so as
 41 to reduce waste and encourage the elimination of ineffective and
 42 unnecessary procedures by public health, self-care, primary care
 43 and preventive care providers; and

44 (v) Remove barriers to care based on class, language, education
 45 and geography;

46 (f) Require, as a condition of participation in the exchange, that car-
 47 riers who sell any products outside the exchange:

- 1 (i) Fairly and affirmatively offer, market and sell all products
- 2 made available to individuals in the exchange to individuals pur-
- 3 chasing coverage outside the exchange; and
- 4 (ii) Fairly and affirmatively offer, market and sell all products
- 5 made available to employers in the exchange to employers purchas-
- 6 ing coverage outside the exchange;
- 7 (g) Establish procedures necessary to avoid risk selection between
- 8 qualified health benefits plans offered through the exchange and health
- 9 benefits plans offered outside the exchange and among qualified health
- 10 benefits plans offered within the exchange including, but not limited
- 11 to, such mechanisms as the board determines appropriate for adjusting
- 12 payments to qualified health benefits plans to account for risk selec-
- 13 tion and assure market stability;
- 14 (h) Establish procedures to ensure that primary care is preserved and
- 15 enhanced so that consumers have such care available to them, preferably
- 16 within their own communities;
- 17 (i) Establish procedures to ensure that preventive care and chronic
- 18 care management are preserved and enhanced so that consumers have such
- 19 care available to them;
- 20 (j) Establish procedures to ensure that other aspects of the state's
- 21 health care infrastructure, including the educational and research
- 22 missions of the state's academic medical centers and other postsec-
- 23 ondary educational institutions, the nonprofit missions of the commu-
- 24 nity hospitals and the critical access designation of rural hospitals,
- 25 are supported in such a way that all consumers, including those in rural
- 26 areas, have access to necessary health services and that these health
- 27 services are sustainable;
- 28 (k) Pursuant to the provisions of section 41-6305, Idaho Code, provide
- 29 for the selection of persons qualified to serve as navigators to assist
- 30 individuals and employers with eligibility, enrollment, program speci-
- 31 fications and public education activities related to the exchange;
- 32 (l) Identify sources of revenue to fund the operating costs of the ex-
- 33 change to make it self-sustaining, which may include fees from health
- 34 carriers, exchange users and participants as determined to be necessary
- 35 and appropriate by the board;
- 36 (m) Establish the fiscal year for the exchange and provide for main-
- 37 taining an accurate accounting of all activities, receipts and expendi-
- 38 tures of the exchange, which shall be reported to the public, the gover-
- 39 nor and the legislature in accordance with the provisions of this chap-
- 40 ter;
- 41 (n) Establish procedures for purchasing and contracting for necessary
- 42 goods and services that are fiscally responsible; and
- 43 (o) Provide for any other matter deemed necessary and appropriate by
- 44 the board not inconsistent with this chapter.

45 41-6307. POWERS AND AUTHORITY. (1) Unless otherwise required by this
 46 chapter, in the discretion of the board, the exchange shall have the follow-
 47 ing powers and authority to:

- 48 (a) Develop and implement the exchange plan of operation;

1 (b) Make health benefit plans and stand-alone dental plans offered by
2 health carriers lawfully operating in the state of Idaho available to
3 eligible individuals and eligible employers in accordance with the ex-
4 change plan of operation;

5 (c) Determine administrative procedures and price structures used in
6 selecting health carriers for the exchange and shall use the same proce-
7 dures and price structures for all such carriers;

8 (d) Pursuant to subsection (2) (a) of section 41-6306, Idaho Code, the
9 board shall determine the minimum requirements a carrier must meet to
10 be considered for participation in the exchange, and the standards and
11 criteria for selecting qualified health plans to be offered through
12 the exchange that are in the best interests of qualified individuals
13 and qualified employers. The board shall consistently and uniformly
14 apply these requirements, standards and criteria to all carriers. In
15 the course of selectively contracting for health care coverage offered
16 to qualified individuals and qualified employers through the exchange,
17 the board shall seek to contract with carriers so as to provide health
18 care coverage choices that offer the optimal combination of choice,
19 value, quality and service;

20 (e) Study whether it is necessary or advisable to implement a financial
21 reserve requirement or reinsurance mechanism to reduce the state's ex-
22 posure to financial risk in the operation of the exchange and, if so, how
23 to accomplish such implementation and the impact, if any, on the state's
24 bond rating;

25 (f) Review rates submitted by health carriers to fulfill the following
26 functions:

27 (i) Establish a community rating system that requires health car-
28 riers to offer health insurance policies within the state at the
29 same price to all persons without medical underwriting, regard-
30 less of their health status;

31 (ii) To be certified as a qualified health plan in the exchange,
32 a health benefit plan shall obtain prior approval of premium rates
33 and contract language from the board; and

34 (iii) Prior to any premium rate increase, a health carrier shall
35 submit a justification of such increase to the board. In its de-
36 termination on any such rate increase, the board shall take into
37 account any excess of premium growth outside the exchange as com-
38 pared to the rate of that growth inside the exchange. The board
39 shall make available to the public all information submitted by
40 the health carrier regarding such rate increase and any recommen-
41 dations or decisions by the board on such rate increase;

42 (g) Undertake activities necessary to market and publicize the avail-
43 ability of health care coverage and federal subsidies through the
44 exchange and undertake outreach and enrollment activities that seek
45 to assist enrollees and potential enrollees with enrolling and re-en-
46 rolling in the exchange in the least burdensome manner, including
47 populations that may experience barriers to enrollment, such as persons
48 with disabilities and those with limited English language proficiency;

49 (h) Enter into contracts with persons who are necessary or appropriate
50 to develop and implement the plan of operation and fulfill the require-

1 ments, purpose and intent of this chapter and enter into contracts and
2 memoranda of understanding with the Idaho department of insurance and
3 the Idaho department of health and welfare for necessary staff or ser-
4 vices in order to provide for services including, but not limited to,
5 technical expertise, technology, collection of assessments, enforce-
6 ment of applicable provisions, handling consumer complaints, supervi-
7 sion of navigators and other similar functions related to the responsi-
8 bilities of the departments. The board shall have the authority to en-
9 ter into contracts and memoranda of understanding with the office of the
10 attorney general in order to obtain legal services;

11 (i) Contract with a manager, whose duties, subject to the direction
12 and supervision of the board, shall be to conduct and oversee the op-
13 erations and administration of the exchange. The manager shall serve
14 at the pleasure of the board. The manager shall have such powers as are
15 necessary to carry out the duties of the exchange, subject to the policy
16 direction of the board and within financial limits established by the
17 board, including the employment and supervision of other contract em-
18 ployees as may be deemed necessary;

19 (j) Appoint appropriate legal, actuarial, technical and other commit-
20 tees as necessary and appropriate to provide assistance in the develop-
21 ment of the plan of operation of the exchange and any function within the
22 authority of the exchange;

23 (k) Assess and collect fees from health carriers, exchange users and
24 participants and receive funds from other sources of revenue including
25 grant funds according to negotiated rulemaking as authorized by the
26 provisions of this chapter. The exchange fees and any grant funds im-
27 posed or collected pursuant to the operation of the exchange shall at
28 all times be free from taxation of every kind and shall be used solely
29 for the purposes of this chapter. On an interim basis prior to the es-
30 tablishment of the exchange plan of operation, the exchange may receive
31 and utilize grant funds; and

32 (1) The board shall not permit a health carrier to offer any health ben-
33 efit plan through the exchange that does not comply with the applicable
34 laws of this state.

35 (2) Nothing in this chapter shall be construed or interpreted to per-
36 mit the abrogation or preemption of the authority of the director pursuant
37 to title 41, Idaho Code, and rules adopted in accordance therewith, except
38 to the extent such action by the exchange may specifically be authorized pur-
39 suant to this chapter. The director is authorized to promulgate negotiated
40 rulemaking as necessary or appropriate to carry out the purpose and intent of
41 this chapter and the plan of operation adopted in accordance therewith. The
42 director and the director of the Idaho department of health and welfare are
43 authorized to assist the board in carrying out the responsibilities and du-
44 ties of this chapter consistent with their respective statutory duties and
45 authority.

46 41-6308. NAVIGATORS. (1) A person shall not act as a navigator in this
47 state unless the person is registered with the director as a navigator. Ap-
48 plication shall be made on forms prescribed by the director, and the appli-
49 cant shall pay a fee to the director set forth by rule. Prior to registering

1 an applicant as a navigator, the director shall determine, based on the ap-
 2 plication, that the person has the qualifications and ability to serve as a
 3 navigator. An individual employed by or affiliated with a registered navi-
 4 gator need not hold a separate individual navigator registration, however,
 5 the applicant for and navigator seeking renewal of registration may be re-
 6 quired to demonstrate that the individuals acting for it have met training or
 7 other education standards or classes acceptable to the director. The direc-
 8 tor may prescribe, by negotiated rulemaking, any necessary continuing edu-
 9 cation or training requirements for navigators.

10 (2) A navigator registration shall be valid for two (2) years and be
 11 subject to renewal upon application to the director on forms prescribed by
 12 the director and payment of a fee as set forth by rule.

13 (3) The provisions of chapters 1, 2 and 13, of title 41, Idaho Code, and
 14 sections 41-1008, 41-1016 and 41-1021, Idaho Code, and any related rules,
 15 shall apply to navigators. For purposes of this chapter and the application
 16 of other provisions of title 41, Idaho Code, the duties of a navigator shall
 17 be deemed to constitute transacting the business of insurance.

18 (4) Consistent with section 1311(i) (4) of the patient protection and
 19 affordable care act, no person licensed as a producer pursuant to chapter 10,
 20 title 41, Idaho Code, shall act as a navigator or be licensed as a navigator
 21 pursuant to the provisions of this section.

22 (5) Compensation for navigators shall be paid at a salary level deter-
 23 mined by the board and with federal grant funds received by the exchange pur-
 24 suant to the patient protection and affordable care act. At such time as the
 25 exchange becomes self-sufficient and no longer receives any federal grant
 26 funds, navigators shall be compensated with exchange funds.

27 (6) Navigators shall provide information in a manner that is culturally
 28 and linguistically appropriate to the needs of the population being served
 29 by the exchange.

30 41-6309. REPORTING. (1) The exchange shall make available to the pub-
 31 lic and submit to the governor, the United States secretary of health and hu-
 32 man services, the germane health and welfare committees of both chambers of
 33 the Idaho legislature and the director a full report of its activities and
 34 the condition of the exchange market on or before July 1, 2013, and annually
 35 on or before each July 1 thereafter. Such report shall include accurate and
 36 timely disclosure of the following information:

- 37 (a) Claims payments, policies and practices;
- 38 (b) Periodic financial disclosures;
- 39 (c) Data on enrollment;
- 40 (d) Data on disenrollment;
- 41 (e) Data on rating practices;
- 42 (f) Information on enrollee and participant rights pursuant to title 1
- 43 of the federal patient protection and affordable care act; and
- 44 (g) Other information deemed appropriate by the United States secre-
- 45 tary of health and human services.

46 (2) The information required pursuant to subsection (1) of this section
 47 shall be provided in plain language as defined in section 1311(e) (3) (B) of
 48 the patient protection and affordable care act.

1 SECTION 2. SEVERABILITY. The provisions of this act are hereby declared
2 to be severable and if any provision of this act or the application of such
3 provision to any person or circumstance is declared invalid for any reason,
4 such declaration shall not affect the validity of the remaining portions of
5 this act.

6 SECTION 3. An emergency existing therefor, which emergency is hereby
7 declared to exist, this act shall be in full force and effect on and after its
8 passage and approval.