September 20, 2012

Dear Commissioners Rothman and Schowalter,

You have asked for public comments on the draft of the proposed Guiding Principles for the Minnesota Health Insurance Exchange --- the Dayton Administration’s continued attempt to install Obamacare in Minnesota without authority from the state legislature.

The principles you propose violate the principles of the U.S. Constitution, which limits the size of government. As our comments below explain, these draft Exchange principles support an expanded scope of government in people’s lives --- and make various false claims.

Specifically on the six proposed principles of the non-authorized Health Insurance Exchange, the Citizens’ Council for Health Freedom provides these comments:

**Universal Coverage - The Task Force will foster an Exchange that supports universal access to health care for all Minnesotans.**

_CCHF COMMENT: Universal Coverage means national health care, and in this case, a national health care system through a federally-controlled, state-run government health insurance exchange which must follow the federal law and the federal rules and annually report to the U.S. Department of Health and Human Services (HHS). Our organization does not support a government-run health care system, where people’s choices of care or coverage are limited by government. We do not support a government-run system where private information is used to limit personal choices. Nor do we support sending a vast array of personal data on individuals through the “Federal Data Services Hub” to the IRS and other federal agencies for enforcement of the Obamacare mandate to purchase health insurance."

**High-Quality, Affordable Health Care - The Task Force will design an Exchange that promotes the delivery of high quality health care at an affordable cost, encouraging innovative payment and delivery mechanisms that increase value.**

_CCHF COMMENT: There are no definitions in these draft principles. For example, how is “high quality” defined and who determines the definition? Who decides and defines “value”? The public has been led to believe that the Exchange is solely about buying health insurance. This principle makes it clear that the Exchange will delve into the medical records of patients and the medical decisions of doctors to determine physician compliance with the government’s definition of “quality” and “value” -- and through payment mechanisms financially penalize any physician, hospital or other practitioner that opts to individualize and customize care outside government definitions."

**Consumer-Friendly - The Task Force supports creating an Exchange that provides a simple, user-friendly experience for consumers to find, choose and purchase coverage and to enroll in public programs or obtain financial assistance.**

_CCHF COMMENT: There are at least six ways the Exchange is not “consumer-friendly.” First, the purpose of the Exchange is universal health care, which is not “consumer-friendly.” Second, those who are Medicaid-eligible will be automatically enrolled in Medicaid, even if they don’t want to be. There will be no shopping in the “marketplace.” Third, the only available health insurance plans that the Exchange will be those approved by the State and by law that..."
list could be further limited by the federal government. That’s not a market for consumers. Fourth, putting employers in jeopardy of significant fines if even one employee receives a premium subsidy on the Exchange is not “consumer-friendly.” Fifth, a 12-member research group on exchanges recently revealed that the Exchanges are actually very “complicated,” and at least one member suggested providing “defaults for people that are simple and good enough.” Defaults are choices determined by government, not individual consumers. And sixth, it is not “consumer-friendly” to gain access to private medical records without patient consent as Exhibit D of the Maximus contract with the State makes clear.

Eliminate Health Disparities - In designing the Exchange, the Task Force will actively seek out and pursue opportunities to eliminate health disparities.

CCHF COMMENT: The goal of “eliminating health disparities” has been recognized as the advance of universal health care. The term “health disparities” has been broadly defined to mean health care based on race, ethnicity, sex, age, disability, sexual identity, geography, and socioeconomic status, to name a few. Eliminating so-called “health disparities” will mean intrusive data collection and analysis of individuals and their doctors. It could potentially lead to mandated treatments and mandated availability of certain types of practitioners regardless of the consumer’s wishes.

Accountable - The Task Force believes the Minnesota Exchange exists for the benefit of the public, and should be transparent and accountable to the people of Minnesota.

CCHF COMMENT: If the Exchange were such a clear benefit to the public, it would not be controversial and opposed by the legislature and the public. Instead, the Exchange is clearly a government bureaucracy built for the benefit of government, and for the purpose of implementing national health care. In addition, as various news articles have underscored, the Dayton administration is currently failing in transparency, and shows no intent of becoming accountable to the public regarding the details of the Exchange. The time for transparency and accountability is now, but Governor Dayton and his administration, including the Exchange division in the Department of Commerce (now transferred to MN Management and Budget) have chosen otherwise.

Competition - The Task Force will develop the Exchange in a way that fosters vigorous and fair competition in the health care system among both providers and payers.

CCHF COMMENT: Competition happens in a free market, not a government-imposed bureaucracy claiming to be a market. The State will decide winners and losers. Those who refuse to play by government rules, those who refuse to cooperate or are not big enough to comply with all the government’s regulations will lose. They won’t even be allowed to compete. Competition happens naturally every day without, and often in spite of government interference. The Exchange, under the authority of the federal government and run by either the state or federal government, will both make and impose the rules. This is not competition— and the Exchange is not a marketplace.

Please confirm that you have received these comments.

Twila Brase RN, PHN
President
Citizens’ Council for Health Freedom
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Saint Paul, MN 55103
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651-646-8935
STATE OF MINNESOTA  
Office of Governor Mark Dayton  
130 State Capitol • 75 Rev. Dr. Martin Luther King Jr. Boulevard • Saint Paul, MN 55155  

September 18, 2012

Dear Legislative Leaders:

I am writing to follow-up on my August 23rd letter and provide additional information about our work to design and develop Minnesota’s state-based health insurance exchange.

Our goal is to design a Minnesota Health Insurance Exchange that gives over 1.2 million Minnesotans – both individuals and small businesses – more affordable options for choosing high quality health insurance. While the Affordable Care Act continues to be debated in the political arena, the law is clear: either we design and implement a state-based exchange, or we will be assigned to a one-size-fits all Federal exchange. Given this reality, we cannot afford to put exchange planning and development on hold. We can, however, wait to make final policy decisions until after the November elections. This is what we intend to do.

Last October, I issued an Executive Order charging the Department of Commerce with the role of designing and developing a state-based exchange. We established an inclusive, non-partisan Health Insurance Exchange Advisory Task Force with broad representation. In the 2012 Legislative Session, I supported bipartisan legislation to codify a health insurance exchange in state law based on the Task Force’s initial recommendations. The Task Force will continue to provide recommendations over the next few months on what Minnesota’s exchange should look like.

There is consensus among the Administration, stakeholders, and even some Republicans in the Legislature that a state-based exchange is better for Minnesota than a Federal exchange. I ask you to work with us to build on the recommendation of the Exchange Task Force to design a Minnesota Health Insurance Exchange with a public/private partnership as a governance model. This model gives us the flexibility to capitalize on the strengths of private sector expertise and also be able to use the Exchange for public health care programs like Medicaid, which will save money and streamline enrollment and eligibility.
options that will form the basis for our discussions with legislators in early November and into next year. Attached to this letter is a summary of the planned meetings of the Health Insurance Exchange Advisory Task Force over the next two months and their proposed agenda items. In these public meetings there will be extensive discussion of the Federal application process, our progress to date, and a review of our grant applications and budgets. In addition, the Health Reform Task Force will meet in October and November to review the status of exchange development and options for key policy decisions including governance, finance, market rules and broker/navigator options. The Health Insurance Exchange Advisory Task Force is expected to deliver recommendations to the Legislature and Governor by the end of December, which we will be able to consider in the 2013 legislative session.

Minnesota has a nation-leading health care system, and we have the responsibility to protect our strengths even as we move forward with implementation of the Affordable Care Act. The changes I have outlined here will protect Minnesota’s interests and prepare us for the important and necessary health care policy discussion of the coming session. I look forward to working with you on these important issues.

Sincerely,

Mark Dayton
Governor

cc: Mr. Mike Rothman, Commissioner, MN Department of Commerce
Ms. Lucinda Jesson, Commissioner, MN Department of Human Services
Dr. Edward P. Ehlinger, MD, MSPH, Commissioner, MN Department of Health
Mr. James Schowalter, Commissioner, MN Dept. of Management and Budget
Ms. Carolyn Parnell, Commissioner, MN IT Services
Senator David W. Hann
Senator Chris Gerlach
Senator Tony Lourey
Senator Ann H. Rest
Representative Joe Hoppe
Representative Jim Abeler
Representative Steve Gottwalt
Representative Thomas Huntley
Representative Joe Atkins
Representative Tina Liebling
Since the conclusion of 2012 Legislative Session, we have continued working to preserve Minnesota's options for a state-based exchange. We secured $28.5 million in federal grants, and recently submitted an application for an additional $42.5 million in federal grants to build the necessary infrastructure for an exchange. We have negotiated one of the least expensive information technology contracts in the country for our exchange technology platform. We hired an Executive Director and twelve fulltime staff to guide the development work and to provide the expertise needed for this complex planning process. Due to the excellent work of our staff, Minnesota is now considered one of the top states in the nation in terms of functional and infrastructure readiness for a state-based exchange.

States seeking to operate a state-based exchange must submit an application to the federal government by November 16, 2012. Let me be clear: my administration will not commit Minnesota to any final policy decisions in this application, such as how it will be financed or its permanent governance structure. Due to the great flexibility of the federal approval process, we can request conditional approval in November, and then make these important policy decisions early in the 2013 Legislative Session. I respect the authority of the Legislature to participate in these decisions, and strongly prefer that we all work together to make these crucial choices.

The Department of Commerce has done an excellent job of launching the design and development of the Exchange. Going forward, I am directing Minnesota Management and Budget (MMB) Commissioner James Schowalter to assume responsibilities for the next phase of Exchange development. This move will address the concern that certain core functions of the Exchange – providing health insurance options to individuals and small employers – are potentially in conflict with the Department of Commerce's role in regulating insurance companies and the sale of health insurance products. Additionally, MMB has the capacity and experience with financial oversight and human resources required for the next phase of designing and developing the Exchange. MMB will have responsibility for all financial, human resource, contractual and development activities related to the Exchange. Executive Director April Todd-Malmlov will report directly to Commissioner Schowalter. Commissioner Schowalter will work in close consultation with the Commissioners of Commerce, Human Services, Health, and MN.IT.

The exhaustive work of the external stakeholders on the Health Insurance Exchange Advisory Task Force will continue, with Commissioner Schowalter serving as the ex-officio Chair. The Commissioners of Commerce, Human Services, Health, and MN.IT will serve as ex-officio members. The work of the hundreds of participants and the discussions in dozens of public meetings over the next few months will be vital for completing formal recommendations and
August 23, 2012

The Honorable David H. Senjem  
Senate Majority Leader  
121 Capitol Building  
75 Rev. Dr. Martin Luther King, Jr. Blvd.  
St. Paul, Minnesota 55155

The Honorable Thomas M. Bakk  
Senate Minority Leader  
147 State Office Building  
100 Rev. Dr. Martin Luther King, Jr. Blvd.  
St. Paul, Minnesota 55155

The Honorable Kurt Zellers  
Speaker of the House  
463 State Office Building  
100 Rev. Dr. Martin Luther King, Jr. Blvd.  
St. Paul, Minnesota 55155

The Honorable Paul Thissen  
House Minority Leader  
267 State Office Building  
100 Rev. Dr. Martin Luther King, Jr. Blvd.  
St. Paul, Minnesota 55155

Dear Legislative Leaders:

I want to update you on our progress in the design and development of a Minnesota-based Health Insurance Exchange.

During the 30 months since the Affordable Care Act became law and the two months since the U.S. Supreme Court upheld its constitutionality, we have worked hard to ensure we will have designed by year’s end a Minnesota-made Exchange. If we fail to do so, under current law we would be assigned to the “one-size-fits-all” federal program.

We are designing the Exchange to offer a new marketplace for Minnesota citizens and small businesses to compare and choose affordable health insurance coverage. It will also enable small businesses to choose better, more affordable health insurance options for their employees.

This new marketplace aims to:

- Help more than 1.2 million Minnesotans choose quality, affordable health care coverage for themselves and their families. Minnesota families alone are expected to save as much as $1 billion per year in lower health care costs.
- Assist small businesses and their employees in reducing the cost of their health insurance and streamlining their administration of health plans. Small employers can expect to save up to 7.5 percent of their premium costs for their employees. Employers with less than 25 employees are eligible for certain tax credits that would save them even more.
- Streamline and modernize Medicaid eligibility and enrollment systems, helping as many as 700,000 Minnesotans to obtain more cost-effective health coverage and reducing the program’s costs.

Our Department of Commerce and its partner agencies (the Departments of Human Services, Health, Management and Budget, and Office of Enterprise Technology) will continue to collaborate on the Exchange. Minnesota has already been awarded $28.5 million from the federal government for the design and development
work on the Exchange. Those funds have been spent on information technology contracts, Exchange staff, hardware, software, and consultant services. Minnesota has requested and spent far less federal money for its Exchange design and development work than other states as far along in the process. Rhode Island has received about $100 million, Washington State has received over $150 million, and Maryland has requested nearly $200 million.

We are making efforts to encourage Minnesota-based companies to bid on this work. Regrettably, a local company withdrew its bid from consideration for the IT contract.

Last Wednesday evening, my administration submitted a request to the federal government for an additional $42.5 million to continue Exchange design and development prior to the January 2013 deadline for certification. Those funds would allow our development work to continue to advance. In January 2013, the new Legislature and I will be able to better assess the options for Minnesota and determine how we want to proceed. The Exchange Task Force, my department heads, and I stand ready to work with you at any time.

Federal law requires the State of Minnesota to present an initial plan to the federal government showing how our state-based Exchange will operate by November 16, 2012. Current federal law requires those plans to be approved or rejected by January 1, 2013.

In order to meet those deadlines, my administration will continue to advance the design and development work sufficiently to warrant federal certification of our Exchange. However, I will inform the U.S. Department of Health and Human Services that no final decisions regarding Minnesota's Health Insurance Exchange can be made by my administration prior to the upcoming election. Legislators will have the opportunity thereafter to review options and participate in the final decisions.

We are striving to make this process as transparent as possible and open to all Minnesotans wishing to participate. We are pleased that the seven regional "Listening Sessions," attracted over 300 Minnesotans offering their ideas and recommendations. The Task Force and associated Working Groups will continue to meet publicly and collect input from consumers, small and large business representatives, patient advocates, providers, plan administrators, insurance agents, tribal leaders, and state legislators.

My staff and I are happy to meet with you and your Members or to provide you with further information about this design and development stage. Additional details about the new federal grant request will be available prior to the next scheduled meeting of the Legislative Advisory Commission.

Sincerely,

Mark Dayton
Governor

cc: Senator David W. Hann
    Senator Chris Gerlach
    Senator Tony Lourey
    Senator Ann H. Rest
    Representative Joe Hoppe
    Representative Jim Abeler
    Representative Steve Gottwalt
    Representative Thomas Huntley
    Representative Joe Atkins
    Representative Tina Liebling