



GOOD GOVERNANCE for UTAH'S EXCHANGE

Why it matters and how it can help support a responsive marketplace

A Utah Health Policy Position Paper

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SUMMARY

Utah's insurance exchange, now called Avenue H, has deemphasized transparency and governance since it first opened in 2009 to serve small businesses. As the state moves toward full development of its exchange (the new insurance market place for people who don't have employer-sponsored insurance), good governance will be key to protecting consumers' and other stakeholders' interest in an accountable exchange. Fortunately, the Legislature's Health System Reform Task Force voted in its December 2012 meeting to consider a stronger governance policy. Because Avenue H is situated within an existing state agency, it is not technically required to create a governing body, though it must meet ACA (Affordable Care Act) governance standards in other ways. Utah has a way to go before it meets these standards. A governing body will help—though this case must be argued on its own merits. Most of our recommendations are based on experience with Avenue H and on best practices from other states—and less on the technical requirements of the ACA.

EXCHANGE GOVERNANCE: WHY IT MATTERS

Who is watching out for consumers and small businesses as state leaders make the critical decisions about exchanges? A sound governance policy and structure will ensure that consumers and other stakeholders have meaningful input into these decisions. Should we trust insurance companies to make good choices for exchange consumers? Can we trust anyone who will earn money through the exchanges to make sure it is structured in a way that protects consumers' interests above all else?

Once fully implemented in 2014, health reform will change the way people get health insurance. People who don't have an affordable offer of insurance through their employer will be able to buy individual policies through the American Health Benefits Exchange or AHBE. Small businesses will shop for insurance on the SHOP (Small Business Health Options Program) exchange.

States have a lot of decisions to make about how they want to run their exchanges. Choices have to be made about the quality of insurance products offered for sale; measures to keep prices down; how to make sure people who don't use the internet can shop there, how to help people so they can make informed and prudent choices—including people who are learning English or don't yet speak it very well, people with disabilities, and people whose family incomes fluctuate and will move back and forth

STATE APPROACHES TO GOVERNANCE

There is no one-size-fits-all approach for exchange governance. What governance looks like depends in part on where the exchange is housed.

Utah's exchange governance consists of an Executive Steering Committee with no consumer or advocate representation, two closed-door groups of brokers and insurers, and an informal advocates group that meets monthly. However, Utah's leaders have shown recent interest in adopting better governance practices.

Colorado's governing body ensures broad geographic, ethnic, and economic angles on its exchange. A majority of members must represent small business or individual perspectives *not directly affiliated with the insurance industry*. Technical Advisory Groups develop proposals for the Board.

West Virginia's Health Benefits Exchange will be located in the Office of the Insurance Commissioner, but will be governed by a ten-person board. Four of the members will be *ex officio* state officers. The remaining six will represent: consumers; small employers; organized labor; producers; Payors (selected by an advisory group of insurers); and providers (selected by advisory group of providers).

California's Health Benefit Exchange is an 'independent public entity not affiliated with any agency or department.' It is governed by a five-member board. The voting, *ex officio* chair is the state's Secretary of Health and Human Services. The other four members are selected on the basis of expertise in health insurance, health finance, or health care delivery. They may not be employees of insurers, brokers, or health care providers.

Learn more here:

<http://www.statereform.org/node/10720>
<http://www.commonwealthfund.org/Maps-and-Data/State-Exchange-Map.aspx#Washingtonum.org/exchange-blueprint-chart>

between private and public health insurance. To make the right decisions, Avenue H needs **good governance** that includes strong consumer input and subject matter expertise. Uninsured individuals, underinsured individuals, owners and employees of small businesses, and people who represent our diverse community must have a voice if Utah is serious about solving our health insurance problems—problems of access, cost, and quality, all of which are rooted in insurance which is too expensive today.ⁱ

EXPERT GUIDANCE ON GOVERNANCE

No matter where it is situated, exchanges must consult with relevant stakeholders, including consumers, small businesses and sole proprietors, people with experience facilitating enrollment in health plans, and state Medicaid offices.ⁱⁱ Good governance structures are needed to shape these and other exchange issues:

- The exchange's political independence and accountability
- Preventing conflicts of interest
- Sources of funding and sustainability; financial reporting requirements;ⁱⁱⁱ

Since exchanges will face changing circumstances over time (as evidenced by Utah's own small business exchange), experts suggest giving exchanges substantial flexibility in setting policies.^{iv}

UTAH'S APPROACH TO GOVERNANCE

Utah was on the right track in 2010 when the Legislature enacted [HB294](#) (Health System Reform Amendments by Rep. D. Clark). HB294 created an *advisory* board (not a governing board) to counsel Exchange staff on operations. Comprised of eight members (two producers; two consumers; a large and a small insurer; one representative from the Department of Health; and one from the Department of Insurance), the board met monthly until June 2011 when it was dissolved. There are no records of these meetings. Since then Avenue H has had an even weaker four-part advisory structure: Two closed-door separate "round tables" (one for insurers and one for brokers); an informal *ad hoc* consumer advocate group, an Executive Steering Committee (ESC). The ESC *technically* fills the same seats as required in statute for the recently dissolved Utah Health Exchange Advisory Board but fails to fill the [statute](#) in spirit. The individuals chosen to represent the *consumer advocates* on the ESC are top level executives from "community-based non-profit organizations": Intermountain Healthcare's Senior VP, the University of Utah's CFO, Health Insight's CEO, and Leavitt Partner's CEO who is also the Salt Lake Chamber's Health Committee Chair. While each brings certain expertise to the table, *how far removed are they from the on-the-ground issues and interests of consumers*—that is, Utahns who are uninsured, underinsured, or get insurance through the UHE? In addition, executives of two big health care providers have obvious conflicts of interest. **This is not true consumer representation, a crucial underpinning of sound governance.**

RECOMMENDATIONS FOR GOOD GOVERNANCE IN UTAH'S EXCHANGES

1. Create a multi-stakeholder, multi-sector *governing* (not just advisory) board with topical workgroups or technical advisory groups.
2. Consider moving Utah's exchange to a new governmental agency or to a nonprofit entity, following the model of Utah's HIP pool. The Governor's Office of Economic Development made sense as an institutional host for an exchange serving only small businesses. Given that Avenue H must now include an exchange for individuals to purchase insurance, this may be a good time to move it.^v

ⁱ See the full list of stakeholders or experts here: <http://www.nashp.org/sites/default/files/health.insurance.exchange.basics.pdf>

ⁱⁱ Section 1311(d)(6) of the *Patient Protection and Affordable Care Act*, Public Law. Hereafter: Section XX.

ⁱⁱⁱ Paul N. Van de Water and Richard P. Nathan, *Governance Issues for Health Insurance Exchanges*, National Academy of Social Insurance, January, 2011, <http://www.nasi.org/research/2011/governance-issues-health-insurance-exchanges>.

^{iv} <http://www.nasi.org/research/2011/governance-issues-health-insurance-exchanges>.

^v Commonwealth Fund recommends situating exchanges in an independent entity to ensure nimble operations.

<http://www.commonwealthfund.org/Publications/Fund-Reports/2010/Sep/Health-Insurance-Exchanges-and-the-Affordable-Care-Act.aspx>