STATE CORPORATION COMMISSION
HEALTH BENEFIT EXCHANGE DIVISION

THE VIRGINIA HEALTH BENEFIT EXCHANGE

OVERSIGHT AND COMPLIANCE PROGRAM

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Version History

Version	Date	Author(s)	Description
1.0	May 31, 2023	Mary McLaurin Toni Janoski	Initial Draft

1. <u>Background and Purpose:</u> The Virginia General Assembly established the Virginia Health Benefit Exchange ("Exchange") by law in 2020, under the provisions of the Code of Virginia §§ 38.2-6500 *et seq.*

The stated legislative purpose of the Exchange is to make qualified health and dental plans available to qualified individuals and employees of small employers in the Commonwealth; to promote a transparent and competitive marketplace; promote consumer choice and education; assist individuals with access to programs, premium assistance tax credits, and cost-sharing reductions to support the continuity of coverage and reduce the number of uninsured in Virginia. The Exchange must comply with Va. Code §§ 38.2-6500 *et seq*, as well as the provisions of the Patient Protection and Affordable Care Act and Healthcare Reconciliation Act (as amended). The Exchange is required and authorized to establish an oversight and monitoring program pursuant to § 1313 of the ACA and Va. Code §38.2-6500 *et seq*.

The purpose of this Oversight and Monitoring Program is to establish a framework for conducting internal oversight and monitoring, along with the implementation of best practices, to ensure the Exchange meets its statutory objectives through application of its core principles and in compliance with Federal and State laws. The Exchange is committed to operating for the public good, with integrity, openness, and with the goal of maintaining the highest level of program integrity possible.

Adoption

Virginia Health Benefit Exchange's Oversight and Compliance Program is adopted effective this 31st day of May, 2023.

2. Policies and Procedures

2.1 Code of Conduct

The Exchange is committed to maintaining an environment of uncompromising integrity and ethical conduct. These ethical standards serve as the fundamental principles guiding the decisions, actions, and day-to-day operations of the Virginia Health Benefit Exchange.

Exchange management and staff will:

· Perform all duties and responsibilities ethically and in accordance with laws, regulations, policies and procedures;

· Perform all duties and regulatory responsibilities in a manner that instills public confidence in the Exchange;

· Commit to using Commonwealth of Virginia and Exchange resources wisely and prudently;

· Abide by the State Corporation Commission's Employee Handbook and HR Manual;

· Abide by the State Corporation Commission's Internal Control Policy;

· Avoid any conflict of interest or impropriety between personal and professional roles, and abide by the State Corporation Commission's Rules on Conflict of Interest; and,

· Preserve confidential information acquired in the course of official duties, and make no use of such information to further personal interests.

The Exchange will exert oversight of its contractors, vendors and stakeholders, ensuring compliance with federal and state law, regulations, and the SCC's policies and ethical standards.

2.2 Conflict of Interest and Financial Disclosure Policy

It is the policy and expectation of the Exchange that its management and staff, as well as any downstream entity personnel, will act in the public good and in compliance with all SCC standards and federal and state law, when conducting activities related to Exchange business and operations. Commission members, Division Directors, and Exchange employees and partners shall use the powers and resources of their positions only to advance the public interest and not to obtain personal benefits or pursue private interests.

A conflict of interest arises when one chooses personal gain over his or her duties to the Exchange, or exploits his or her position with the Commission or Exchange for personal gain in some way.

All Directors and employees of the Virginia Health Benefit Exchange must adhere to the State Corporation Commission's Rules of Conflict of Interest, and shall not take any official action related to a matter in which a real conflict of interest exists.

No Commissioner or Exchange employee shall request or receive any money, item of value, or promise of money or item of value that is conditioned upon or given in exchange for the promised performance of an official act. Commissioners and Exchange employees are required to disclose, on an ongoing basis, any actual or potential conflict of interest that may coincide with Exchange business and operations and

shall disclose such potential or real conflicts as soon as the Commissioner or Exchange employee is aware of the conflict. Commissioners and Exchange employees, as well as any downstream entity personnel, must disqualify themselves from participating in any decisions that may affect their personal economic interests.

Each Commissioner and Exchange employee shall complete a Conflict of Interest Form upon appointment or hiring, and annually thereafter.

Any Exchange employee who violates the Conflict of Interest and Financial Disclosure Policy may be removed from office by the Commission.

2.3 Vendor/Contract Management

Contract Management and Oversight is governed by the SCC's procurement policy which ensures that all sourcing efforts maintain appropriate ethical standards as defined in the Virginia Public Procurement Act. The Contract Management policy is established to ensure administrative oversight and monitoring of all vendors executing contracts with the Exchange. The policy is designed to scale the oversight to the size, scope and type of contract in question.

The Contract Management Policy breaks down contracts by type and then assigns: a) Initial Administrative and Management Controls; b) on-going oversight activities; c) funds disbursement. Roles and responsibilities for Exchange leadership and staff shall be laid out with the Policy for each category of contract.

General Counsel is responsible for maintaining a repository to track and update Exchange Agreements.

All Exchange Agreements must include standard SCC addenda and enforcement standards, as well as defined service levels.

2.4 Records Management

The Exchange maintains a repository of Policies and Procedures (see Appendix A), which is managed by the Deputy Director for Finance and Compliance ("Chief Operating Officer"). The General Counsel, in consultation with the Chief Operating Officer, shall create and manage a Policy Lifecycle and Content Review Process.

The Chief Compliance Officer is also responsible for maintaining all financial records in accordance with federal regulations, and establishing and ensuring compliance with the Exchange's record retention policy. Generally, operational and financial records are maintained for ten years, in accordance with federal regulations.

The Exchange keeps accounting records and maintains audited financial statements in accordance with GAAP pursuant to 45 CFR 155.1200(a)(1). Routine auditing and monitoring applies to financial policies and procedures, programmatic procedures, internal policies and procedures, operational performance and metrics, complaint and conflict of resolution procedures, business continuity and risk assessment, information security and privacy. The Exchange will accommodate periodic auditing of records; and enable HHS or its designee(s) to inspect facilities, or otherwise evaluate the Exchange's compliance with Federal standards. Where necessary, the Exchange will create new regulatory policies, procedures, and any applicable record retention schedules to ensure compliance with 45 CFR 155.210.

The Exchange and its grantees, contractors, subcontractors, and agents must ensure the records maintained include, at a minimum, the following:

a. Information concerning operation of the financial and other record keeping systems; financial statements, including cash flow statements, and accounts receivable and matters pertaining to the costs of operations;

b. Any financial reports filed with other Federal programs or Commonwealth of Virginia authorities;

c. Data and records relating to the eligibility verifications and determinations, enrollment transactions, appeals, and plan variation certifications;

d. Qualified health plan contracting (including benefit review) data, consumer outreach, and Navigator grant oversight information.

The Exchange's Chief Security Officer manages the Exchange's implementation of the SCC's Business Continuity Plan (BCP). The BCP identifies essential functions the Exchange conducts and those that intersect with other essential functions of the SCC, and establishes processes for managing and reducing risks to those essential functions. The BCP also contains mandatory training exercises for all managers to practice responding to various disasters and risk management scenarios.

2.5 Education, Training and Reporting

The Code of Conduct and Conflict of Interest and Financial Disclosure policy shall be given to and reviewed with all Directors and employees of the Exchange upon its adoption, and to any newly-appointed Director or newly-hired employee prior to or at the time the Director is appointed or the employee is hired.

The Deputy Director of Finance and Compliance ("Chief Compliance Officer") shall establish and arrange for initial and continuing (not less than annually, and upon any revisions to policy) education and trainings to ensure compliance with federal and state laws, the SCC Code of Conduct, including the Conflict of Interest and Financial Disclosure policies and other operational policies and procedures. The Chief Security Officer shall establish and arrange for initial and continuing (not less than annually, and upon any revisions to policy) education and trainings related to ensure compliance with federal and state laws and standards related to IT and data privacy and security. The Annual Information Security and Compliance trainings are conducted through the SCC's Learning Management System and the training takes employees an estimated 1-8 hours. This training is conducted in partnership between the Office of Human Resources and the Office of Information Security. The respective Officers are responsible for maintaining records of training completion for their respective areas of compliance. General Counsel shall assist the Deputy Directors in updating and maintaining training materials, and determining when additional training on a matter may be necessary. Training materials must be reviewed at least annually to ensure they are complete, current and efficient. Any response or change in procedure to address incidents of non-compliance or remove gaps in the Exchange's compliance are added to employee training, as appropriate. The Chief Compliance Officer and the Chief Security Officer shall provide a report on Exchange trainings no less than annually.

All Exchange employees have the responsibility to comply with all applicable laws and regulations. Any employee who commits, witnesses, or reasonably believes an act of noncompliance has occurred is

required to report the matter to his or her manager, or to either the Chief Compliance Officer or the Chief Security Officer, or to the Office of Internal Audit. The Chief Compliance Officer and Chief Security Officer shall report incidents of non-compliance to the Exchange Director and General Counsel as soon as they are aware of them. The Exchange Director or General Counsel shall ensure that each report of non-compliance is investigated. Exchange leadership will take all steps possible to maintain the confidentiality of any reports, except as is necessary to investigate or further report the matter to required entities.

Employees are encouraged to communicate with Exchange leadership and General Counsel if they have questions about compliance issues or reporting.

3. Roles and Responsibilities

The Exchange's enabling legislation grants the State Corporation Commission governing power and authority in any matter pertaining to the Exchange. The Commission has ultimate compliance responsibility.

The Commission appoints a Director of the Exchange who has overall management responsibility for the Exchange, including all oversight and monitoring activities within the organization. Such activities include, but are not limited to, ensuring that the Oversight and Compliance Program has established policies, those policies are implemented, and that the program maintains sufficient resources (staffing and funding). The Exchange Director must also develop and deliver compliance-status reporting to the Commission.

The Exchange Director appoints a Deputy Director of Finance and Compliance ("Chief Compliance Officer"), who advises the Director on financial compliance and federal-reporting matters. The Chief Compliance Officer is also responsible for vendor management and Agent/Assister compliance, which encompasses ensuring all vendors, Agents, Assisters, and contractors of the Exchange adhere to Federal and State law, applicable training and certification standards, as well as following the Exchange's compliance policies and procedures. The Chief Compliance Officer is responsible for the development, operation and monitoring of the compliance program. The Chief Compliance Officer shall ensure Exchange employees receive education and training regarding compliance standards, and will address or refer any matters of non-compliance to the appropriate authority for investigation and/or action.

The Exchange Director also appoints a Chief of Security IT Operations ("Chief Security Officer"), who creates, manages and updates the Exchange's privacy and security policies and procedures. The Chief Security Officer also implements required reporting, and advises the Director on known or potential security and privacy matters. This position is responsible for ensuring the security of the Exchange IT system as well as the secure handling of personally identifiable information by the Exchange. The Exchange's Chief Security Officer arranges for employee training on privacy and security and monitors compliance with privacy and security laws and controls.

The State Corporation Commission's Division of Human Resources advises the Exchange Director and the Commission on all human resources matters and employment practices, policies, and procedures.

The State Corporation Commission's Office of General Counsel advises the Exchange Director on legal compliance matters, including the development and implementation of the Oversight and Compliance

Program. General counsel is responsible for monitoring changes in federal and state law and ensuring such changes are incorporated into the Exchange's Oversight and Compliance Program and other operational policies and procedures, as necessary.

4. Fraud, Waste and Abuse

The State Corporation Commission and the Virginia Health Benefit Exchange are committed to addressing and preventing fraud, waste and abuse. To ensure proper internal controls, and the training, testing and notification thereof, the Exchange has implemented a comprehensive fraud, waste and abuse policy. This policy is designed to protect the Exchange, its consumers, and business partners and emphasizes fund management. The Exchange defines fraud, waste and abuse in the following terms:

- Fraud is a false representation of the facts, including making false or misleading statements, or trying to hide wrongdoing by an individual(s) or an organization. It includes, but is not limited to, when an individual is believed to have knowingly and deliberately withheld information or provided incorrect information to obtain assistance for which he/she would otherwise be ineligible. The deception is intentional and usually results in a benefit to the perpetrator and/or causes damage, harm, or loss to the United States Government, the Commonwealth, or others. Example: The falsification of financial records to cover up a theft of money or state property.
- Waste is the unnecessary spending or careless squandering of the Commonwealth's resources, whether intentional or unintentional. Sometimes, inefficient or ineffective business practices may result in waste. Example: The expenditure of state funds to purchase items that have no business purpose.
- Abuse is the intentional destruction, diversion, manipulation, misapplication, mistreatment, or misuse of Commonwealth resources; or the extravagant or excessive use of a person's position or authority. Abuse can occur in a financial or non-financial environment. Example: An employee taking time off from work without properly discharging leave time.

SCC communications frequently remind Exchange staff, contractor staff, and assisters of the procedures to follow upon the discovery or suspicion of fraud, waste or abuse.

4.1 Mechanisms for Reporting Fraud, Waste and Abuse

Individuals are encouraged to report fraud, waste and abuse to the State Corporation Commission's Office of Internal Audit. All reports made to the Office of Internal Audit will be kept confidential.

The following are examples of the types of violations you may report to the Office of Internal Audit:

- Suspected theft, waste, or misuse of the Commonwealth's resources, including funds, property, and employee time;
- Intentional misuse of grant funds;
- Falsification of official documents (timesheets, leave reports, etc.);
- Gross mismanagement;
- Gross neglect of duty;
- Gross misconduct by a state employee; or
- Any violation of state or federal law (including regulations) by a state agency or employee.

4.2 Fraud, Waste and Abuse Investigations

The Exchange will not tolerate any fraud, waste or abuse related to its operations or committed by its employees. The Commission's Office of Internal Audit will conduct an investigation of any claims of fraud, waste or abuse. Any finding of potential misconduct by an SCC employee will be referred to the SCC Division of Human Resources for action. Any finding of potential misconduct by a vendor, contractor or partner of the Exchange will be referred to the Exchange Director for action or enforcement in accordance with the Exchange's policies. Any finding of potential criminal action will be referred to the Virginia Office of the Attorney General.

5. Investigations and Enforcement

5.1 Investigations

Separate from investigations of fraud, waste and abuse handled by the SCC Office of Internal Audit, the Exchange Director or General Counsel shall ensure that each report of non-compliance is investigated. This may involve referring a report to the appropriate Exchange Deputy Director for investigation or referring the matter to the SCC Office of Internal Audit. Investigations may include interviews of employees or contractors and review of documents, communications or data. Reports submitted to the Office of Internal Audit will be handled according to the policies and procedures of that Division. For Exchange internal investigations, the Exchange Director, General Counsel and applicable Deputy Director will consult on the appropriate procedures for each investigation. Investigations shall be conducted as promptly and efficiently as possible. All SCC employees are required to cooperate with investigations, and failure to cooperate may result in disciplinary action, as permitted by law and SCC policy. A written record of all investigations must be kept, and only made available as necessary for reporting within the Exchange or to state or federal agencies, as required by law.

5.2 Enforcement Standards

Confirmed acts of non-compliance may result in corrective action and/or disciplinary action, in accordance with SCC policies and procedures and the SCC Employee Handbook. SCC's Division of Human Resources will carry out any disciplinary action, in consultation with the Exchange Director and the Commission.

The Exchange's goal in enforcing its compliance and conduct standards is to correct the violation and prevent reoccurrence. In correcting the violation, any enforcement action will be commensurate to the severity of the violation.

In addition, Exchange leadership may recommend corrective action, which may include: additional training requirements for individual(s) involved in acts of non-compliance; a specific corrective action plan designed to mitigate or address particular acts of non-compliance; monitoring to reduce the risk of further non-compliance.

6. Routine Monitoring and Auditing

The Exchange's oversight of program operations involves regular monitoring of activities, risks, and corrective actions as well as planned and systematic audits. Exchange leadership, including the Director, Deputy Directors, Chief Security Officer and General Counsel will conduct regular meetings focused on evaluating the Exchange's satisfaction of its compliance standards and correcting any gaps identified.

The Exchange collects activity-related performance and outcome metrics that are regularly analyzed and compared against policies and procedures for compliance gaps. Exchange staff report to managers who report to the Exchange Director frequently.

The Exchange will utilize the Commission's Office of Internal Audit for internal financial and programmatic audits as required by federal law. The Exchange will conduct external audits as required by law. Exchange leadership shall support cooperation with external audits. Audits may be routine or ad hoc. An audit will assess for one or more of the following: adequacy of internal control systems; compliance with contracts, laws, policies, and regulations; effectiveness and efficiency of operations; integrity of recorded and reported information; and safeguarding of assets and resources. All Exchange employees must cooperate with auditors and make all documents available as requested. A written audit report must be created upon completion of the audit, and shared with the Exchange Director and the Commission.

Appendix A.

SCC Information Technology Security Policy
SCC Data Classification Standard
SCC Information Technology Strategic Plan
SCC Employees Handbook
SCC Procurement Policy
SCC Accounts Receivable Policy
SCC General Revenue Policy
CMS Information Disclosure Agreement
CMS Federal Platform Agreement for SBE-FPs
Navigator Contracts
Privacy and Security Agreements
Human Resources Manual
SCC Accounting Policy and Procedure Manual
SCC Information Technology Policies and Standards (Change Management, Backup & Recovery, Business Continuity, Disaster Recovery)