



# State of New Hampshire

DEPARTMENT OF HEALTH AND HUMAN SERVICES

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NICHOLAS A. TOUMPAS  
COMMISSIONER

January 19, 2012

The Honorable John B. Hunt, Chair  
House Commerce Committee  
Legislative Office Building, Room 302  
Concord, NH 03301

**RE: HB 1297, relative to health care exchanges.**

Dear Representative Hunt:

Thank you for this opportunity to provide information on HB 1297 relative to health care exchanges. I want to express my concern about the potentially devastating impact to the State Medicaid program that would result from passage and adherence to this legislation as currently written. The bill also poses enforcement challenges.

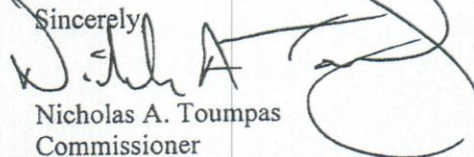
The Patient Protection and Affordable Care Act ("ACA") mandates that states create a virtual health coverage marketplace called an Exchange. To ensure compliance with this federal mandate the law provides that having an Exchange in place by January 1, 2014, is a *condition precedent* to receipt of Medicaid funding commencing in 2014<sup>1</sup>. Effectively, this bill, if passed, would put at risk the entire Medicaid program, leaving over 120,000 extremely low income children, elderly and disabled New Hampshire citizens without access to necessary healthcare and long term care-support services.

I do acknowledge the very strong beliefs on the part of leadership with respect to the ACA, however, the bill further directs state employees to, in effect, violate federal law and appears to hold supervisors and the Division of Personnel accountable to enforce what amounts to inaction on the part of employees. It is not clear to me how or when a supervisor could or would take personnel action against an employee who attempted to follow the mandate of the Affordable Care Act.

Our inability to do any level of planning and preparation work on this puts us at significant risk.

Thank you for the opportunity to express my concerns regarding this bill.

Sincerely



Nicholas A. Toumpas  
Commissioner

<sup>1</sup> Sec. 1943. [42 U.S.C. 1396w-3] (a) Condition for Participation in Medicaid.—*As a condition of the State plan under this title and receipt of any Federal financial assistance* under section 1903(a) for calendar quarters beginning after January 1, 2014, a State shall ensure that the requirements of subsection (b) is met.(b) Enrollment Simplification and Coordination With State Health Insurance Exchanges and Chip.—(emphasis added)