

# MAINE STATE LEGISLATURE

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L.D. 1935

DATE: 5-23-06

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STATE OF MAINE  
SENATE  
122ND LEGISLATURE  
SECOND REGULAR SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 736, L.D. 1935, Bill, "An Act To Protect Health Insurance Consumers"

Amend the amendment by striking out the substitute title and replacing it with the following:

**'An Act To Modify the Savings Offset Payment for Plan Year 2006 and To Establish the Blue Ribbon Commission on the Long-term Funding of the Dirigo Health Program and To Increase Access to Health Insurance Products'**

Further amend the amendment by adding after Part B the following:

**'PART C**

**Sec. C-1. 22 MRSA §3174-DD**, as amended by PL 2005, c. 400, Pt. C, §2, is further amended to read:

**§3174-DD. Dirigo health coverage**

The department may contract with one or more health insurance carriers or the Dirigo Health Self-administered Plan established pursuant to Title 24-A, section 6981 to purchase Dirigo Health Program coverage for MaineCare members who seek to enroll through their employers pursuant to Title 24-A, section 6910, subsection 4, paragraph B. A MaineCare member who enrolls in the Dirigo Health Program as a member of an employer group receives full MaineCare benefits through the Dirigo Health Program. The benefits are delivered through the employer-based health plan, subject to nominal cost sharing as permitted by 42 United States Code, Section 1396o(2003) and additional coverage provided under contract by the department.

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SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 736,  
L.D. 1935

2           **Sec. C-2. 24-A MRSA §6903, sub-§1**, as enacted by PL 2003, c.  
469, Pt. A, §8, is amended to read:

4           **1. Board.** "Board" means the Board of ~~Directors~~ Trustees of  
Dirigo Health, as established in section 6904.

6           **Sec. C-3. 24-A MRSA §6904**, as enacted by PL 2003, c. 469,  
8 Pt. A, §8, is amended to read:

10           **§6904. Board of Trustees of Dirigo Health**

12           Dirigo Health operates under the supervision of --a- the  
14 Board of ~~Directors~~ Trustees of Dirigo Health established in  
accordance with this section.

16           **1. Appointments.** The board consists of --5- 9 voting  
18 members and -3- 4 ex officio, nonvoting members as follows.

20           A. The -5- 9 voting members of the board must be appointed  
22 by the Governor, subject to review by the joint standing  
committee of the Legislature having jurisdiction over health  
insurance matters and confirmation by the Senate.

24           B. The -3- 4 ex officio, nonvoting members of the board are:

26                   (1) The Commissioner of Professional and Financial  
28 Regulation or the commissioner's designee;

30                   (2) The director of the Governor's Office of Health  
32 Policy and Finance or the director of a successor  
agency; and

34                   (3) The Commissioner of Administrative and Financial  
Services or the commissioner's designee; and

36                   (4) The Treasurer of State or the treasurer's designee.

38           ~~2. --Qualifications of voting members.--Voting members of the~~  
40 ~~board;~~

42           ~~A. --Must have knowledge of and experience in one or more of~~  
the following areas:

44                   (1) ~~Health care purchasing;~~

46                   (2) ~~Health insurance;~~

48                   (3) ~~MaineCare;~~

50                   (4) ~~Health policy and law;~~

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2                   ~~(5) -- State management and budget; or~~

4                   ~~(6) -- Health care financing; and~~

6                   ~~B. -- Except as provided in this paragraph, may not be:~~

8                   ~~(1) -- A representative or employee of an insurance~~  
10                   ~~carrier authorized to do business in this State;~~

12                   ~~(2) -- A representative or employee of a health care~~  
14                   ~~provider operating in this State; or~~

16                   ~~(3) -- Affiliated with a health or health-related~~  
18                   ~~organization regulated by State Government.~~

20                   ~~A nonpracticing health care practitioner, retired or former~~  
22                   ~~health care administrator or retired or former employee of a~~  
24                   ~~health insurance carrier is not prohibited from being~~  
26                   ~~considered for board membership as long as that person is~~  
28                   ~~not currently affiliated with a health or health-related~~  
30                   ~~organization.~~

32                   2-A. Qualifications of voting members. Voting members of  
34                   the board must be qualified in accordance with this subsection.

36                   A. Six of the voting members of the board must have  
38                   knowledge of and experience in one or more of the following  
40                   areas:

42                   (1) Health care purchasing;

44                   (2) Health insurance;

46                   (3) MaineCare;

48                   (4) Health policy and law;

50                   (5) State management and budget;

(6) Health care financing;

(7) Labor or consumer advocacy; and

(8) Marketing.

B. Three of the voting members of the board must have  
                  knowledge of and experience in one or more of the following  
                  areas:

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2           (1) Accounting;

4           (2) Banking;

6           (3) Securities; and

8           (4) Insurance.

10       C. Except as provided in this paragraph, a voting member of  
the board may not be:

12           (1) A representative or employee of a health insurance  
carrier authorized to do business in this State;

14           (2) A representative or employee of a health care  
provider operating in this State;

16           (3) Affiliated with a health or health-related  
organization regulated by State Government; or

18           (4) A representative or employee of Dirigo Health.

20  
22       A nonpracticing health care practitioner, retired or former  
health care administrator or retired or former employee of a  
health insurance carrier is not prohibited from being  
considered for board membership as long as that person is  
not currently affiliated with a health or health-related  
organization.

24  
26  
28  
30       **3. Terms of office.** Voting members serve 3-year terms.  
32       Voting members may serve up to 2 consecutive terms. Of the  
34       initial appointees, one member serves an initial term of one  
36       year, 2 members serve initial terms of 2 years and 2 members  
38       serve initial terms of 3 years. The Governor shall fill any  
40       vacancy for an unexpired term in accordance with subsections 1  
42       and 2. Members reaching the end of their terms may serve until  
44       replacements are named.

46       **4. Chair.** The Governor shall appoint one of the voting  
48       members as the chair of the board.

50       **5. Quorum.** Three Five voting members of the board  
52       constitute a quorum.

54       **6. Affirmative vote.** An affirmative vote of ~~-3-~~ 5 members  
56       is required for any action taken by the board.

58       **7. Compensation.** A member of the board must be compensated  
60       according to the provisions of Title 5, section 12004-G,

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subsection 14-D; a member must receive compensation whenever that member fulfills any board duties in accordance with board bylaws.

8. Meetings. The board shall meet ~~at least 4 times a year~~ at regular intervals monthly and may also meet at other times at the call of the chair or the executive director. All meetings of the board are public proceedings within the meaning of Title 1, chapter 13, subchapter 1.

Sec. C-4. 24-A MRSA §6905, as enacted by PL 2003, c. 469, Pt. A, §8, is repealed and the following enacted in its place:

§6905. Limitation on liability

1. Indemnification of Dirigo Health employees. An employee of Dirigo Health is not subject to any personal liability for having acted within the course and scope of membership or employment to carry out any power or duty under this chapter. Dirigo Health shall indemnify any member of the board and any employee of Dirigo Health against expenses actually and necessarily incurred by that member or employee in connection with the defense of any action or proceeding in which that member or employee is made a party by reason of past or present authority with Dirigo Health.

2. Limitation on liability of board members. The personal liability of a member of the board is governed by Title 18-B, section 1010.

Sec. C-5. 24-A MRSA §6908, sub-§2, ¶E, as amended by PL 2005, c. 400, Pt. C, §6, is further amended to read:

E. Arrange the provision of Dirigo Health Program benefit coverage to eligible individuals and eligible employees through contracts with one or more qualified bidders in accordance with section 6910 or through the self-administered plan authorized pursuant to section 6981;

Sec. C-6. 24-A MRSA §6909, sub-§2, ¶A, as enacted by PL 2003, c. 469, Pt. A, §8, is amended to read:

A. Serve as the liaison between the board ~~of directors~~ and Dirigo Health and serve as secretary and treasurer to the board;

Sec. C-7. 24-A MRSA §6910, sub-§1, as amended by PL 2005, c. 400, Pt. C, §8, is further amended to read:

1. Dirigo Health Program. Dirigo Health shall arrange for the provision of health benefits coverage through the Dirigo

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SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 736,  
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Health Program not later than October 1, 2004. The Dirigo Health  
Program must comply with all relevant requirements of this  
Title. Dirigo Health Program coverage may be offered by health  
insurance carriers that apply to the board and meet  
qualifications described in this section and any additional  
qualifications set by the board or may be provided through the  
Dirigo Health Self-administered Plan pursuant to section 6981.

Sec. C-8. 24-A MRSA §6916 is enacted to read:

**§6916. Marketing and sale of Dirigo Health Program;  
qualifications of insurance producers**

**1. Qualifications of insurance producers.** An insurance  
producer licensed pursuant to chapter 16 may solicit, negotiate  
and sell insurance products offered by or through the Dirigo  
Health Program if the following conditions are met prior to any  
such solicitation, negotiation or sale:

A. The producer is authorized by the superintendent to  
solicit, negotiate and sell insurance products for the  
health line of business;

B. The producer has successfully completed all training  
offered and required by the Dirigo Health Program for the  
solicitation, negotiation and sale of Dirigo Health Program  
insurance products, including any continuing training  
offered and required by the Dirigo Health Program;

C. The producer provides the carrier or carriers with which  
the Dirigo Health Program has contracted to underwrite and  
provide Dirigo Health Program coverage a current certificate  
from the Dirigo Health Program certifying the successful  
completion of all training offered and required by the  
Dirigo Health Program; and

D. The producer successfully completes all training specific  
to the sale of Dirigo Health Program insurance products  
offered and required by the carrier or carriers contracting  
with the Dirigo Health Program to underwrite and provide  
Dirigo Health Program coverage, including any continuing  
training offered and required by such carrier or carriers.

**2. Annual certification required.** Training pursuant to  
subsection 1 must be completed annually, and any certificate  
establishing successful completion of training is valid for one  
year from the date of issuance. If a producer fails to obtain  
certification following the expiration of the prior year's  
certification, the producer may not continue to solicit,

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2 negotiate and sell insurance products offered by or through the  
Dirigo Health Program.

4 3. Carrier appointment not required. Notwithstanding any  
6 other provision of law, an insurance producer licensed pursuant  
to chapter 16 who complies with this section may solicit,  
8 negotiate and sell insurance products offered by or through the  
Dirigo Health Program without being appointed by the carrier or  
10 carriers contracting with the Dirigo Health Program to underwrite  
and provide Dirigo Health Program coverage. A producer may not  
12 solicit, negotiate or sell insurance products offered by or  
through the Dirigo Health Program if the producer is not in  
14 compliance with this subsection. Notwithstanding section 1445,  
the carrier or carriers contracting with the Dirigo Health  
16 Program to underwrite and provide Dirigo Health Program coverage  
are not liable for the actions of an insurance producer who has  
18 not been appointed to solicit, negotiate and sell insurance  
products offered by or through the Dirigo Health Program.

20 **Sec. C-9. 24-A MRSA c. 87, sub-c. 4** is enacted to read:

22 **SUBCHAPTER 4**

24 **DIRIGO HEALTH SELF-ADMINISTERED PLAN**

26 **§6981. Dirigo Health Self-administered Plan**

28 Notwithstanding section 6910, subsection 2, Dirigo Health  
30 may provide access to health benefits coverage by establishing  
the Dirigo Health Self-administered Plan, referred to in this  
32 section as "the self-administered plan," pursuant to this section.

34 1. Establishment. Dirigo Health may provide access to  
36 health benefits coverage through the Dirigo Health  
Self-administered Plan subject to the requirements of this  
38 section. The board may make a determination that Dirigo Health  
will provide access to health benefits coverage through a  
40 self-administered plan after the board evaluates competitive bids  
for health benefits coverage for self-administered and fully  
42 underwritten health benefits coverage. If the board determines  
that Dirigo Health will provide access to health coverage through  
44 a self-administered plan as authorized under this section, the  
board shall submit a report explaining the reasons for the  
46 decision to the joint standing committee of the Legislature  
having jurisdiction over health insurance matters within 30 days  
48 of the decision. Upon receipt of a report from the board, the  
chairs of the joint standing committee of the Legislature having  
50 jurisdiction over health insurance matters may call a meeting of  
the committee. Following receipt of such a report, the joint  
standing committee of the Legislature having jurisdiction over



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2 health insurance matters may report out legislation to the next  
3 regular or special session of the Legislature relating to the  
4 establishment of the Dirigo Health Self-administered Plan.

6 2. Cooperative agreements. Dirigo Health may enter into  
7 voluntary cooperative agreements with a public purchaser for  
8 purchasing purposes and administrative functions. If a  
9 cooperative agreement is entered into pursuant to this  
10 subsection, the self-administered plan and any public purchaser  
11 shall maintain separate and distinct risk pools and reserves and  
12 may not commingle risk pools or reserve funds under any  
13 circumstances. For the purposes of this subsection, "public  
14 purchaser" means an entity that purchases health coverage in  
15 whole or in part with public funds, including, but not limited  
16 to, the state employee health insurance program, the University  
17 of Maine System, the Maine Community College System, the Maine  
18 Education Association benefits trust, the Maine School Management  
19 Association benefits trust and municipal and county governments.  
20 For the purposes of this subsection, "public purchaser" does not  
21 mean the Department of Health and Human Services, Office of  
22 MaineCare Services except for cooperative agreements for the  
23 purchasing of pharmaceuticals pursuant to Title 5, section 2031.

24 3. Additional responsibilities of board. In addition to  
25 the duties and responsibilities set out in sections 6908 and  
26 6910, the board is authorized to:

28 A. Operate the self-administered plan pursuant to a trust  
29 instrument in accordance with Title 18-B;

30 B. Develop, maintain and modify a business plan for the  
31 self-administered plan as appropriate in consultation with  
32 the executive director;

33 C. Establish an operating budget for the self-administered  
34 plan subject to legislative approval in the biennial budget  
35 process in accordance with section 6908, subsection 3;

36 D. Ensure the ongoing fiscal integrity and stability of the  
37 self-administered plan in accordance with subsections 5 and  
38 10 and monitor statistics provided by the executive director  
39 relating to the number of plan enrollees, working rates,  
40 utilization of benefits, operating costs and reimbursement  
41 for losses related to excess or stop loss coverage;

42 E. Establish administrative and accounting procedures in  
43 accordance with section 6908, subsection 2, paragraph A and  
44 develop financial statements that are consistent with  
45 generally accepted accounting principles;

Refs.

2 F. Obtain necessary contracts for services, including, but  
4 not limited to, actuarial services, accounting services,  
6 auditing services, investment advice and counsel and  
8 custodial services for financial assets in accordance with  
10 subsection 4;

12 G. Take any actions necessary to comply with federal and  
14 state Medicaid rules regarding Dirigo Health plan enrollees  
16 members eligible for MaineCare;

18 H. Take any actions necessary to comply with federal  
20 Medicaid managed care organization contract requirements as  
22 provided in 42 Code of Federal Regulations, Part 438 (2002);  
24 and

26 I. Have and exercise all powers necessary and appropriate  
28 to carry out the purposes of this section.

30 4. Services. If the board determines that Dirigo Health  
32 will provide access to health coverage through the  
34 self-administered plan pursuant to subsection 2, the board shall  
36 contract for the following services through a competitive bidding  
38 process unless the requirement for competitive bidding is waived  
40 pursuant to Title 5, section 1825-B, subsection 2 or a carrier  
42 contracted by Dirigo Health to fully underwrite health benefits  
44 coverage terminates that contract.

46 A. The board shall secure the services of an actuary for  
48 technical advice on matters regarding the operation of the  
50 self-administered plan in accordance with this paragraph.  
52 The board shall contract for actuarial services after a  
54 competitive bidding process at least every 3 years and may  
56 award a bid only to an actuary who is a member in good  
58 standing of the American Academy of Actuaries or a successor  
60 organization. The contract must require the actuary to:

62 (1) Act as a technical advisor to the board on matters  
64 regarding the operation of the self-administered plan  
66 in accordance with this paragraph;

68 (2) Certify the amounts of the benefits paid and  
70 payable under this section;

72 (3) Analyze the year's operations and results and the  
74 experience of the self-administered plan;

76 (4) Determine appropriate actuarial assumptions for  
78 recommendation to the board; and

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2           (5) Determine the appropriate level of reserves needed  
3           to sustain the self-administered plan and pay benefits.

4           B. The board shall secure the services of one or more  
5           fiduciaries or registered investment advisors through  
6           negotiated contractual arrangements. The contract must  
7           require the fiduciary or registered investment advisor to:

8                   (1) Invest and reinvest the funds in accordance with  
9                   appropriate financial and trust standards;

10                   (2) Advise the board as to reasonable investment  
11                   philosophy; and

12                   (3) Submit regular reports of investments and changes  
13                   to the board.

14           C. The board shall contract with an appropriate financial  
15           institution for custodial services for the securities and  
16           other investment assets of the self-administered plan. The  
17           contract must require the custodian to meet financial  
18           safeguards and other qualifications determined by the board,  
19           including restrictions on the manner in which deposits and  
20           withdrawals of funds are completed.

21           D. When the self-administered plan is established, the  
22           board shall purchase, through contracts from one or more  
23           3rd-party administrators or any organization necessary to  
24           administer and provide a health plan, a policy or policies  
25           or a contract to provide the benefits specified by this  
26           section. The purchase of policies by the board must be  
27           accomplished by use of a written contract for a term  
28           determined by the board.

29           The board may contract for any other applicable services  
30           necessary to comply with federal law.

31           5. Administration. The following provisions govern the  
32           administration of the self-administered plan.

33           A. The assets and liabilities of the self-administered plan  
34           are solely the assets and liabilities of Dirigo Health.

35           B. The actuary under contract with the board pursuant to  
36           subsection 4 shall determine:

37                   (1) The appropriate level of reserves estimated to be  
38                   sufficient to pay claims and administrative costs  
39                   according to subsection 10, paragraph B;

40

2 (2) Whether the program is operating on an actuarially  
4 sound basis, and any recommendations based on that  
6 determination;

8 (3) A rate structure for the self-administered plan,  
10 including working rates actuarially sufficient to pay  
12 anticipated claims for the current claims year as well  
14 as to provide sufficient reserves for incurred but not  
16 reported claims;

18 (4) Recommendations as to the purchase of excess or  
20 stop loss insurance including suggested attachment  
22 levels and limits; and

24 (5) Recommendations as to the need for a security  
26 deposit or surety bond to protect against insolvency.

28 The actuary shall annually present information to the board  
30 on the determinations made pursuant to this paragraph as  
32 well as the method of distribution of any accumulations  
34 above the reserves including use of excess reserves to  
36 moderate the working rates.

38 C. Upon receipt of the initial presentation and  
40 recommendations of the actuary pursuant to paragraph B and  
42 annually thereafter, the board shall submit that  
44 presentation to the superintendent for review. The  
46 superintendent shall review the actuary's presentation and  
48 provide comments to the board.

6. Audits; financial statements. The board shall arrange  
for an annual audit of its financial statements by an independent  
certified public accounting firm. Within 30 days of the  
completion of the audit, a copy of the audited financial  
statements must be distributed to the Legislature in the same  
manner as required by section 6908, subsection 4. A copy of the  
audited financial statements must also be made available for  
public inspection.

7. Public entity. The Dirigo Health Self-administered Plan  
is a public entity for the purposes of 42 Code of Federal  
Regulations, Section 438.116.

8. Application of certain insurance provisions. The  
self-administered plan must meet or exceed the following  
requirements as if health benefits coverage were provided by a  
health insurance carrier:

Page

2 A. The requirements for ratings practices pursuant to  
section 2736-C, subsection 2 and section 2808-B, subsection  
2;

4  
6 B. The requirements for guaranteed issuance pursuant to  
section 2736-C, subsection 3 and section 2808-B, subsection  
4;

8  
10 C. The requirements for guaranteed renewal pursuant to  
section 2736-C, subsection 3 and section 2808-B, subsection  
4 subject to the limitations of available funds maintained  
by the self-administered plan in accordance with subsection  
10;

14  
16 D. The requirements for continuity of coverage, coverage of  
late enrollees and preexisting condition exclusions pursuant  
to chapter 36;

18  
20 E. The requirements for mandated coverage of specific health  
care services and for specific diseases and for certain  
providers of health care services pursuant to Title 24 and  
this Title; and

24  
26 F. The requirements for the benefits, rights and protections  
for individuals enrolled in health plans pursuant to chapter  
56-A and Bureau of Insurance Rule, Chapter 850.  
Notwithstanding any statute or common law to the contrary,  
an individual enrolled in the self-administered plan may  
maintain a cause of action against the self-administered  
plan subject to the requirements of section 4313. This  
paragraph is a waiver of the State's defense of immunity  
under Title 14, chapter 741.

34 The self-administered plan may not enter into any contract with a  
3rd-party administrator, carrier or other organization to  
administer and provide health coverage that has not demonstrated  
compliance with all applicable state laws.

38  
40 9. Dirigo Health Self-administered Plan not an insurer.  
The Dirigo Health Self-administered Plan is not an insurer,  
reciprocal insurer or joint underwriting association under the  
laws of the State. The administration of the self-administered  
plan by the board does not constitute doing the business of  
insurance.

46 10. Reserves. This subsection applies to reserves of the  
self-administered plan.

48  
50 A. The Dirigo Health Reserve is created as an account  
within the Dirigo Health Enterprise Fund, as established

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2 pursuant to section 6915, for the deposit of reserves as  
3 required by paragraph B.

4 B. The self-administered plan shall maintain a reserve at  
5 least equal to the sum of:

6 (1) An amount estimated by a qualified actuary under  
7 subsection 5 to be necessary to pay claims and  
8 administrative costs for the assumed risk for 2 1/2  
9 months; and

10 (2) The amount determined annually by a qualified  
11 actuary under subsection 5 to be necessary to fund the  
12 unpaid portion of ultimate expected losses, including  
13 incurred but not reported claims, and related expenses  
14 incurred in the provision of benefits for eligible  
15 participants, less any credit, as determined by a  
16 qualified actuary, for excess or stop loss insurance.

17 C. The Dirigo Health Reserve must be adjusted on a  
18 quarterly basis in order to maintain a reserve at least  
19 equal to the amount determined in paragraph B.

20 D. The Dirigo Health Reserve is capitalized by money from  
21 the Dirigo Health Enterprise Fund, as established pursuant  
22 to section 6915, and any other fund advanced for initial  
23 operating expenses, monthly enrollee payments, any funds  
24 received from any public or private source, legislative  
25 appropriations, payments from state departments and agencies  
26 and such other means as the Legislature may approve. All  
27 money in the Dirigo Health Reserve is deemed to be the  
28 commingled assets of all covered enrollees and may be used  
29 only for the purposes of this section.

30 11. Stop loss insurance. The board may purchase excess or  
31 stop loss insurance for the self-administered plan, with  
32 attachment levels and limits as recommended by a qualified  
33 actuary pursuant to subsection 5. If the board is unable to  
34 purchase excess or stop loss insurance at the recommended  
35 attachment levels and limits, the board does not have the  
36 authority to establish a self-administered plan as provided in  
37 this section.

38 12. Marketing and distribution. The board may contract for  
39 the marketing and distribution of the self-administered plan in  
40 accordance with the requirements of this subsection. Any entity  
41 or individual that contracts with the self-administered plan  
42 shall successfully complete all training offered by Dirigo Health  
43 for the solicitation, negotiation and sale of health benefits  
44 coverage. Training must be completed annually, and any  
45 training must be completed annually, and any

certificate establishing successful completion of training is valid for one year from the date of issuance. If an entity or individual fails to obtain certification following the expiration of the prior year's certification, the entity or individual may not continue to solicit, negotiate and sell health benefits coverage under the self-administered plan.

13. Provider reimbursement. In any contract with a 3rd-party administrator, carrier or other organization to administer and provide health coverage to enrollees of the self-administered plan, the board shall ensure that:

A. Providers contracting to provide health coverage to plan enrollees are reimbursed at a rate comparable to current market reimbursement rates among commercial carriers in the State;

B. Providers contracting to provide health coverage to plan enrollees are paid in a timely manner in accordance with the same requirements that would be required under state law for health insurance carriers pursuant to Title 24-A, section 2436; and

C. If the self-administered plan fails to pay for health care services as set forth in the contract, providers are governed by the standards required pursuant to section 4204, subsection 6. This paragraph does not prohibit a provider from collecting or attempting to collect from a plan enrollee any amount for services not normally payable to the self-administered plan, including any applicable copayments and deductibles.

14. No liability for plan enrollees. This section does not create any liability on the part of eligible employers, eligible employees or eligible individuals enrolled in Dirigo Health in the event that the self-administered plan becomes insolvent or fails to pay claims.

**Sec. C-10. New appointments to Board of Trustees of Dirigo Health; staggered terms.** Notwithstanding the Maine Revised Statutes, Title 24-A, section 6904, subsection 3, the terms of the 4 members added to the Board of Trustees of Dirigo Health pursuant to this Act must be staggered. The Governor shall appoint one member for a term of 1 year, one member for a term of 2 years and 2 members for terms of 3 years.'

## SUMMARY

2  
4 This amendment expands the Dirigo Health Board of Directors  
6 from 5 to 9 members and renames it the Board of Trustees of  
8 Dirigo Health. The amendment requires that 3 voting members of  
10 the board have expertise in accounting, banking, securities or  
12 insurance and adds the Treasurer of State as an ex officio,  
nonvoting member. The amendment clarifies that 5 members of the  
board constitute a quorum and that an affirmative vote of 5  
members is needed for the board to take action. The amendment  
extends the limitation on personal liability of trustees under  
the Maine Uniform Trust Code to the trustees of Dirigo Health.

14 The amendment permits licensed insurance producers with  
16 health authority to sell the Dirigo Health Program insurance  
18 products if the producer meets certain training requirements.  
20 Additionally, the bill exempts producers from the appointment  
22 requirement solely for purposes of selling the Dirigo Health  
Program insurance products and holds a carrier underwriting  
Dirigo Health Program coverage harmless from liability for any  
actions of such producers.

24 The amendment gives authority to Dirigo Health to provide  
26 access to health benefits coverage through the Dirigo Health  
28 Self-administered Plan after the board evaluates bids for  
30 self-administered and fully insured benefits coverage. If the  
32 board makes the decision to provide coverage through a  
self-administered plan, the amendment requires the board to  
report to the joint standing committee of the Legislature having  
jurisdiction over health insurance matters within 30 days of the  
decision. The amendment also gives the committee the authority to  
report out legislation relating to the self-administered plan.

34 If the Dirigo Health Self-administered Plan is established,  
36 the amendment authorizes the board to enter into voluntary  
38 cooperative agreements with a public purchaser for purchasing and  
40 administrative functions only, but requires that the risk pools  
42 and reserves of the Dirigo Health Self-administered Plan and any  
44 public purchaser may not be commingled. The amendment expands the  
46 duties and responsibilities of the board with regard to the  
48 establishment and ongoing management of the self-administered  
50 plan. The amendment requires the board to contract for services  
from actuaries, investment counsel, financial institutions,  
3rd-party administrators and any other organization necessary to  
administer the plan. The amendment requires an actuary under  
contract to the board to determine the appropriate level of  
reserves and administrative costs for the plan and the amount of  
stop loss insurance necessary, provide opinions regarding the  
actuarial soundness of the plan, develop a rate structure for the  
plan and report annually to the board.



R.S.

2 The amendment requires the Dirigo Health Self-administered  
4 Plan to maintain reserves at least equal to the sum of the amount  
6 necessary to pay claims and administrative costs for the assumed  
8 risk for 2 1/2 months and the amount determined annually by a  
10 qualified actuary to be necessary to fund the unpaid portion of  
12 ultimate expected losses and related expenses incurred in the  
14 provision of benefits. The amendment requires the reserve  
16 account to be adjusted on a quarterly basis and to be capitalized  
18 from any initial start-up funds transferred into the account by  
Dirigo Health, monthly enrollee payments, any funds received from  
any public or private source, legislative appropriations,  
payments from any state departments or agencies and any other  
means approved by the Legislature. The amendment also authorizes  
the board to purchase excess or stop loss insurance at attachment  
limits and levels recommended by a qualified actuary and removes  
the authority to establish a self-administered plan in the event  
the board is unable to purchase that insurance.

20 The amendment requires the Dirigo Health Self-administered  
22 Plan to meet the same requirements of the Maine Insurance Code  
24 that would be required by state law if health benefits coverage  
26 were provided by a health insurance carrier for community rating,  
28 guaranteed issuance, guaranteed renewal, continuity of coverage  
30 and mandated benefits. The amendment also requires that the  
self-administered plan extend the same benefits, rights and  
protections of the Maine Revised Statutes, Title 24-A, chapter  
56-A and Bureau of Insurance Rule Chapter 850, including a  
limited right to sue the Dirigo Health Self-administered Plan.  
The amendment specifically waives the State's defense of immunity  
under the Maine Tort Claims Act.

**FISCAL NOTE REQUIRED**  
**(See attached)**

38  
40 SPONSORED BY: *Bruce Bryant*  
(Senator B. BRYANT) *JB*

42 COUNTY: Oxford  
44



# 122nd MAINE LEGISLATURE

LD 1935

LR 2809(21)

An Act To Protect Health Insurance Consumers

Fiscal Note for Senate Amendment "A" to Committee Amendment "A"

Sponsor: Sen. Bryant

Fiscal Note Required: Yes

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## Fiscal Note

Potential current biennium cost increase - General Fund

Minor cost increase - Other Funds

### Fiscal Detail and Notes

Assumes that by giving the Dirigo Health Program the option to convert to a self-administered plan, this amendment could result in the State bearing additional financial liability if the reserve and stop loss insurance provisions included in the amendment prove to be inadequate. Assumes any additional costs to the Dirigo Health Program from the other changes made in the amendment can be absorbed by the program utilizing existing resources of the Dirigo Health Enterprise Fund. Assumes any additional costs to the Bureau of Insurance in the Department of Professional and Financial Regulation can be absorbed utilizing existing budgetary resources.