

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 592, L.D. 1651, Bill, "An Act to Promote Flexibility in Health Care Delivery Systems"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

PART A

Sec. A-1. 24 MRSA §2301, as amended by PL 1979, c. 377, is further amended to read:

§2301. Purposes

Any corporation organized under special Act of the Legislature or under Title 13, chapter 81 for the following purposes may be authorized by the ~~commissioner~~ superintendent on the terms and conditions provided for in this chapter, except that where when such a corporation was heretofore previously organized by special Act of the Legislature, this chapter shall does not apply where when inconsistent with such that Act as heretofore previously amended:

1. Nonprofit hospital service plans. To establish, maintain and operate nonprofit hospital service plans, whereby hospital care may be provided by hospitals or groups of hospitals with which such a corporation has a contract for such that purpose, to such those persons or groups of persons as who become subscribers

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2 to said that plan under a contract which that entitles each
3 subscriber to certain hospital care, and the hospital or
4 hospitals ~~se~~ contracting with such a corporation ~~shall--be~~ are
5 governed by this chapter and by such the provisions of Title 24-A
6 ~~as--shall--become~~ that are applicable as provided in this chapter.;

8 2. **Nonprofit medical service plans.** To establish, maintain
9 and operate nonprofit medical service plans, whereby medical or
10 surgical service is provided to such those persons or groups of
11 persons ~~as--shall~~ who become subscribers to such a plan under
12 contracts with such a corporation, either in the capacity of
13 principal or in the capacity of agent of other nonprofit medical
14 service corporations, or insurance companies authorized to do
15 business in this State, and the physician or physicians ~~se~~
16 contracting with such a corporation ~~shall--be~~ are governed by this
17 chapter and by such the provisions of Title 24-A ~~as--shall--become~~
18 that are applicable as provided in this chapter.;

20 3. **Nonprofit health care plans.** To establish, maintain and
21 operate nonprofit health care plans whereby health care services
22 not covered under subsections 1 and 2 may be provided, by
23 institutions or persons licensed for such that purpose by the
24 State ~~of-Maine~~ , when licensure is required, with which such a
25 corporation has a contract for such that purpose, to such those
26 persons or groups of persons as who become subscribers to such a
27 plan under a contract which that entitles each subscriber to
28 certain specific health care, and the ~~licensed~~ institution or
29 persons ~~se~~ contracting with such a corporation ~~shall--be~~ are
30 governed by this chapter and by such the provisions of Title 24-A
31 ~~as--shall--become~~ that are applicable as provided in this chapter.;

32 **3-A. Integrated medical service plans; indemnity health**
33 **care contracts; health care plan administration.** A corporation
34 subject to this chapter that maintains a nonprofit hospital
35 service plan, a nonprofit medical service plan or a nonprofit
36 health care plan in accordance with subsections 1, 2 or 3 may, in
37 addition:

38 **A. Issue and maintain in force indemnity health care**
39 **contracts whereby persons or groups of persons who are**
40 **contract holders may be indemnified by that corporation for**
41 **expenses for hospital care, medical or surgical services or**
42 **other health care services. An indemnity contract issued**
43 **pursuant to the authority established by this section is**
44 **subject to all the requirements relating to content and**
45 **interpretation of such policies and contracts that apply to**
46 **policies of the same kind of insurance as set forth in Title**
47 **24-A;**

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- 2 B. Issue and maintain in force employee benefit excess
4 insurance as defined in Title 24-A, section 707, subsection
6 1, paragraph C-1 with respect to health insurance and
8 underlying risks that the corporation is authorized to cover
 under this chapter. The provisions of Title 24-A, section
 707, subsection 3 apply to the employee benefit excess
 insurance issued by a hospital or medical service
 corporation;

- 10 C. Issue and maintain in force hospital, medical service
12 and health care plans and contracts that include health care
14 benefits for workplace and nonworkplace injury and illness
 in accordance with Title 39-A, section 403, subsection 2;

- 16 D. Receive or collect charges, contributions or premiums,
18 adjust or settle claims, and perform related administrative,
20 management, accounting, bookkeeping and advisory functions
22 on behalf of any plan, fund or program established or
24 maintained by a plan sponsor, health care services plan,
26 health maintenance organization, health care provider or
28 insurer, including plans, funds or programs established or
 maintained to provide through insurance or alternatives to
 insurance a type of life, annuity, health or workers'
 compensation benefit, except that nothing in this subsection
 may be interpreted as authorizing a nonprofit hospital,
 medical or health care service corporation to assume
 insurance risks not related to health care under contracts
 for life or workers' compensation insurance or annuities;

- 30 E. Establish, maintain, own, merge with, organize and
32 operate a health maintenance organization directly as a
34 division or line of business of the corporation, or
36 indirectly as a subsidiary or affiliate of the corporation,
38 pursuant to Title 24-A, chapter 56, which health maintenance
40 organization has all of the rights and powers and is subject
42 to all of the duties and responsibilities of a separately
 organized health maintenance organization under that
 chapter. A corporation subject to this chapter that engages
 in such activities may not be deemed to be practicing
 medicine and is exempt from provisions of law relating to
 the practice of medicine; and

- 44 F. Perform, on behalf of others, clerical, bookkeeping,
46 accounting, statistical, management, personnel, marketing or
48 similar services related to the provision of health care or
 health care financing, or establish, maintain, own and
 operate entities, independently or with others, to perform
 such services;

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2 3-B. Hospital and medical service business exclusive. A
3 hospital or medical service corporation may not engage in a
4 business other than the business of hospital or medical service
5 corporations as set forth in this section and in business
6 activities reasonably and necessarily related to that business,
7 except that:

8 A. A hospital or medical service corporation may also
9 engage in activities reasonably necessary to the management,
10 supervision, servicing and protection of its lawful
11 investments;

12 B. A hospital or medical service corporation may own
13 subsidiaries or subsidiaries owning other subsidiaries that
14 may engage in the activities under Title 24-A, section 1157;
15 and

16 C. A hospital or medical service corporation may utilize
17 its facilities to perform administrative services for a
18 governmental body, unit or agency;

19 4. Inadvertent payments. In--the--event--that If direct
20 payment is inadvertently made to a hospital, physician or other
21 provider of medical services or health care by or on behalf of a
22 subscriber or member, such a corporation may reimburse the
23 subscriber up to the amount payable under the plan to a hospital,
24 a physician or other provider of medical services or health care;

25 5. Principal or agent. In order to maintain and operate
26 such plans, such contracts, facilities and services, a
27 corporation may act either in the capacity of principal or agent
28 of other nonprofit hospital service corporations, or insurers,
29 health maintenance organizations, health care services plans,
30 employee benefit plans, health care and employee benefit plan
31 sponsors and health care providers authorized to do business in
32 this State;

33 6. Contracts and agreements. To contract with any similar
34 corporations in other states for the joint administration of
35 their business, and to enter into reciprocal arrangements for the
36 mutual benefit of their subscribers;

37 7. Administrative services. ~~With the prior approval of the~~
38 superintendent, such A corporation shall has the right to
39 utilize its organization and facilities, either directly or
40 through another legal entity owned by it and similar corporations
41 located in other states, to perform services for the United
42 States or the State of Maine Government or the units or agencies
43 of either; or any charitable or nonprofit organization involved
44 in health care;

2 8. Right to contract. The State, or any county, city, town
4 or other quasi-municipal corporation shall--have has the same
6 right to contract with any a corporation subject to this chapter
as it may--have has under Title 24-A, section 4501 with respect to
insurers.;

8 ~~9.---Indemnity-health-care-contracts.---Nothing-in-this-chapter~~
10 ~~shall-authorize-an-organization-operating-under-this-chapter-to~~
~~enter-into-indemnity-health-care-contracts.~~

12 9-A. Investments. Investments by corporations subject to
14 this chapter are governed by this paragraph.

16 A. A corporation subject to this chapter may invest funds
18 in the same manner and to the same extent as domestic mutual
20 insurers under the provisions of Title 24-A, chapter 13-A,
22 except that such a corporation shall maintain reserves for
24 possible losses or fluctuation in the value of investments
26 as contemplated in Title 24-A, section 921, subsection 6.
Those reserves must comprehend, at a minimum, an asset
valuation reserve and an income maintenance reserve
calculated by methods that are consistent with standards
that have been adopted by the superintendent for management
of investment risk by life and health insurers.

28 B. Any limitation stated in Title 24-A, chapter 13-A on the
30 investment powers of a mutual domestic insurer expressed in
relation to the "surplus" of that insurer must be applied to
a corporation subject to this chapter in relation to that
corporation's subscriber reserves.

32 C. Notwithstanding the limitation stated in Title 24-A,
34 section 1156, subsection 2, paragraph D, a hospital or
36 medical service corporation may invest in real property or
38 interests in real property that is located in the United
States, held directly or evidenced by partnership interests,
stock of corporations, trust certificates or other
instruments and acquired:

40 (1) As an investment for the production of income or
42 to be improved or developed for that investment
44 purpose; or

46 (2) For the convenient accommodation of the
corporation's business.

48 After giving effect to any of those investments, the
50 aggregate amount of investments made under subparagraph (1)
may not exceed 20% of the hospital or medical service

corporation's total admitted assets; the aggregate amount of investments made under subparagraph (2) may not exceed 15% of the corporation's total admitted assets; and the aggregate amount of investments made under this paragraph may not exceed 25% of the corporation's total admitted assets. Investments under subparagraph (1) in any single property, including improvements on that property, may not in the aggregate exceed 2% of the corporation's total admitted assets.

D. In addition to the investments permitted under paragraph C, a hospital or medical service corporation that operates and establishes, maintains, merges with or organizes a health maintenance organization not organized as a separate legal entity may invest in real estate, including leasehold estates, for the convenient accommodation of the health maintenance organization's business, including hospitals, medical clinics, medical professional buildings and any other facility that is to be used by a provider in the provision of health care or by any other health care provider under contract with the health maintenance organization, and that facility must be used in the provision of health care services to members of the health maintenance organization by that provider.

(1) A parcel of real estate acquired under this subsection may include excess space for rent to others if it is reasonably anticipated that that excess will be required for expansion or if the excess is reasonably required in order to have one or more buildings that function as an economic unit.

(2) Real estate subject to this subsection may be subject to a mortgage.

(3) The admitted value of the investment may not exceed the greater of the hospital or medical service corporation's subscriber reserve or 20% of the corporation's admitted assets, and the aggregate investment in real estate held under paragraph C and under this paragraph may not exceed 40% of the corporation's admitted assets, except with the approval of the superintendent if the superintendent finds that those percentages of the corporation's admitted assets are insufficient to provide for the convenient accommodation of the health maintenance organization's business. Investments in any single property, including improvements on that property, may not in the aggregate exceed 5% of the corporation's total admitted assets.

2 E. Notwithstanding any provisions of this section and Title
4 24-A, chapter 13-A allowing other investments, a corporation
6 subject to this chapter shall maintain cash or investment
8 grade obligations, as defined in Title 24-A, section 1162-A,
10 that at all times have a fair market value of not less than
12 100% of the corporation's liability for claims payable,
14 incurred, but not reported, claims payable, unpaid claims
16 adjustment expenses, unearned premiums and, as applicable,
18 any statutory, special or additional reserves provided by
 the corporation for the benefit of subscribers as of the
 close of the corporation's most recent calendar quarter
 prepared on the basis of statutory accounting principles.
 If the corporation's liability for these enumerated items
 increases more than 10% prior to the end of the calendar
 quarter, the corporation must, within 10 days of the
 determination, reallocate its investments to ensure
 compliance with this paragraph.

20 F. The superintendent may establish risk-based capital
22 standards applicable to corporations subject to this
24 chapter, their subsidiaries and controlled affiliates that
 engage in health care related business activities that the
 parent corporation conducts.

26 G. A director, officer or employee of a corporation subject
28 to this chapter who receives, collects, disburses or invests
30 funds in connection with the activities of that organization
 is responsible for those funds in a fiduciary relationship
 to the corporation.

32 H. For corporations subject to this subsection, the
34 following terms have the following meanings.

36 (1) "Admitted assets" means those assets owned by the
38 corporation, as defined in Title 24-A, section 901,
40 reduced in amount by any applicable provision of this
42 Title or Title 24-A. For purposes of applying the
44 investment limitations of Title 24-A, chapter 13-A, the
46 asset value must be that contained in the annual
 statement of the corporation as of December 31st of the
 year next preceding the making of the investment or
 contained in an audited financial report, as defined in
 Title 24-A, section 221-A, of more current origin
 prepared on the basis of statutory accounting
 principles.

48 (2) "Subscriber reserves" means those reserves held by
50 the corporation for the protection of subscribers that
 are the excess of the corporation's assets over its

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2 liabilities as set forth in the annual statement of the
4 corporation as of December 31st of the year next
6 preceding the making of the investment or contained in
8 an audited financial report, as defined in Title 24-A,
10 section 221-A, of more current origin prepared on the
12 basis of statutory accounting principles;

14 9-B. Conversion to mutual insurer. Conversion to a mutual
16 insurer is subject to this subsection.

18 A. A corporation subject to this chapter may become a
20 mutual insurer under a plan and procedure approved by the
22 superintendent after a hearing.

24 B. The superintendent may not approve any plan or procedure
26 for mutualization unless:

28 (1) The plan is approved or subject to approval by 2/3
30 of the members of the corporation having voting rights
32 under the bylaws who vote on a plan of conversion in
34 person, by proxy or by mail pursuant to notice and
36 procedure approved by the superintendent;

38 (2) The mutualization leaves the insurer in possession
40 of capital or surplus funds adequate to satisfy the
42 provisions of Title 24-A, section 410;

44 (3) The plan of mutualization provides a demonstration
46 through submission of a satisfactory corporate business
48 plan that at a minimum projects the 3 prospective years
following the mutualization and sets out a disposition
or application of the assets of the corporation to be
apportioned to support indemnity contracts, health
maintenance organization contracts, service benefit
contracts and other classes of benefits to be issued by
the mutual insurer either directly or through
subsidiaries or affiliates; and

(4) The terms and conditions of the plan are fair and
equitable.

C. A director, officer, agent or employee of the
corporation, or any other person, may not receive a fee,
commission or other valuable consideration, other than
customary salary or other regular compensation, for aiding,
promoting or assisting in the mutualization except as set
forth in the plan of mutualization as approved by the
superintendent;

2 9-C. Health maintenance organizations. A corporation
4 subject to this chapter is not required to maintain separate
6 reserves or surplus with respect to the operations of a health
8 maintenance organization that is not a separate legal entity.
10 All assets of the corporation, other than assets supporting
12 reserves set aside in accordance with a plan for the continuation
14 of benefits to health maintenance organization members under
16 Title 24-A, section 4204, subsection 7 and assets supporting
18 additional reserves as defined in Title 24-A, section 921, must
20 be available to pay claims arising from corporate operations. A
22 hospital or medical service corporation that establishes and
24 maintains a health maintenance organization not organized as a
separate legal entity shall maintain separate accounting for the
health maintenance organization;

16 10. Superintendent defined. As used in this chapter
18 "superintendent" means the Superintendent of Insurance
Commissioner of this State; and

20 11. Separate accounts. A hospital or medical services
22 corporation that issues indemnity contracts, contracts pursuant
24 to hospital, medical or health care service plans or integrated
medical service plans shall maintain separate accounting for each
of these lines of business.

26 Sec. A-2. 24 MRSA §2301-A is enacted to read:

28 §2301-A. Continuity of licensure; business combinations

30 When a health maintenance organization authorized pursuant
32 to Title 24-A, chapter 56 merges or consolidates with a nonprofit
34 hospital, medical or health care service organization and
36 operations of the surviving entity include those of a health
maintenance organization, the surviving entity succeeds on a
continuing basis to the authority possessed by the merging
entities if:

38 1. Plan approved. The Superintendent has approved the plan
40 of merger or consolidation pursuant to Title 24-A, section 4203;

42 2. Entity financially qualified. The entity is financially
44 qualified pursuant to the provisions of Title 24-A, sections 410
and 4204-A; and

46 3. Entity otherwise qualified. The entity is otherwise
qualified pursuant to this Title and Title 24-A, chapter 56.

48 Sec. A-3. 24 MRSA §2306, as amended by PL 1973, c. 585, §12,
50 is further amended to read:

§2306. Reports

Every corporation organized under this chapter shall annually on or before the first day of April file in the office of the ~~commissioner~~ superintendent a statement verified by at least 2 of the principal officers of said corporation showing its condition on the 31st day of December, then next preceding, ~~which shall be in such form and shall contain such matters as the superintendent shall prescribe.~~ The statement must be on an annual statement blank of the National Association of Insurance Commissioners for use by nonprofit hospital or medical service corporations, be prepared in accordance with the association's annual statement instructions, follow practices and procedures prescribed by the association's accounting practices and procedures manual and be accompanied by any useful or necessary modification or adaptation and any additional information required by the superintendent.

A nonprofit hospital or medical service corporation that controls and operates a health maintenance organization as a division or line of business of the corporation shall file on a continuing basis any additional periodic financial reports required by the superintendent by rule.

Sec. A-4. 24 MRSA §2307, as amended by PL 1973, c. 585, §12, is repealed and the following enacted in its place:

§2307. Examination

1. Examination by superintendent. The superintendent or the superintendent's designee has the power of visitation and examination into the affairs of any corporation described in section 2301 and has free access to the books, papers and documents that relate to the business of the corporation and may summon and qualify witnesses under oath and examine its officers, agents or employees or other persons in relation to the affairs, transactions and condition of the corporation.

2. Costs of examination. The reasonable costs of such an examination must be borne by the corporation examined.

3. Accountant's work papers. The superintendent may require a corporation subject to this section to make available the accountant's work papers created during an audit.

A. The superintendent may review the accountant's work papers upon timely notice to the corporation. The superintendent may photocopy or otherwise record the contents of work papers during the review.

2 B. Work papers or copies of work papers under the
4 superintendent's custody or control are confidential and are
not subject to public inspection.

6 C. The work papers of the corporation's subsidiaries,
8 parent or other corporate affiliates are considered to be
10 the corporation's work papers to the extent that the work
12 papers reference transactions between the corporation and
the subsidiary, parent or corporate affiliate and affect the
corporation's final equity determination.

14 D. The corporation shall, as a condition of an accountant's
engagement, require the accountant:

16 (1) To retain the work papers prepared in connection
18 with an audit of the corporation for at least 6 years
after the close of a reporting period; and

20 (2) To provide the work papers, or a copy, to the
22 corporation at the corporation's request.

24 For purposes of this subsection, the term "work papers" includes,
26 but is not limited to, schedules, analyses, reconciliations,
28 abstracts, memoranda, narratives, flow charts, copies of company
records or other documents prepared or obtained by the accountant
and the accountant's employees in conducting the audit of the
corporation.

30 Sec. A-5. 24 MRSA §2307-A is enacted to read:

32 §2307-A. Rules

34 Subject to the Maine Administrative Procedure Act, the
36 superintendent may make, adopt, amend and rescind reasonable
rules to aid the administration or effectuation of the provisions
of this Title.

38 Sec. A-6. 24 MRSA c. 19, sub-c. III is repealed.

40 Sec. A-7. 24-A MRSA §410, sub-§1, ¶F is enacted to read:

42 F. A health maintenance organization as a division or line
44 of business is subject to this paragraph.

46 (1) An insurer that operates a health maintenance
48 organization as a division or a line of business shall
possess and maintain policyholder's surplus, including
paid-in capital stock if any, as otherwise required by

2 this section and in addition shall meet the surplus
3 requirements of section 4204-A.

4 (2) A nonprofit hospital or medical service
5 organization that operates a health maintenance
6 organization as a division or as a line of business
7 shall possess and maintain subscriber reserves as
8 defined in section 2301, subsection 9-A, paragraph H,
9 subparagraph (2) and in an amount required by the
10 superintendent and in addition shall meet the surplus
11 requirements of section 4204-A.

12 Sec. A-8. 24-A MRSA §423-B is enacted to read:

13 **§423-B. Periodic financial reports of insurer-controlled**
14 **health maintenance organizations**

15 An authorized insurer that controls and operates a health
16 maintenance organization as a division or line of business shall
17 file on a continuing basis any additional periodic financial
18 reports required by the superintendent by rule.

19 Sec. A-9. 24-A MRSA §704-A is enacted to read:

20 **§704-A. Health maintenance organization**

21 For purposes of this Title, "health maintenance
22 organization" is defined in section 4202-A, subsection 10.

23 Sec. A-10. 24-A MRSA §1901, sub-§1, ¶E, as enacted by PL 1989,
24 c. 846, Pt. D, §2 and affected by Pt. E, §4, is amended to read:

25 E. A nonprofit hospital, medical or health care services
26 plan, health maintenance organization, professional service
27 plan corporation, or person in the business of providing
28 continuing care, possessing a valid certificate of authority
29 issued by the Bureau of Insurance, and a sales
30 representative of that person, plan, organization or
31 corporation, if the activities of the plan, organization,
32 corporation or person are limited to the activities
33 permitted under the certificate of authority;

34 Sec. A-11. 24-A MRSA §4203, sub-§1, as amended by PL 1979, c.
35 216, §1, is further amended to read:

36 1. Subject to the Maine Certificate of Need Act of 1978,
37 any a person may apply to the superintendent for and obtain a
38 certificate of authority to establish and , maintain, own, merge
39 with, organize or operate a health maintenance organization in

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2 compliance with this chapter. No A person shall may not
4 establish, maintain, own, merge with, organize or operate a
6 health maintenance organization in this State either directly as
8 a division or a line of business or indirectly through a
10 subsidiary or affiliate, nor sell or offer to sell, or solicit
12 offers to purchase or receive advance or periodic consideration
14 in conjunction with, a health maintenance organization without
16 obtaining a certificate of authority under this chapter. A
18 foreign corporation may qualify under this chapter, subject to
its registration to do business in this State as a foreign
corporation.

12 Sec. A-12. 24-A MRSA §4204, sub-§3-A, as enacted by PL 1989,
14 c. 842, §12, is amended to read:

16 3-A. Investments. The health maintenance organization
18 shall invest funds only in accordance with chapter 13 13-A,
except as follows.

20 A. The health maintenance organization shall maintain asset
22 valuation reserves consistent with industry standards for
management of investments by life and health insurers.

24 B. Notwithstanding any limitation stated in section 1156,
26 subsection 2, paragraph D, a health maintenance organization
28 may invest in real property or interests in real property
located in the United States, held directly or evidenced by
partnership interests, stock of corporations, trust
certificates or other instruments and acquired:

30 (1) As an investment for the production of income or
32 to be improved or developed for that investment
purpose; or

34 (2) For the convenient accommodation of the
36 organization's business.

38 After giving effect to any of those investments, the
40 aggregate amount of investments made under subparagraph (1)
may not exceed 20% of the health maintenance organization's
42 total admitted assets; the aggregate amount of investments
made under subparagraph (2) may not exceed 15% of the
44 organization's total admitted assets; and the aggregate
amount of investments made under this paragraph may not
46 exceed 25% of the organization's total admitted assets.
Investments under subparagraph (1) in any single property,
48 including improvements on that property, may not in the
aggregate exceed 2% of the corporation's total admitted
assets.

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2 C. In addition to the investments permitted under paragraph
4 B, a health maintenance organization may invest in real
6 estate, including leasehold estates, for the convenient
8 accommodation of its business, including hospitals, medical
10 clinics, medical professional buildings and any other
12 facility that is to be used in the provision of health care
services, or real estate for rental to an affiliated health
care provider or any other health care provider under
contract with the health maintenance organization to provide
health care services, and that facility must be used in the
provision of health care services to members of the health
maintenance organization by that provider.

14 (1) A parcel of real estate acquired under this
16 subsection may include excess space for rent to others
18 if it is reasonably anticipated that that excess will
20 be required by the health maintenance organization for
expansion or if the excess is reasonably required in
order to have one or more buildings that function as an
economic unit.

22 (2) Real estate subject to this subsection may be
24 subject to a mortgage.

26 (3) The admitted value of the investment may not
28 exceed the greater of the health maintenance
30 organization's equity or 20% of the corporation's
32 admitted assets, and the aggregate investment in real
34 estate held under paragraph B and under this paragraph
36 may not exceed 40% of the corporation's admitted
38 assets, except with the approval of the superintendent
if the superintendent finds that those percentages of
the corporation's admitted assets are insufficient to
provide for the convenient accommodation of the health
maintenance organization's business. Investments under
this subsection in any single property, including
improvements on that property, may not in the aggregate
exceed 5% of the corporation's total admitted assets.

40 D. Notwithstanding any provisions of this section and
42 chapter 13-A allowing other investments, a health
44 maintenance organization shall maintain cash or investment
46 grade obligations, as defined in section 1162-A, that at all
48 times have a fair market value of not less than 100% of the
organization's liability for claims payable and incurred,
but not reported, claims, unearned premiums, unpaid claims
adjustment expenses and, as applicable, any statutory,
special or additional reserves provided by the health
maintenance organization for the benefit of members as of
the most recent calendar quarter prepared on

2 the basis of statutory accounting principles. If the
4 organization's liability for claims payable and incurred,
6 but not reported, claims increased more than 10% prior to
8 the end of the calendar quarter, the organization must,
10 within 10 days of the determination, reallocate its
12 investments to ensure compliance with this paragraph. The
14 investments required by this paragraph constitute admitted
16 assets of the organization.

10 E. The superintendent may establish risk-based capital
12 standards for health maintenance organizations, their
14 subsidiaries and controlled affiliates that engage in health
16 care related business activities that the parent corporation
18 conducts.

16 Sec. A-13. 24-A MRSA §4205-A is enacted to read:

18 §4205-A. Continuity of licensure; business combinations

20 When a health maintenance organization authorized pursuant
22 to this chapter merges or consolidates with an insurer or a
24 nonprofit hospital, medical or health care service organization
26 and operations of the surviving entity include those of a health
28 maintenance organization, the surviving entity succeeds on a
30 continuing basis to the authority possessed by the merging
32 entities if:

28 1. Plan approved. The superintendent has approved the plan
30 of merger or consolidation, pursuant to section 4203, subsection
32 1;

32 2. Entity financially qualified. The entity is financially
34 qualified pursuant to the provisions of sections 410 and 4204-A;
36 and

36 3. Entity otherwise qualified. The entity is otherwise
38 qualified pursuant to this chapter.

40 Sec. A-14. 24-A MRSA §4214, sub-§1, as enacted by PL 1975, c.
42 503, is amended to read:

42 1. An Subject to the provisions of sections 222, 3479 to
44 3482 and chapters 13 and 13-A, an insurance company licensed in
46 this State or a nonprofit hospital or, medical or health care
48 service organization may establish, maintain, own, merge with,
organize and operate a health maintenance organization under this
chapter, either directly as a division or line of business, or
indirectly through a subsidiary or affiliate,--organize--and
operate--a--health--maintenance--organization--under--this--chapter.

~~Notwithstanding any other law which may be inconsistent herewith~~
2 Subject to the provisions of section 222 and chapters 13 and
4 13-A, any 2 or more such insurance companies, or nonprofit
6 hospital or, medical or health care service organizations, or
8 subsidiaries or affiliates, thereof may jointly organize and
10 operate a health maintenance organization. The business of an
insurer or hospital or medical service corporation that
establishes, maintains, owns, merges with, organizes or operates
a health maintenance organization is considered to include the
providing of health care by a health maintenance organization.

12 **Sec. A-15. 24-A MRSA §4214, sub-§1-A is enacted to read:**

14 1-A. A domestic insurer that establishes, maintains, merges
16 with or organizes and operates a health maintenance organization
18 as a division or line of business is governed in its investment
of funds allocated to that line of business by the provisions of
section 4204, subsection 3-A.

20 **Sec. A-16. 24-A MRSA §4222, sub-§1, as enacted by PL 1975, c.**
22 **503, is amended to read:**

24 1. Except as otherwise specifically provided in--this
26 chapter, provisions of the insurance law shall and the laws
28 relating to hospital or medical service corporations do not be
30 applicable apply to any a health maintenance organization granted
32 a certificate of authority under this chapter. This provision
shall does not apply to an insurer or hospital or medical service
corporation licensed and regulated pursuant to the insurance laws
of this State, except with respect to its health maintenance
organization activities, whether those activities are conducted
through a subsidiary or as a division or line of business,
authorized and regulated pursuant to this chapter.

34 **Sec. A-17. 24-A MRSA §4222-A is enacted to read:**

36 **§4222-A. Rules**

38 Subject to the applicable requirements and procedures of the
40 Maine Administrative Procedure Act, Title 5, chapter 375,
42 subchapter II, the superintendent may make, adopt, amend and
44 rescind reasonable rules to aid the administration or
effectuation of any provisions of this chapter.

46 **Sec. A-18. P&SL 1939, c. 24, §2 is amended to read:**

48 **Sec. 2. Location.** The corporation shall--be is located at
South Portland, in the county County of Cumberland--and--state--of
Maine Cumberland, or at another location in this State that the
50 board of directors determines is desirable or convenient.

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Sec. A-19. P&SL 1939, c. 24, §3, as amended by P&SL 1957, c. 47, §1, is repealed and the following enacted in it place:

Sec. 3. Purposes. The corporation is organized for all purposes and activities permitted to hospital or medical service organizations under the Maine Revised Statutes, Title 24, chapter 19 and for all purposes and activities permitted to health maintenance organizations under Title 24-A, chapter 56. Subject to Title 24 and Title 24-A, the corporation has all of the general powers of corporations under Title 13-B, section 202.

Sec. A-20. P&SL 1939, c. 24, §3-A, as amended by P&SL 1957, c. 47, §2, is repealed.

Sec. A-21. P&SL 1939, c. 24, §3-B, as enacted by P&SL 1955, c. 175, §2, is repealed.

Sec. A-22. P&SL 1939, c. 24, §3-D, as enacted by P&SL 1957, c. 47, §4, is repealed.

Sec. A-23. P&SL 1939, c. 24, §5, as amended by P&SL 1943, c. 21, §2, is further amended to read:

Sec. 5. Articles of incorporation. Articles of incorporation of this corporation shall must be submitted to the insurance commissioner of the state-of-Maine State, whose approval thereof shall must be endorsed thereon on the articles of incorporation before the same are filed with the secretary-of-state Secretary of State. ~~At--least--a--majority--of--the--directors--of--this corporation--must--be--at--all--times--administrators,--corporators, trustees,--or--members--of--the--clinical--staff--of--the--hospital--or hospitals--which--have--contracted--with--this--corporation--to--render hospital--service--to--the--subscribers.~~

~~This--corporation--may--enter--into--contracts--for--the--rendering of--hospital--service--to--the--subscribers--only--with--hospitals approved--by--the--state--department--of--welfare--of--the--several states.~~ All contracts for hospital service issued by this corporation to the subscribers shall constitute direct obligations of the hospital or hospitals with which this corporation has contracted for hospital care.

Sec. A-24. P&SL 1939, c. 24, §5-A, as enacted by P&SL 1943, c. 21, §3, is repealed.

Sec. A-25. P&SL 1939, c. 24, §7, amended by P&SL 1967, c. 99, is repealed.

COMMITTEE AMENDMENT

2 **Sec. A-26. P&SL 1939, c. 24, §8,** as amended by P&SL 1963, c.
135, §2, is further amended to read:

4 **Sec. 8. Annual meetings.** Any 3 of the incorporators named in
this act ~~act~~ Act may call the first meeting of the corporation by
6 mailing a written notice signed by 3 incorporators, postage
prepaid, to each of the other incorporators at least 5 days at
8 least before the day of the meeting, naming the time, place and
purpose of ~~sueh~~ the meeting; and at ~~sueh~~ the meeting ~~sueh~~ the
10 officers may be chosen and ~~sueh~~ business may be transacted as
shall--be specified in the call for ~~sueh~~ the meeting. Any
12 subsequent annual meeting shall must be held at the home offices
of the corporation, or at any place within the State, at ~~sueh~~ any
14 time as the bylaws may provide. Public notice of each annual
meeting shall must be given at least 10 days prior ~~therete~~ to the
16 meeting by publication in at least 3 daily newspapers published
in 3 different cities within the State ~~of-Maine,~~ and a quorum for
18 the conducting of business for ~~sueh~~ the meetings shall--~~consist~~
consists of at least 100 members with voting privileges, present
20 in person or represented by proxy.

22 **Sec. A-27. P&SL 1939, c. 24, §9** is amended to read:

24 **Sec. 9. Merger or consolidation.** The corporation may sell,
lease, pledge, assign, mortgage, or otherwise dispose of the
26 whole or any part of its property, franchises, permits, rights
and privileges to any other corporation or mutual insurer
28 organized or authorized to do a similar business, including any
business authorized to issue any form of health care coverage, or
30 may merge or consolidate with ~~sueh~~ the corporation; and it may
buy or otherwise acquire the rights, permits, privileges,
32 franchises or property of any person, partnership or corporation
which ~~that~~ may be desirable in the conduct of its business.

34 The corporation and Health Maintenance Organization of
36 Maine, referred to in this Act as "HMO Maine," a nonprofit
corporation, upon recommendation of the boards of directors of
38 this corporation and of HMO Maine, may apply to the
Superintendent of Insurance within 180 days of the effective date
40 of this Act for approval to merge and upon approval of the
superintendent may effectuate the merger.

42 **Sec. A-28. P&SL 1939, c. 24, §12** is repealed.

44 **Sec. A-29. Purpose; merger of Associated Hospital Service of Maine**
46 **and HMO Maine.** The Legislature finds that it is the proper
role of the State for the benefit of its people to facilitate the
48 ability of the boards of directors of Associated Hospital Service
of Maine and HMO Maine to seek a merger of those

corporations subject to recommendations by those boards to merge and subject to compliance with regulatory review and approval.

Sec. A-30. Plan of merger; review of superintendent. Associated Hospital Service of Maine and HMO Maine, upon recommendation of the boards of directors of those corporations, may file for approval a plan of merger with the Superintendent of Insurance. The plan of merger must be approved by the superintendent after a hearing unless the superintendent finds that the plan:

1. Is contrary to law;
2. Is unfair to the members of Associated Hospital Service of Maine or HMO Maine;
3. Would jeopardize the financial condition of the surviving corporation or unduly prejudice the interests of the members and subscribers of the merging companies; or
4. The surviving corporation does not have in place an adequate plan for the continuation of benefits for the members of the merging companies.

Notice of hearing must be provided, at the expense of the applicants, to all members of the applicants, to all providers subject to participation agreements to provide hospital and medical care to Associated Hospital Service of Maine members and to all HMO Maine facilities and physicians, and in newspapers of general circulation in this State.

A merger accomplished in accordance with this section must be valid upon approval by the superintendent and by the boards of the merging entities. The surviving corporation of the merger, to the extent provided for in the plan of merger, has all of the authority of the merging companies to offer health care coverage, health maintenance organization services and related services and all of the powers under law of the merging entities. The merger has the effect of a merger under the Maine Revised Statutes, Title 13-B, section 905.

Sec. A-31. Report. The Superintendent of Insurance shall report to the joint standing committee having jurisdiction over banking and insurance matters on October 1, 1994; April 1, 1995; and October 1, 1995 on changes in the health care delivery system in the State and changes in the financing of health care delivery and developments in managed care activities. The report must identify and provide general descriptions of the different types of traditional and nontraditional health carriers and health care providers, including health maintenance organizations, preferred

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COMMITTEE AMENDMENT "A" to S.P. 592, L.D. 1651

provider organizations, physician organizations, physician-hospital organizations, 3rd-party administrators, point of service plans, medical service organizations and utilization review entities.

Sec. A-32. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Part.

1994-95

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Bureau of Insurance

Positions	(1.0)
Personal Services	\$71,300
All Other	7,000
Capital Expenditures	3,000

Provides for the allocation of funds to allow for the upgrade of one Insurance Contract Examiner position to one Senior Insurance Rate Analyst position, to authorize one Senior Health Care Financial Analyst position and to provide for additional general operating costs resulting from increased regulatory responsibilities.

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION	
TOTAL	\$81,300

PART B

Sec. B-1. 24-A MRSA §4204, sub-§2-A, ¶¶J to N are enacted to read:

J. The health maintenance organization offers to groups of all sizes health benefit plans that meet the requirements for standardized health plans specified in Bureau of Insurance Rule Chapter 750.

K. The health maintenance organization provides a spectrum of providers and services that meet patient demand.

L. The health maintenance organization provides to its members reasonable access to health care services. The

2 superintendent shall adopt rules that consider geographical
and transportation problems in rural areas.

4 M. The health maintenance organization demonstrates a plan
for providing services for rural and underserved populations
6 and for developing relationships with essential community
providers within the area of the proposed certificate. The
8 health maintenance organization must make an annual report
to the superintendent regarding the plan.

10 N. Beginning July 1, 1995, the health maintenance
12 organization offers coverage for purchase by individuals.

14 **Sec. B-2. Cooperation of Bureau of Insurance and Maine Health**
16 **Care Finance Commission regarding health care services information and**
18 **data.** The Bureau of Insurance and the Maine Health Care Finance
20 Commission shall begin cooperative efforts in the field of health
22 care information and data. The Bureau of Insurance and the Maine
24 Health Care Finance Commission shall consult with each other and
26 work cooperatively in the collection, storage and processing of
28 information related to the utilization of health care services in
30 the State and the costs and sources of payments for those
32 services. To further these cooperative efforts, the Bureau of
Insurance and Maine Health Care Finance Commission are exempt
from their respective confidentiality restrictions. The Bureau
of Insurance must comply with all confidentiality requirements of
the Maine Health Care Finance Commission for any information and
data it receives from the commission. The Maine Health
Care Finance Commission must comply with the confidentiality
requirements of the Bureau of Insurance for any information it
receives from the bureau.

34 **Sec. B-3. Report.** Blue Cross and Blue Shield of Maine shall
36 study the experience of its small group and individual pools and
38 report its findings to the joint standing committee of the
40 Legislature having jurisdiction over banking and insurance
matters on or before January 1, 1995. The study shall adjust for
differences in benefits covered under the 2 pools and shall
analyze the extent to which the differences in experience are
explained by demographic differences.

42 **Sec. B-4. Report.** The Bureau of Insurance shall report to the
44 joint standing committee of the Legislature having jurisdiction
46 over banking and insurance matters on or before March 1, 1996 on
48 the effects of having separate pools for small groups and
individuals and on the potential effects of combining the pools.
The report must include available information based on experience
in Maine or in other states.'

R. of S.

2 Further amend the bill by inserting at the end before the
statement of fact the following:

4 FISCAL NOTE

6 1994-95

8 APPROPRIATIONS/ALLOCATIONS

10 Other Funds \$81,300

12 The Bureau of Insurance will require additional Other
14 Special Revenue allocations of \$81,300 annually beginning in
fiscal year 1994-95 for the additional costs of upgrading an
16 Insurance Contract Examiner position to a Senior Insurance Rate
Analyst position, authorizing one Senior Health Care Financial
18 Analyst position and providing the additional general operating
costs necessary to address significantly increased regulatory
20 responsibilities. The Bureau of Insurance has adequate financial
resources to cover the costs of these increased allocations.

22 The additional costs to the Bureau of Insurance and the
24 Maine Health Care Finance Commission to work cooperatively in the
collection, storage and processing of health care services
26 information can be absorbed by each agency utilizing existing
budgeted resources.'

28 STATEMENT OF FACT

30 In Part A this amendment does the following:

32 This amendment gives Blue Cross and Blue Shield of Maine or
34 any other company governed by the provisions of the Maine Revised
Statutes, Title 24 the following new powers:

- 36 1. To issue indemnity contracts;
- 38 2. To issue employee benefit excess insurance;
- 40 3. To issue coverage that includes benefits provided for
42 through the 24 hours coverage pilot project under the State's
workers' compensation laws;
- 44 4. To provide comprehensive administrative services;
- 46 5. To establish, maintain or merge with, organize or
48 operate a health maintenance organization. If this is done, the
HMO has all the rights, powers and duties of an HMO under Title
50 24-A; and

2 6. To engage in clerical, bookkeeping, accounting and
4 related activities in support of its primary activities.

6 Title 24, section 2301, subsection 9-A makes the investment
8 authority of Blue Cross and Blue Shield and other corporations
10 governed by the provisions of Title 24 more comparable to that of
12 domestic mutual life and health insurers and, subject to specific
14 limitations, liberalizes real estate investment standards.

16 The amendment requires Blue Cross and Blue Shield and any
18 other company governed by the provisions of Title 24 to maintain
20 certain liquid investments, requires compliance with risk-based
22 capital standards that may be established by the Superintendent
24 of Insurance and makes clear that directors, officers and
26 employees of Blue Cross and Blue Shield or any other company
28 governed by the provisions of Title 24 who deal with the funds of
30 the company have fiduciary duties to the company.

32 The amendment contains a provision for converting Blue Cross
34 and Blue Shield or any other company governed by the provisions
36 of Title 24 to a mutual insurance company. The plan of
38 conversion is consistent with other conversion proceedings
40 regulated by the superintendent, providing for:

- 42 1. Two-thirds vote of members;
- 44 2. The financial stability of the company;
- 46 3. Submission of a satisfactory business plan; and
- 48 4. A determination that the conversion plan is fair and
equitable.

 The amendment requires Blue Cross and Blue Shield or any
other company governed by the provisions of Title 24 that issues
indemnity contracts and other kinds of contracts to maintain
separate accounting for each line of business.

 The amendment provides that when a health maintenance
organization merges with Blue Cross and Blue Shield or another
company governed by the provisions of Title 24, the surviving
entity may succeed to a continuing certificate of authority if it
meets several requirements.

 The amendment describes reporting requirements that must be
made to the superintendent.

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COMMITTEE AMENDMENT "A" to S.P. 592, L.D. 1651

2 The amendment provides that the superintendent has access to
accountants' work papers and that the work papers are kept
confidential and subject to other requirements.

4
6 The amendment gives the superintendent authority to adopt
rules to aid in the administration of Title 24.

8 The amendment liberalizes the investment standards
applicable to health maintenance organizations under Title 24-A
10 consistent with the changed investment standards applicable to
entities governed by the provisions of Title 24.

12
14 The amendment authorizes an entity governed by the
provisions of Title 24-A to merge with or own a health
maintenance organization line of business.

16
18 The amendment gives the superintendent authority to adopt
rules regarding Title 24-A health maintenance organizations.

20 The amendment makes changes to Private and Special Law,
22 1939, chapter 24 that conform to the changes in the amendment,
including a provision authorizing the merger of Blue Cross and
Blue Shield and HMO Maine.

24
26 The amendment requires a report from the superintendent on
October 1, 1994; April 1, 1995; and October 1, 1995 on changes in
the health care delivery system.

28
30 In Part B the amendment requires health maintenance
organizations to offer to groups of all sizes health benefit
32 plans that meet the requirements for standardized plans specified
in Bureau of Insurance Rule Chapter 750. It requires the health
maintenance organization to provide a spectrum of services and
34 providers that meet patient demand. It requires health
maintenance organizations to provide their members with
36 reasonable access to health care services and requires the
Superintendent of Insurance to adopt rules that consider
38 geographical and transportation problems in rural areas. It
requires health maintenance organizations to submit plans that
40 provide services for rural and underserved populations and
utilize essential community providers within the area of the
42 proposed certificate and to report the plan annually to the
Bureau of Insurance. It requires health maintenance
44 organizations to issue individual policies beginning July 1,
1995.

46
48 The amendment requires a report from Blue Cross and Blue
Shield of Maine by January 1, 1995 on the small group and
individual pools.

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COMMITTEE AMENDMENT "A" to S.P. 592, L.D. 1651

2 The amendment requires a report from the Bureau of Insurance
by March 1, 1996 on the effects of having separate pools for
small group and individual coverage and on combining the pools.

4
6 The amendment adds a fiscal note and conforms existing law
to current drafting standards.