

MAINE STATE LEGISLATURE

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L.D. 1477

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DATE: June 23, 1995 (Filing No. S- 329)

BANKING AND INSURANCE

Reported by: The Minority of the Committee.

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A " to S.P. 539, L.D. 1477, Bill, "An Act to Provide for the Creation of a Health Insurance Purchasing Cooperative"

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

'Sec. 1. 24-A MRSA c. 37-A is enacted to read:

CHAPTER 37-A

HEALTH CARE PURCHASING ALLIANCE ACT

§2871. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Accountable health plan. "Accountable health plan" means a carrier registered with the superintendent pursuant to section 2873.

2. Antitrust laws. "Antitrust laws" means federal and state laws intended to protect commerce from unlawful restraints, monopolies and unfair business practices.

3. Carrier. "Carrier" has the same meaning as in section 2808-B, subsection 1, paragraph A.

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2 4. Carrier service area. "Carrier service area" means a
geographic region in which a carrier is licensed to operate.

4
6 5. Eligible employee. "Eligible employee" has the same
meaning as in section 2808-B, subsection 1, paragraph C.

8 6. Employee enrollee. "Employee enrollee" or "enrollee"
10 means an eligible employee or a dependent of an eligible employee
who is enrolled in a small group health plan.

12 7. Grievance procedure. "Grievance procedure" means an
14 established set of rules that specify a process for appeal of an
organizational decision.

16 8. Health benefit plan. "Health benefit plan" has the same
18 meaning as "small group health plan," defined in section 2808-B,
subsection 1, paragraph G.

20 9. Late enrollee. "Late enrollee" has the same meaning as
22 in section 2808-B, subsection 1, paragraph E.

24 10. Member employer. "Member employer" means an employer
who enrolls in a purchasing alliance.

26 11. Preexisting condition provision. "Preexisting
28 condition provision" has the same meaning as "preexisting
condition exclusion," defined in section 2848, subsection 3.

30 12. Purchasing alliance. "Purchasing alliance" means a
32 state-chartered, nonprofit organization that provides health
coverage purchasing services to member employers in a specified
34 service area.

36 13. Purchasing alliance board. "Purchasing alliance board"
means the board of directors for the purchasing alliance in the
38 geographic service area established pursuant to section 2875.

40 14. Qualified health benefit plans. "Qualified health
42 benefit plans" means the standard or basic health benefit plans
offered by an accountable health plan to member employers as
authorized under section 2808-B.

44 15. Risk adjustment mechanism. "Risk adjustment mechanism"
46 means the process established pursuant to section 2879-A.

48 16. Service area. "Service area" or "alliance service
area" means a clearly defined, nonoverlapping and exclusive
geographical area determined by the superintendent for the

COMMITTEE AMENDMENT "A" to S.P. 539, L.D. 1477

2 purpose of defining the region in which a purchasing alliance may
operate.

4 17. Small employer. "Small employer" has the same meaning
as "eligible group," defined in section 2808-B, section 1,
6 paragraph D.

8 **§2872. Jurisdiction of the Bureau of Insurance**

10 Nothing in this chapter is intended to conflict with or
limit the duties and powers granted to the superintendent under
12 the laws of this State. The alliances established under this
chapter shall report to the bureau any suspected or alleged
14 violations of this chapter. Violations of this chapter are
subject to the full range of regulatory actions, processes and
16 remedies available to the superintendent in dealing with other
entities that the superintendent may regulate.

18 **§2873. Powers of the superintendent**

20 The superintendent has the authority to perform the
22 following duties. The superintendent:

24 1. Purchasing service areas. Shall establish no less than
one and no more than 5 purchasing service areas in this State no
26 later than July 1, 1996. In establishing these areas, the
superintendent shall ensure that every location in the State is a
28 part of a service area. The superintendent shall consider
potential enrollment populations, standard metropolitan
30 statistical areas, health planning and referral patterns as well
as the carriers' service areas and availability of managed care
32 alternatives. The superintendent may redefine market areas where
the superintendent determines there will be insufficient numbers
34 of enrollees, health care providers or qualifying accountable
health plans to make the requirements feasible;

36 2. Accountable health plans. Shall accept applications
38 from a list of eligible carriers designated by the superintendent
and determine the eligibility of carriers to become accountable
40 health plans according to additional criteria described in
section 2876 or as may be prescribed and designate carriers as
42 accountable health plans;

44 3. Purchasing alliance. Shall establish a purchasing
alliance pursuant to section 2874 for each market carrier
46 established by the superintendent;

48 4. Reviews. Shall conduct or arrange to conduct periodic
reviews of the performance of each purchasing alliance to ensure
50 that the purchasing alliance is in compliance with this chapter.

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2 To assist the superintendent in its review, each purchasing
3 alliance shall collect and be prepared to submit data to the
4 superintendent as requested, including, but not limited to,
5 employer enrollment by employer size, industry sector, previous
6 insurance status, number of employees within each employer,
7 number of total eligible employers in the service area
8 participating in the purchasing alliance, number of insured lives
9 by area and insured category, including employees, dependents and
10 other insured categories, profiles of potential employer
11 membership by area, premium ranges for each qualified health
12 benefit plan for purchasing alliance member categories, type and
13 resolution of member grievances, surcharges and purchasing
14 alliance financial statements. The superintendent shall provide
15 a summary of these reviews to the public, the Governor and the
16 Legislature at least biennially;

17 **5. Revocation of charter.** If review by the superintendent
18 reveals that a purchasing alliance is not carrying out its duties
19 or acting in the best interests of its members, the
20 superintendent may revoke its charter and in the interim may take
21 over the duties of the purchasing alliance as specified in
22 section 2875 until a new purchasing alliance board is appointed;

23 **6. Other duties.** Shall develop standard enrollment
24 procedures and accountable health plan comparison sheets to be
25 used by the purchasing alliances in enrolling employers and their
26 eligible employees;

27 **7. Conditions of participation.** Shall establish conditions
28 of participation for member employers that conform to the
29 requirements of this chapter and section 2808-B and include, but
30 are not limited to the following:

31 **A.** Provide assurances that the member employer is a bona
32 fide employer group;

33 **B.** Member employers participating in a purchasing alliance
34 shall offer to all their eligible employees a choice of
35 qualified health benefit plans; and

36 **C.** Provide for prepayment of premiums or other mechanism to
37 ensure that payment will be made for coverage;

38 **8. Purchase of coverage.** Shall ensure that any member
39 employer that meets the requirements established pursuant to
40 subsection 7 may purchase health care coverage through a
41 purchasing alliance;

42 **9. Compliance.** Shall ensure compliance with this chapter
43 by purchasing alliances, member employers and employee enrollees;
44

2 10. Carrier requirements. Shall certify that all carriers
4 are approved carriers under section 2808-B, and that the carriers
 satisfy the financial requirements required by the bureau;

6 11. Fair and affirmative marketing. Shall ensure fair and
8 affirmative marketing of the qualified health benefit plans
 consistent with standards established pursuant to section 2808-B;

10 12. Rulemaking. Shall adopt rules in compliance with Title
12 5, chapter 375 as necessary to administer the provisions of this
 chapter;

14 13. Advisory committees. Shall appoint advisory committees
16 that include persons with expertise in health benefits management
 and representatives of accountable health plans;

18 14. Uniform standards for data. Shall develop uniform
20 standards for data that purchasing alliances may collect from
 accountable health plan providers. Purchasing alliances may
22 collect only such data as are necessary for evaluation of the
 performance of accountable health plans and their provider
24 networks by consumers, providers, employers and the State. In
 formulating data collection standards, the superintendent shall
26 use standards based on and consistent with existing state or
 national health care data collection initiatives and should take
28 into account their feasibility and cost-effectiveness. Enrollee
 satisfaction surveys used by purchasing alliances must be in a
30 standardized format promulgated by the superintendent.

32 15. Grants. May receive and accept grants or funds from
34 any public or private agency and receive and accept contributions
 from any legitimate source of money, property, labor or any other
 thing of value;

36 16. Forms. Shall adopt standardized forms, including
38 uniform claims forms, for use by accountable health plans;

40 17. Surcharges. Shall approve any surcharges levied by
 each purchasing alliance for administrative costs;

42 18. Guidelines. Shall develop guidelines for inclusion in
44 purchasing alliance requests for proposals for any authorized
 marketing materials to be used in providing member employers or
46 their eligible employees with information regarding accountable
 health plans and their respective qualified health benefit plans
48 in accordance with section 2878. The guidelines must be
 consistent with standards established by the bureau.

2 19. Grievance procedures. Shall develop grievance
3 procedures for inclusion in alliance requests for proposals to be
4 used in resolving disputes between purchasing alliances, their
5 member employers and employee enrollees. A member employer,
6 employee enrollee or purchasing alliance may appeal to the
7 superintendent any grievance that is not resolved. Disputes
8 between a member employer and its employees with an accountable
9 health plan must be resolved in a manner consistent with section
10 2876, subsection 5, paragraph G. The superintendent may receive,
11 review and act on appeals of grievances not resolved and develop
12 a grievance procedure to be used in resolving disputes between a
13 purchasing alliance and an accountable health plan;

14 20. Analysis of information. Shall analyze information
15 collected from accountable health plans and other sources and
16 report findings that assist consumers, employers, purchasing
17 alliances, accountable health plans or health care providers in
18 improving the delivery or purchase of health care;

19 21. Comparison sheets. Shall develop the format of
20 comparison sheets on accountable health plans and the qualified
21 health benefit plans for use by the purchasing alliances in
22 accordance with section 2875; and

23 22. Administrative and accounting procedures. Shall
24 establish administrative and accounting procedures for operating
25 the purchasing alliances, providing services to member employers
26 and employee enrollees.

27 **§2874. Purchasing alliances authorized**

28 The superintendent may contract with one or more purchasing
29 alliances in accordance with this section.

30 1. Authorization to contract. The superintendent may
31 contract with a single purchasing alliance within each designated
32 service area for the benefit of its member employers. Each
33 purchasing alliance must be operated as a state-chartered,
34 nonprofit private organization.

35 2. Purchasing alliance board of directors. Each purchasing
36 alliance operates under the supervision of a purchasing alliance
37 board of directors, which consists of 11 members. The majority
38 of members on each purchasing alliance board must be member
39 employers.

40 A. Initially, members shall serve for a term of 2 years.
41 In making the appointments, consideration must be given to
42 the area's geographical and ethnic diversity, expertise
43 needed to oversee alliance operations and whether all member
44 employers.

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2 employers are fairly represented. One member must be a
3 representative of area health care professionals who is
4 familiar with the health care needs of the area.

6 B. Subsequent members of the purchasing alliance board of
7 directors must be elected pursuant to the purchasing
8 alliance board's bylaws, which must provide that a
9 knowledgeable representative of the area's medical community
10 is included on the purchasing alliance board.

12 3. Bylaws. Each purchasing alliance board shall adopt
13 bylaws that include a procedure for the election of purchasing
14 alliance board members by the purchasing alliance's member
15 employers.

16 4. Terms of office. Of the initially elected members of
17 each purchasing alliance board, 6 members serve 2-year terms and
18 the remaining 5 members serve 4-year terms. Thereafter, elected
19 members serve 4-year terms.

22 5. Vacancies. Vacancies on the purchasing alliance board
23 must be filled for the remaining period of the term by a majority
24 vote of the remaining purchasing alliance board members. A
25 member who was appointed after the beginning of a term serves for
26 the remainder of the term and until a qualified successor is
27 elected for a new term. A member who serves 2 consecutive full
28 4-year terms may not be reelected for 4 years after completion of
29 those terms.

31 6. Officers. The purchasing alliance board shall elect
32 officers from among its members every 2 years. Officers may not
33 serve more than 2 consecutive terms in an office.

35 7. Meetings. The purchasing alliance board shall meet at
36 times and places as it determines necessary to operate the
37 alliance in accordance with this section. All meetings are
38 subject to the freedom of access laws, Title 1, chapter 13,
39 subchapter I.

41 8. Powers and duties. The purchasing alliance board has
42 the powers and duties regarding operation of the purchasing
43 alliances set forth in section 2875.

44 **§2875. Powers and duties of a purchasing alliance**

46 A purchasing alliance has the following powers and duties.
47 A purchasing alliance:

48 1. Executive director. Shall appoint an executive director
49 to serve as the chief operating officer of the purchasing
50 alliance.

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2 alliance who may employ other staff as needed to administer the
3 purchasing alliance. The executive director serves at the
4 pleasure of the purchasing alliance board;

6 2. Advisory committees. Shall establish advisory
7 committees as necessary to assist with carrying out the duties
8 established pursuant to this section;

10 3. Outreach. Shall conduct outreach to employers to
11 encourage membership in the purchasing alliance;

12 4. Reports and records. Shall prepare annual reports on
13 the operations of the purchasing alliance, including program and
14 financial operations as required by the superintendent, provide
15 for annual internal and independent audits and maintain records
16 and submit reports to the superintendent as required;

18 5. Legal action. May sue or be sued, including taking any
19 legal actions necessary or proper for recovering any penalties
20 for or on behalf of the purchasing alliance;

22 6. Funds. May accept and expend funds received through
23 grants, surcharges, appropriations or other appropriate and
24 lawful means;

26 7. Notification. Shall notify the superintendent of any
27 potential violations of the chapter by an accountable health plan
28 or other entity;

30 8. Contracts and policies. Shall enter into contracts and
31 hold policies with accountable health plans selected to offer
32 qualified health benefit plans to members of the purchasing
33 alliance pursuant to section 2876. Each purchasing alliance
34 shall contract with enough accountable health plans to offer
35 qualified health benefit plans and to ensure an ongoing viable
36 market, consumer choice, quality plans and cost-effective
37 competition. Each purchasing alliance shall enter into contracts
38 with member employers pursuant to section 2877;

40 9. Eligibility records. Maintain eligibility records as
41 appropriate to carry out the functions of this chapter;

42 10. Information. Shall transmit enrollment, eligibility,
43 financial and other needed information to accountable health
44 plans on a timely basis;

46 11. Collection of premium. Shall establish procedures for
47 collection of premiums from member employers, including any share
48 of the premium paid by employee enrollees;

50

2 12. Enrollment periods. Shall establish procedures for
annual open enrollment periods;

4 13. Payment of rates. Shall pay contracted rates to
accountable health plans on a monthly basis or as otherwise
6 mutually agreed;

8 14. Annual surcharges. Shall impose annual surcharges,
established at the beginning of the fiscal year to be paid
10 monthly by member employers for necessary administrative costs
incurred in connection with the operation of the purchasing
12 alliance. The amount of the annual surcharge covers any default
on insurer premium payments by member employers;

14 15. Ineligibility. Shall provide that in the event a
16 member employer terminates coverage purchased through the
alliance, the former member employer is ineligible to purchase a
18 health benefit plan through the purchasing alliance for a period
of 12 months, except as permitted by the purchasing alliance
20 board and the superintendent for good cause;

22 16. Contracts. Shall contract, as authorized by the
purchasing alliance board of directors, with a qualified,
24 independent 3rd party for any service necessary to carry out the
powers and duties of the purchasing alliance as defined in this
26 section, including contracts with agents to assist in contracting
with accountable health plans or employers and to assist the
28 purchasing alliance in educational, marketing, service, grievance
and administrative activities. Unless permission is granted
30 specifically by the purchasing alliance, a 3rd party hired by a
purchasing alliance may not release, publish or otherwise use any
32 information to which the 3rd party has access under its
contract. Except with the express written approval of the
34 superintendent, an entity may not act, directly or through an
affiliated company, in a purchasing alliance service area both as
36 an accountable health plan and an independent 3rd-party
contractor carrying out the duties of the purchasing alliance
38 pursuant to this section;

40 17. Comparison sheets. Shall provide to member employers
comparison sheets, in accordance with bureau rules, that include
42 clear, standardized information on each accountable health plan
and qualified health benefit plans offered by each accountable
44 health plan, including information on price, enrollee costs and,
when available, information on enrollment and enrollee
46 responsibilities and obligations; and

48 18. Contracts. The power of a purchasing alliance to
contract is subject to the requirements of this subsection.
50

2 A. Purchasing alliances may not purchase health care
4 services, assume risk for the cost or provision of health
6 care services or otherwise contract directly with health
8 care providers for the provision of health care services to
10 member employers except as set forth in section 2876.

12 B. Notwithstanding paragraph A, in those areas where there
14 are no willing bidders the purchasing alliance, with the
16 concurrence of the superintendent, may enter into contracts
18 with willing health care providers.

20 **§2876. Accountable health plans**

22 Accountable health plans are authorized to perform duties
24 pursuant to this section.

26 1. Process. No later than July 1, 1996, the purchasing
28 alliance board shall establish a process by which a small group
30 carrier recommended by the superintendent that fulfills the
32 qualifications of subsection 2 and other criteria that may be set
34 may be designated an accountable health plan.

36 2. Qualification. In order to be eligible to be designated
38 as an accountable health plan, a carrier must be able to
40 demonstrate the following operating characteristics:

42 A. Be licensed and in good standing with the bureau;

44 B. The capacity to administer the qualified health benefit
46 plans;

48 C. The ability to provide enrollees with adequate capacity
and reasonable access to covered services within the
carrier's service area;

D. Established grievance procedures, including the ability
to respond to enrollees' calls, questions and complaints;

E. Established utilization management procedures;

F. The ability to arrange and pay for the appropriate level
and type of health care services;

G. The ability to monitor and evaluate the quality and
cost-effectiveness of care;

H. The ability to provide enrollees with adequate numbers
and types of health care providers;

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- 2 I. The ability to provide information on enrollee
3 satisfaction based on standard surveys prescribed by the
4 superintendent; and
- 6 J. The ability to provide standard data elements in a
7 manner prescribed by the superintendent.
- 8 3. Accreditation. Carriers may also be required to have
9 received accreditation by nationally recognized health-related
10 accreditation organizations.
- 12 4. Failure to maintain compliance. After notice and
13 hearing, the purchasing alliance board may suspend or revoke the
14 designation as an accountable health plan of any carrier that
15 fails to maintain compliance with the requirements listed in this
16 section.
- 18 5. Requirements. In every purchasing alliance in which it
19 participates, each accountable health plan shall:
- 20 A. Offer qualified health benefit plans;
- 22 B. Provide for the collection and reporting to the
23 superintendent and to the appropriate purchasing alliance of
24 information on the performance of accountable health plans
25 regarding the effectiveness and outcomes in providing
26 selected services; data reporting requirements adopted by
27 the superintendent must be based on and consistent with
28 national or state standards and may not impose an
29 unreasonable cost for compliance;
- 31 C. Establish premium rates for each qualified health
32 benefit plan pursuant to the community rating method
33 described in section 2808-B;
- 35 D. Comply with all rules regarding rating, underwriting,
36 claims handling, sales, solicitation, licensing, fair
37 marketing, unfair trade practices and other provisions in
38 this chapter;
- 39 E. Issue coverage under a qualified health benefit plan to
40 any member employer's employees who elect to be covered
41 under a qualified health benefit plan offered by an
42 accountable health plan in the manner required under this
43 chapter and section 2808-B;
- 44 F. Renew each qualified health benefit plan with respect to
45 any member employer except in the following cases:
- 46 (1) Nonpayment of the required premiums;

2 (2) Willful or deliberate fraud or material
4 misrepresentation by the member employer or an employee
 enrollee;

6 (3) Noncompliance by an employer with requirements
8 regarding employer contribution or participation as
 required by the superintendent;

10 (4) Repeated misuse of a provider network provision
12 including, but not limited to, unreasonable refusal of
14 an enrollee to follow a prescribed course of treatment,
 or violation of reasonable policies of an accountable
 health plan, as determined by the superintendent;

16 (5) Election by the accountable health plan to
18 terminate its contract with a purchasing alliance. In
 such a case, the accountable health plan shall:

20 (a) Provide advance notice of its decision to the
22 purchasing alliance and to the superintendent;

24 (b) Provide notice of the decision at least 180
26 days prior to the nonrenewal of any qualified
28 health benefit plan to the enrollees. Except as
30 provided in subsection 6, an accountable health
32 plan that elects not to renew a qualified health
34 benefit plan with a purchasing alliance is
 prohibited from writing new business within the
 purchasing alliance service area for a period of 3
 years from the date of notice to the purchasing
 alliance or until the purchasing alliance, with
 the concurrence of the superintendent, invites the
 carrier to renew participation; and

36 (6) Determination by a purchasing alliance, subject to
38 review by the superintendent, that continuation of
40 coverage would not be in the best interest of the
42 employee enrollees and member employers or would impair
44 the accountable health plan's ability to meet its
 contractual obligations. In this instance, the
 purchasing alliance must assist affected employee
 enrollees in finding replacement coverage; and

46 G. Provide a procedure for addressing grievances that arise
48 between the accountable health plan and the purchasing
 alliance member employers or employee enrollees and that
 allows both parties full exhaustion of the remedies provided

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2 under this procedure to resolve grievances prior to seeking
3 any relief other than as provided in this procedure.

4 **6. Renewal.** Coverage under a qualified health plan offered
5 by each accountable health plan must be available to each and
6 every member employer at the anniversary date of each member
7 employer's coverage under a qualified health benefit plan or, in
8 the case of a prospective member employer who has applied to
9 become a member of a purchasing alliance, when the member
10 employer first joins the purchasing alliance. An accountable
11 health plan may not be required to offer coverage or accept
12 enrollments if:

14 A. The eligible employee does not reside within the
15 accountable health plan's approved service area;

16 B. An accountable health plan provides 90 days' prior
17 notice that it will not have the capacity to deliver service
18 adequately in a market area to additional enrollees because
19 of its obligations to existing groups and enrollees; or

20 C. The superintendent determines that the acceptance of an
21 application or applications would place an accountable
22 health plan in a financially impaired condition.

23 **7. Exclusion.** An accountable health plan that can not
24 offer coverage pursuant to subsection 5, may not offer coverage
25 to the employees of any new employer group in the alliance
26 service area until the later of 90 days following the refusal or
27 the date on which the accountable health plan notifies the
28 purchasing alliance and the superintendent that it has regained
29 capacity to deliver services to eligible employees in the service
30 area. An accountable health plan that cannot offer coverage
31 pursuant to subsection 5, may not offer coverage or accept
32 applications for any individual or employer group until a
33 determination by the superintendent that acceptance of an
34 application will not put the accountable health plan in a
35 financially impaired condition.

36 **8. Managed care plans.** Nothing in this chapter or any
37 other provision of the laws of this State may prohibit an
38 accountable health plan from providing a qualified health benefit
39 plan in a purchasing alliance through a managed care system or
40 from contracting with particular health care providers or types,
41 classes or categories of health care providers.

42 **§2877. Purchasing alliance contracts with member employers and**
43 **accountable health plans**

2 Contracts among purchasing alliances and member employers
3 and accountable health plans are subject to the requirements of
4 this section.

6 1. Contract requirements. The contracts between purchasing
7 alliances and member employers or accountable health plans must
8 provide that payment of all premiums must be transmitted by
9 member employers on their behalf and on behalf of the employee
10 enrollee, directly to the purchasing alliance. Premiums must be
11 payable on a monthly basis. Purchasing alliances may provide for
12 penalties and grace periods for late payment. Nonpayment of
13 premiums by a member employer or employee enrollee constitutes a
14 breach of contract and a breach of the insurance policy.

16 2. Required provision. The contracts between purchasing
17 alliances and member employers must further provide that the
18 purchasing alliance will be the contract holder of the health
19 benefit policy on behalf of member employers and their
20 employees. The contract must provide that all eligible employees
21 of the employer who obtain coverage under the health benefit plan
22 offered by the employer must obtain that coverage through the
23 purchasing alliance.

24 A. Under a contract between an accountable health plan and
25 a purchasing alliance, the purchasing alliance must forward
26 to each accountable health plan with enrollees under a
27 qualified health benefit plan an amount equal to:

28 (1) Premiums determined by the accountable health
29 plan's contracted rates; and

32 (2) Adjustments in payments, if any, resulting from a
33 risk adjustment mechanism determined in accordance with
34 this chapter.

36 B. The purchasing alliance must pay the accountable health
37 plan on a monthly basis or as agreed by contract.

38 **§2878. Marketing qualified health benefit plans**

40 The marketing of qualified health benefit plans is subject
41 to the requirements of this section.

44 1. Notification. Each purchasing alliance shall use
45 efficient and standardized means to notify member employers of
46 the availability of sponsored health coverage through the
47 purchasing alliance. Each purchasing alliance shall make
48 available to member employers marketing materials accurately
summarizing the benefit plans, rates, cost and other relevant

2 information that its accountable health plans offer through the
3 purchasing alliance.

4 2. Marketing materials. If approved by the purchasing
5 alliance board, an accountable health plan may provide, directly
6 or through an agent, broker, contractor or producer, marketing
7 material relating to health plans offered through the purchasing
8 alliance. Accountable health plans do not need authorization
9 from a purchasing alliance for advertisement to the public
10 through the mass media.

11 3. Agent or broker services. Nothing in this section may
12 be construed to prohibit a purchasing alliance or accountable
13 health plan from using or to compel it to use the services of a
14 licensed agent or licensed broker in order to assist in
15 marketing. An accountable health plan may not vary compensation
16 or commissions to agents, brokers, contractors or producers
17 based, directly or indirectly, on the anticipated or actual
18 claims experience or health status associated with particular
19 employers to which each plan is sold.

20 4. Prohibited marketing practices. An accountable health
21 plan, agent, broker, contractor or producer of an accountable
22 health plan or independent insurance agent, broker, contractor or
23 producer may not engage, directly or indirectly, in any activity
24 or marketing practice that would encourage member employers or
25 eligible employees to:

26 A. Refrain from enrolling in the accountable health plan
27 because of their health status or claim experience;

28 B. Seek coverage from other accountable health plans
29 because of their health status or claim experience; or

30 C. Condition coverage upon the acceptance of any other
31 insurance product or service.

32 5. Notification. A purchasing alliance shall notify the
33 superintendent of any marketing practices or materials that it
34 finds contrary to the fair and affirmative marketing requirements
35 of this chapter. The superintendent shall monitor or cause to
36 have monitored compliance with this section, including the
37 conduct of accountable health plans and their agents, brokers,
38 contractors, or producers and shall report to the bureau any
39 perceived unfair trade practices and misleading or unfair conduct
40 that has been reported by purchasing alliances, agents, consumers
41 or any other individual. The bureau shall investigate all
42 reports and, upon a finding of noncompliance with this section or
43 of unfair and misleading practices, shall take action against

2 violators as permitted. The superintendent shall forward all
reports of cases or abuse to the bureau for investigation.

4 **§2879. Risk adjustment mechanism; adjusted community rating**

6 The superintendent shall establish a payment mechanism to
8 adjust for the amount of risk covered by each qualified health
10 benefit plan offered by an accountable health plan. The
12 superintendent shall establish a community rating system that
spreads financial risk and allows adjustments for established
risk factors among purchasing alliances and qualified health
benefit plans.

14 **§2879-A. Antitrust protection**

16 In addition to the duties described in section 2873, the
18 superintendent shall perform the following duties:

20 1. Monitoring conduct. Monitor the conduct of purchasing
22 alliances, accountable health plans, hospitals, health care
24 practitioners and state agencies to ensure that the legislative
26 intent of this chapter to improve the competitiveness of the
28 employer health coverage market is not impeded. Such impediments
30 may include, but are not limited to, cooperative agreements
32 between providers that may deny accountable health plans or their
34 enrollees access to cost-effective, health care services in any
36 local market, collusion of pricing and efforts to breach the
right of selective contracting by carriers. In the event that
the superintendent identifies actions by any public or private
entity that the superintendent believes may materially diminish
market competitiveness or consumer welfare in health care, the
superintendent shall so report to the Governor or the Attorney
General. The report may involve a recommendation that state or
federal antitrust investigations be initiated, in which case a
report must also be made to the Federal Trade Commission and the
United States Department of Justice; and

38 2. Supervision of alliances. Actively supervise purchasing
40 alliances to ensure that actions that affect market competition
42 accomplish the legislative intent of this chapter, so as to
provide state and federal antitrust protection to purchasing
alliances and purchasing alliance boards of directors.

44 **§2879-B. Program evaluation**

46 The superintendent shall make a report no later than January
48 1, 1997 and each January 1st thereafter to the Governor and the
Legislature on the progress achieved in ensuring affordable

2 insurance to employees of member employers; the possible need for
 4 financial incentives or for employer mandates to increase
 6 participation; in the case of voluntary alliances, on the
 8 possible need to have exclusive purchasing of health insurance
 10 through the purchasing alliances for all member employers who
choose to purchase health insurance; and on the need to develop,
to the extent feasible and consistent with national standards or
additional standards proposed by the National Association of
Insurance Commissioners, standard information to be collected
from accountable health plans.

12 **Sec. 2. Increased assessments authorized.** Notwithstanding the
 14 provisions of the Maine Revised Statutes, Title 24-A, section
 16 237, the Superintendent of Insurance is authorized to increase
 18 the assessment against all insurers licensed to do business in
 this State for the expense of maintaining the Bureau of Insurance
 to carry out the purposes of this Act.

20 **Sec. 3. Allocation.** The following funds are allocated from
 Other Special Revenue to carry out the purposes of this Act.

22 1995-96 1996-97

24 **PROFESSIONAL AND FINANCIAL**
 26 **REGULATION, DEPARTMENT OF**

28 **Bureau of Insurance**

30	Positions - Other Count	(5.0)	(5.0)
	Personal Services	\$198,335	\$277,668
	All Other	98,528	119,143
32	Capital Expenditures	16,500	3,000

34
 36 Allocates funds including one
 Executive Director position,
 38 one Financial Analyst
 position, one Staff Attorney
 40 position, one Computer
 Systems Analyst position and
 42 one Clerk Typist III position
 and related expenses to
 44 establish and administer the
 state purchasing alliance
 46 structure.

48 **DEPARTMENT OF PROFESSIONAL AND**
FINANCIAL REGULATION
 50 **TOTAL**

\$313,363 \$399,811

