

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1477

S.P. 539

In Senate, May 2, 1995

**An Act to Provide for the Creation of a Health Insurance Purchasing  
Cooperative.**

---

Reference to the Committee on Banking and Insurance suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS  
Secretary of the Senate

Presented by Senator McCORMICK of Kennebec.

2 Be it enacted by the People of the State of Maine as follows:

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

6 CHAPTER 37-A

8 HEALTH CARE PURCHASING ALLIANCE ACT

10 §2871. Definitions

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

14 1. Accountable health plan. "Accountable health plan"  
means a carrier registered with the state board pursuant to  
16 section 2874.

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

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

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

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

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

34 7. Fund. "Fund" means the State Health Plan Purchasing  
36 Alliance Fund established under section 2879-C.

38 8. Grievance procedure. "Grievance procedure" means an  
established set of rules that specify a process for appeal of an  
40 organizational decision.

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

46 10. Late enrollee. "Late enrollee" has the same meaning as  
in section 2808-B, subsection 1, paragraph E.

48 11. Member employer. "Member employer" means an employer  
50 who enrolls in a purchasing alliance.

2           12. Preexisting condition provision.    "Preexisting  
condition provision" has the same meaning as "preexisting  
4           condition exclusion," defined in section 2848, subsection 3.

6           13. Purchasing alliance.    "Purchasing alliance" means a  
state-chartered, nonprofit organization that provides health  
8           coverage purchasing services to member employers in a specified  
service area.

10           14. Purchasing alliance board.    "Purchasing alliance board"  
12           means the board of directors for the purchasing alliance in the  
geographic service area established pursuant to section 2875.

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

20           16. Risk adjustment mechanism.    "Risk adjustment mechanism"  
22           means the process established pursuant to section 2879-A.

24           17. Service area.    "Service area" or "alliance service  
26           area" means a clearly defined, nonoverlapping and exclusive  
geographical area determined by the state board for the purpose  
of defining the region in which a purchasing alliance may operate.

28           18. Small employer.    "Small employer" has the same meaning  
as "eligible group," defined in section 2808-B, section 1,  
30           paragraph D.

32           19. State board.    "State board" means the State Purchasing  
Alliance Board established pursuant to section 2873.

34           §2872. Jurisdiction of the Bureau of Insurance

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

46           §2873. State Purchasing Alliance Board

48           1. State Purchasing Alliance Board.    There is established  
within the bureau the State Purchasing Alliance Board to which  
50           the bureau shall provide administrative and staff support.

2           **2. Board membership.** The state board consists of 8  
members, as follows:

4           A. The superintendent or a person designated by the  
6           superintendent;

8           B. The Commissioner of Human Services or a person  
10           designated by the commissioner;

12           C. Four members appointed by the Governor, subject to  
14           review and approval by the joint standing committee of the  
16           Legislature having jurisdiction over insurance matters. One  
18           member must be a member of the Maine Medical Association who  
20           is familiar with quality and outcome measures in health care  
22           coverage. One member must represent small group insurance  
24           carriers doing business in the State. One member must be a  
26           person engaged in business who expects to purchase insurance  
28           through the purchasing alliance. One member must be an  
30           employee who expects to be an employee enrollee of a  
32           purchasing alliance; and

34           D. Two members appointed jointly by the President of the  
36           Senate and the Speaker of the House of Representatives, one  
38           who is a person engaged in business who expects to purchase  
40           insurance through the purchasing alliance and one member who  
42           is an employee who expects to be an employee enrollee of a  
44           purchasing alliance.

46           **3. Reimbursement.** Members of the state board are entitled  
48           to reimbursement for expenses.

50           **4. Terms.** The term of appointed members is 4 years, except  
for the initial members. All members serve until their  
successors are appointed and approved, if necessary. The initial  
terms of office are:

A. One appointee each from subsection 2, paragraphs C and D  
shall serve for 2 years after the effective date of this  
chapter; and

B. All other initial appointees serve for 4-year terms.

**5. Chair.** The state board shall elect a chair every 2  
years. The chair may serve as chair no more than 2 consecutive  
terms.

**6. Executive director.** The state board may appoint an  
executive director, who serves at the pleasure of the state  
board. The executive director administers the affairs of the

state board. The executive director may employ and direct staff necessary to carry out the provisions of this chapter.

7. Meetings. The state board shall meet as needed at the times and places it determines. All meetings are subject to the freedom of access laws, Title 1, chapter 13, subchapter I. A quorum consists of 5 members.

8. Employment. A state board member other than the members explicitly provided for in subsection 2, paragraph C and no member of the family of a member of the state board may not be employed by, affiliated with, an agent of, or otherwise a representative of any carrier or health care provider.

#### §2874. Powers of the state board

The state board has the authority to perform the following duties. The state board:

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

2. Accountable health plans. Shall accept applications from a list of eligible carriers designated by the superintendent and determine the eligibility of carriers to become accountable health plans according to additional criteria described in section 2877 or as may be prescribed by the state board, and designate carriers as accountable health plans;

3. Purchasing alliance. Shall establish a purchasing alliance pursuant to section 2875 for each market carrier established by the state board;

4. Reviews. Shall conduct or arrange to conduct periodic reviews of the performance of each purchasing alliance to ensure that the purchasing alliance is in compliance with this chapter. To assist the state board in its review, each purchasing alliance shall collect and be prepared to submit data to the state board as requested, including, but not limited to, employer enrollment by employer size, industry sector, previous insurance status,

2 number of employees within each employer, number of total  
3 eligible employers in the service area participating in the  
4 purchasing alliance, number of insured lives by area and insured  
5 category, including employees, dependents and other insured  
6 categories, profiles of potential employer membership by area,  
7 premium ranges for each qualified health benefit plan for  
8 purchasing alliance member categories, type and resolution of  
9 member grievances, surcharges and purchasing alliance financial  
10 statements. The state board shall provide a summary of these  
11 reviews to the public, the superintendent, the Governor and the  
12 Legislature at least biennially;

13  
14 5. Revocation of charter. If review by the state board  
15 reveals that a purchasing alliance is not carrying out its duties  
16 or acting in the best interests of its members, the state board  
17 may revoke its charter and in the interim may take over the  
18 duties of the purchasing alliance as specified in section 2876  
19 until a new purchasing alliance board is appointed;

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

24  
25 7. Conditions of participation. Shall establish conditions  
26 of participation for member employers that conform to the  
27 requirements of this chapter and section 2808-B and include, but  
28 are not limited to the following:

29  
30 A. Provide assurances that the member employer is a bona  
31 fide employer group;

32  
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  
37 C. Provide for prepayment of premiums or other mechanism to  
38 ensure that payment will be made for coverage;

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

44  
45 9. Compliance. With the superintendent, shall ensure  
46 compliance with this chapter by purchasing alliances, member  
47 employers and employee enrollees;

48  
49 10. Carrier requirements. Shall request from the bureau  
50 certification that all carriers are approved carriers under

2 section 2808-B, and that the carriers satisfy the financial  
requirements required by the bureau;

4 11. Fair and affirmative marketing. With the  
superintendent, shall ensure fair and affirmative marketing of  
6 the qualified health benefit plans consistent with standards  
established by the bureau pursuant to section 2808-B;

8  
10 12. Rulemaking. Shall adopt rules in compliance with Title  
5, chapter 375 as necessary to administer the provisions of this  
Act;

12  
14 13. Advisory committees. Shall appoint advisory committees  
that include persons with expertise in health benefits management  
and representatives of accountable health plans;

16  
18 14. Uniform standards for data. With the superintendent,  
shall develop uniform standards for data that purchasing  
alliances may collect from accountable health plan providers.  
20 Purchasing alliances may collect only such data as are necessary  
for evaluation of the performance of accountable health plans and  
22 their provider networks by consumers, providers, employers and  
the State. In formulating data collection standards, the state  
24 board shall use standards based on and consistent with existing  
state or national health care data collection initiatives and  
26 should take into account their feasibility and  
cost-effectiveness. Enrollee satisfaction surveys used by  
28 purchasing alliances must be in a standardized format promulgated  
by the state board.

30  
32 15. Legal actions. May sue or be sued, including taking  
action necessary for securing legal remedies on behalf of or  
34 against purchasing alliances, member employers or employee  
enrollees and dependents of those employees or any state board  
member;

36  
38 16. Grants. May receive and accept grants or funds from  
any public or private agency and receive and accept contributions  
40 from any legitimate source of money, property, labor or any other  
thing of value;

42 17. Forms. Shall adopt those standardized forms, including  
uniform claims forms, for use by accountable health plans that  
44 have been approved by the superintendent;

46 18. Surcharges. Shall approve any surcharges levied by  
each purchasing alliance for administrative costs;

48  
50 19. Guidelines. Shall develop guidelines for inclusion in  
purchasing alliance requests for proposals for any authorized



2 marketing materials to be used in providing member employers or  
3 their eligible employees with information regarding accountable  
4 health plans and their respective qualified health benefit plans  
5 in accordance with section 2879. The guidelines must be  
6 consistent with standards established by the bureau.

8 20. Grievance procedures. Shall develop grievance  
9 procedures for inclusion in alliance requests for proposals to be  
10 used in resolving disputes between purchasing alliances, their  
11 member employers and employee enrollees. A member employer,  
12 employee enrollee or purchasing alliance may appeal to the state  
13 board any grievance that is not resolved. Disputes between a  
14 member employer and its employees with an accountable health plan  
15 must be resolved in a manner consistent with section 2877,  
16 subsection 5, paragraph G. The state board may receive, review  
17 and act on appeals of grievances not resolved. The state board  
18 may develop a grievance procedure to be used in resolving  
19 disputes between a purchasing alliance and an accountable health  
20 plan;

22 21. Analysis of information. Shall analyze information  
23 collected from accountable health plans and other sources and  
24 report findings that assist consumers, employers, purchasing  
25 alliances, accountable health plans or health care providers in  
26 improving the delivery or purchase of health care;

28 22. Comparison sheets. Shall develop the format of  
29 comparison sheets on accountable health plans and the qualified  
30 health benefit plans for use by the purchasing alliances in  
31 accordance with section 2876;

32 23. Administrative and accounting procedures. Shall  
33 establish administrative and accounting procedures for operating  
34 the purchasing alliances, providing services to member employers  
35 and employee enrollees; and

36 24. Report. Shall report as specified on the operation of  
37 the state board to the Governor and the joint standing committee  
38 of the Legislature having jurisdiction over insurance matters.

40 **§2875. Purchasing alliances authorized**

42 The state board may contract with one or more purchasing  
43 alliances in accordance with this section.

44 1. Authorization to contract. The state board may contract  
45 with a single purchasing alliance within each designated service  
46 area for the benefit of its member employers. Each purchasing  
47 alliance must be operated as a state-chartered, nonprofit private  
48 organization.  
49  
50

2           2. Purchasing alliance board of directors. Each purchasing  
alliance operates under the supervision of a purchasing alliance  
4           board of directors, which consists of 11 members. The majority  
of members on each purchasing alliance board must be member  
6           employers.

8           A. The state board shall initially appoint the members for  
a term of 2 years. In making the appointments, the state  
10           board shall consider, among other things, the area's  
geographical and ethnic diversity, expertise needed to  
12           oversee alliance operations and whether all member employers  
are fairly represented. The state board shall appoint a  
14           representative of area health care professionals who is  
familiar with the health care needs of the area.

16           B. Subsequent members of the purchasing alliance board of  
18           directors must be elected pursuant to the purchasing  
alliance board's bylaws, which must provide that a  
20           knowledgeable representative of the area's medical community  
is included on the purchasing alliance board.

22           3. Bylaws. Each purchasing alliance board shall adopt  
24           bylaws that include a procedure for the election of purchasing  
alliance board members by the purchasing alliance's member  
26           employers.

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

32           5. Vacancies. Vacancies on the purchasing alliance board  
34           must be filled for the remaining period of the term by a majority  
vote of the remaining purchasing alliance board members. A  
36           member who was appointed after the beginning of a term serves for  
the remainder of the term and until a qualified successor is  
38           elected for a new term. A member who serves 2 consecutive full  
4-year terms may not be reelected for 4 years after completion of  
40           those terms.

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

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

2           8. Powers and duties. The purchasing alliance board has  
the powers and duties regarding operation of the purchasing  
4 alliances set forth in section 2876.

6           **§2876. Powers and duties of a purchasing alliance**

8           A purchasing alliance has the following powers and duties.  
A purchasing alliance:

10           1. Executive director. Shall appoint an executive director  
12 to serve as the chief operating officer of the purchasing  
alliance who may employ other staff as needed to administer the  
14 purchasing alliance. The executive director serves at the  
pleasure of the purchasing alliance board;

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

20           3. Outreach. Shall conduct outreach to employers to  
22 encourage membership in the purchasing alliance;

24           4. Reports and records. Shall prepare annual reports on  
the operations of the purchasing alliance, including program and  
26 financial operations as required by the state board, provide for  
annual internal and independent audits and maintain records and  
28 submit reports to the state board as required;

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

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

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

42           8. Contracts and policies. Shall enter into contracts and  
hold policies with accountable health plans selected to offer  
44 qualified health benefit plans to members of the purchasing  
alliance pursuant to section 2877. Each purchasing alliance  
46 shall contract with enough accountable health plans to offer  
qualified health benefit plans and to ensure an ongoing viable  
48 market, consumer choice, quality plans and cost-effective  
competition. Each purchasing alliance shall enter into contracts  
50 with member employers pursuant to section 2878;

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

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

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

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

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

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

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

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

2           17. Comparison sheets. Shall provide to member employers  
3 comparison sheets, in accordance with state board rules, that  
4 include clear, standardized information on each accountable  
5 health plan and qualified health benefit plans offered by each  
6 accountable health plan, including information on price, enrollee  
7 costs and, when available, information on enrollment and enrollee  
8 responsibilities and obligations; and

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

12           A. Purchasing alliances may not purchase health care  
13 services, assume risk for the cost or provision of health  
14 care services or otherwise contract directly with health  
15 care providers for the provision of health care services to  
16 member employers except as set forth in section 2877.

17           B. Notwithstanding paragraph A, in those areas where there  
18 are no willing bidders the purchasing alliance, with the  
19 concurrence of the state board, may enter into contracts  
20 with willing health care providers.  
21

22  
23 **§2877. Accountable health plans**

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

26           1. Process. No later than July 1, 1996, the purchasing  
27 alliance board shall establish a process by which a small group  
28 carrier recommended by the superintendent that fulfills the  
29 qualifications of subsection 2 and other criteria that may be set  
30 may be designated an accountable health plan.  
31

32           2. Qualification. In order to be eligible to be designated  
33 as an accountable health plan, a carrier must be able to  
34 demonstrate the following operating characteristics:  
35

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

37           B. The capacity to administer the qualified health benefit  
38 plans;

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

42           D. Established grievance procedures, including the ability  
43 to respond to enrollees' calls, questions and complaints;  
44

- 2           E. Established utilization management procedures;
- 4           F. The ability to arrange and pay for the appropriate level  
and type of health care services;
- 6           G. The ability to monitor and evaluate the quality and  
cost-effectiveness of care;
- 8           H. The ability to provide enrollees with adequate numbers  
10 and types of health care providers;
- 12          I. The ability to provide information on enrollee  
satisfaction based on standard surveys prescribed by the  
14 state board; and
- 16          J. The ability to provide standard data elements in a  
manner prescribed by the superintendent.

18           3. Accreditation. Carriers may also be required to have  
20 received accreditation by nationally recognized health-related  
accreditation organizations.

22           4. Failure to maintain compliance. After notice and  
24 hearing, the purchasing alliance board may suspend or revoke the  
designation as an accountable health plan of any carrier that  
26 fails to maintain compliance with the requirements listed in this  
section.

28           5. Requirements. In every purchasing alliance in which it  
30 participates, each accountable health plan shall:

32           A. Offer qualified health benefit plans;

34           B. Provide for the collection and reporting to the state  
board and to the appropriate purchasing alliance of  
36 information on the performance of accountable health plans  
regarding the effectiveness and outcomes in providing  
38 selected services; data reporting requirements adopted by  
the state board must be based on and consistent with  
40 national or state standards and may not impose an  
unreasonable cost for compliance;

42           C. Establish premium rates for each qualified health  
44 benefit plan pursuant to the community rating method  
described in section 2808-B;

46           D. Comply with all rules regarding rating, underwriting,  
48 claims handling, sales, solicitation, licensing, fair  
marketing, unfair trade practices and other provisions in  
50 this chapter;

2           E. Issue coverage under a qualified health benefit plan to  
3           any member employer's employees who elect to be covered  
4           under a qualified health benefit plan offered by an  
5           accountable health plan in the manner required under this  
6           chapter and section 2808-B;

8           F. Renew each qualified health benefit plan with respect to  
9           any member employer except in the following cases:

10

          (1) Nonpayment of the required premiums;

12

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

16

          (3) Noncompliance by an employer with requirements  
18           regarding employer contribution or participation as  
19           required by the state board;

20

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

26

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

30

          (a) Provide advance notice of its decision to the  
32           purchasing alliance and to the state board;

34

          (b) Provide notice of the decision at least 180  
36           days prior to the nonrenewal of any qualified  
37           health benefit plan to the enrollees. Except as  
38           provided in subsection 6, an accountable health  
39           plan that elects not to renew a qualified health  
40           benefit plan with a purchasing alliance is  
41           prohibited from writing new business within the  
42           purchasing alliance service area for a period of 3  
43           years from the date of notice to the purchasing  
44           alliance or until the purchasing alliance, with  
45           the concurrence of the superintendent, invites the  
46           carrier to renew participation; and

46

          (6) Determination by a purchasing alliance, or the  
48           superintendent, subject to review by the state board,  
49           that continuation of coverage would not be in the best  
50           interest of the employee enrollees and member employers

2                   or would impair the accountable health plan's ability  
3                   to meet its contractual obligations. In this instance,  
4                   the purchasing alliance must assist affected employee  
5                   enrollees in finding replacement coverage; and

6                   G. Provide a procedure for addressing grievances that arise  
7                   between the accountable health plan and the purchasing  
8                   alliance member employers or employee enrollees and that  
9                   allows both parties full exhaustion of the remedies provided  
10                   under this procedure to resolve grievances prior to seeking  
11                   any relief other than as provided in this procedure.

12                   6. Renewal. Coverage under a qualified health plan offered  
13                   by each accountable health plan must be available to each and  
14                   every member employer at the anniversary date of each member  
15                   employer's coverage under a qualified health benefit plan or, in  
16                   the case of a prospective member employer who has applied to  
17                   become a member of a purchasing alliance, when the member  
18                   employer first joins the purchasing alliance. An accountable  
19                   health plan may not be required to offer coverage or accept  
20                   enrollments if:

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

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

27                   C. The superintendent determines that the acceptance of an  
28                   application or applications would place an accountable  
29                   health plan in a financially impaired condition.

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

43                   8. Managed care plans. Nothing in this chapter or any  
44                   other provision of the laws of this State may prohibit an  
45                   enrollment in a managed care plan.



2 accountable health plan from providing a qualified health benefit  
3 plan in a purchasing alliance through a managed care system or  
4 from contracting with particular health care providers or types,  
5 classes or categories of health care providers.

6 **§2878. Purchasing alliance contracts with member employers and**  
7 **accountable health plans**

8  
9 Contracts among purchasing alliances and member employers  
10 and accountable health plans are subject to the requirements of  
11 this section.

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

22  
23 **2. Required provision.** The contracts between purchasing  
24 alliances and member employers must further provide that the  
25 purchasing alliance will be the contract holder of the health  
26 benefit policy on behalf of member employers and their  
27 employees. The contract must provide that all eligible employees  
28 of the employer who obtain coverage under the health benefit plan  
29 offered by the employer must obtain that coverage through the  
30 purchasing alliance.

31  
32 **A.** Under a contract between an accountable health plan and  
33 a purchasing alliance, the purchasing alliance must forward  
34 to each accountable health plan with enrollees under a  
35 qualified health benefit plan an amount equal to:

36  
37 **(1)** Premiums determined by the accountable health  
38 plan's contracted rates; and

39  
40 **(2)** Adjustments in payments, if any, resulting from a  
41 risk adjustment mechanism determined in accordance with  
42 this chapter.

43  
44 **B.** The purchasing alliance must pay the accountable health  
45 plan on a monthly basis or as agreed by contract.

46  
47 **§2879. Marketing qualified health benefit plans**

48  
49 The marketing of qualified health benefit plans is subject  
50 to the requirements of this section.

2           1. Notification. Each purchasing alliance shall use  
4           efficient and standardized means to notify member employers of  
          the availability of sponsored health coverage through the  
          purchasing alliance. Each purchasing alliance shall make  
6           available to member employers marketing materials accurately  
          summarizing the benefit plans, rates, cost and other relevant  
8           information that its accountable health plans offer through the  
          purchasing alliance.

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

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

28  
30           4. Prohibited marketing practices. An accountable health  
          plan, agent, broker, contractor or producer of an accountable  
32           health plan or independent insurance agent, broker, contractor or  
          producer may not engage, directly or indirectly, in any activity  
34           or marketing practice that would encourage member employers or  
          eligible employees to:

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

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

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

44  
46           5. Notification. A purchasing alliance shall notify the  
          state board of any marketing practices or materials that it finds  
48           contrary to the fair and affirmative marketing requirements of  
          this chapter. The state board shall monitor or cause to have  
50           monitored compliance with this section, including the conduct of  
          accountable health plans and their agents, brokers, contractors,

2 or producers and shall report to the bureau any perceived unfair  
3 trade practices and misleading or unfair conduct that has been  
4 reported by purchasing alliances, agents, consumers or any other  
5 individual. The bureau shall investigate all reports and, upon a  
6 finding of noncompliance with this section or of unfair and  
7 misleading practices, shall take action against violators as  
8 permitted. The state board shall forward all reports of cases or  
9 abuse to the bureau for investigation.

10 **§2879-A. Risk adjustment mechanism; adjusted community rating**

12 The state board shall establish a payment mechanism to  
13 adjust for the amount of risk covered by each qualified health  
14 benefit plan offered by an accountable health plan. The state  
15 board shall establish a community rating system that spreads  
16 financial risk and allows adjustments for established risk  
17 factors among purchasing alliances and qualified health benefit  
18 plans.

20 **§2879-B. Antitrust protection**

22 In addition to the duties described in section 2874, the  
23 state board shall perform the following duties:

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

44 **2. Supervision of alliances.** Actively supervise purchasing  
45 alliances to ensure that actions that affect market competition  
46 accomplish the legislative intent of this chapter, so as to  
47 provide state and federal antitrust protection to the state  
48 board, purchasing alliances and purchasing alliance boards of  
49 directors.

2  
3 **§2879-C. State Health Plan Purchasing Alliance Fund**

4 There is established the State Health Plan Purchasing  
5 Alliance Fund. The fund must be placed in an interest-bearing  
6 account and any interest or other income derived from the fund  
7 must be credited to the fund. Money in the fund may be spent  
8 only in accordance with the purposes of this chapter. The fund  
9 must be administered in accordance with state budget guidelines.  
10 All money credited to the fund must be used as set forth by the  
11 state board. The fund does not lapse and any balance remaining  
12 at the end of the fiscal year carries over to the next year.

13 **§2879-D. Program evaluation**

14  
15 The state board shall make a report no later than January 1,  
16 1997 and each January 1st thereafter to the Governor, the  
17 superintendent, and the Legislature on the progress achieved in  
18 ensuring affordable insurance to employees of member employers;  
19 the possible need for financial incentives or for employer  
20 mandates to increase participation; in the case of voluntary  
21 alliances, on the possible need to have exclusive purchasing of  
22 health insurance through the purchasing alliances for all member  
23 employers who choose to purchase health insurance; and on the  
24 need to develop, to the extent feasible and consistent with  
25 national standards or additional standards proposed by the  
26 National Association of Insurance Commissioners, standard  
27 information to be collected from accountable health plans.

28 **Sec. 2. Effective date.** This Act takes effect January 1, 1996.  
29

30  
31 **STATEMENT OF FACT**

32  
33 **34** This bill establishes a mechanism for health care purchasing  
34 alliances. It creates the State Purchasing Alliance Board within  
35 the Bureau of Insurance. The state board is directed to  
36 establish purchasing service areas in the State, to accept  
37 applications from eligible carriers to become accountable health  
38 plans and to establish purchasing alliances.