

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 431

H.P. 347

House of Representatives, January 29, 2007

An Act To Enable the Dirigo Health Program To Be Self-administered

Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CONOVER of Oakland.
Cosponsored by Representatives: BRYANT of Windham, HARLOW of Portland, President EDMONDS of Cumberland and Representatives: BRAUTIGAM of Falmouth, Speaker CUMMINGS of Portland, MILLER of Somerville, PINGREE of North Haven, Senators: BRANNIGAN of Cumberland, MITCHELL of Kennebec, SULLIVAN of York.

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

2 **Sec. 1. 5 MRSA §12004-G, sub-§14-D**, as enacted by PL 2003, c. 469, Pt. A,
3 §3, is amended to read:

4 **14-D.**

5 Health Care	Board of Directors	\$100 per diem and	24-A MRSA
6	<u>Trustees</u> of Dirigo	expenses	§6904
7	Health		

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

10 **§3174-DD. Dirigo health coverage**

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

20 **Sec. 3. 24-A MRSA §6903, sub-§1**, as enacted by PL 2003, c. 469, Pt. A, §8, is
21 amended to read:

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

24 **Sec. 4. 24-A MRSA §6904**, as enacted by PL 2003, c. 469, Pt. A, §8, is amended
25 to read:

26 **§6904. Board of Trustees of Dirigo Health**

27 Dirigo Health operates under the supervision of ~~a the~~ Board of ~~Directors~~ Trustees of
28 Dirigo Health established in accordance with this section.

29 **1. Appointments.** The board consists of ~~5~~ 9 voting members and ~~3~~ 4 ex officio,
30 nonvoting members as follows.

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

34 B. The ~~3~~ 4 ex officio, nonvoting members of the board are:

- 1 (1) The Commissioner of Professional and Financial Regulation or the
2 commissioner's designee;
- 3 (2) The director of the Governor's Office of Health Policy and Finance or the
4 director of a successor agency; **and**
- 5 (3) The Commissioner of Administrative and Financial Services or the
6 commissioner's designee; and
- 7 (4) The Treasurer of State or the treasurer's designee.

8 ~~**2. Qualifications of voting members.** Voting members of the board:~~

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

- 10 (1) ~~Health care purchasing;~~
- 11 (2) ~~Health insurance;~~
- 12 (3) ~~MaineCare;~~
- 13 (4) ~~Health policy and law;~~
- 14 (5) ~~State management and budget; or~~
- 15 (6) ~~Health care financing; and~~

16 ~~**B.** Except as provided in this paragraph, may not be:~~

- 17 (1) ~~A representative or employee of an insurance carrier authorized to do~~
18 ~~business in this State;~~
- 19 (2) ~~A representative or employee of a health care provider operating in this State;~~
20 ~~or~~
- 21 (3) ~~Affiliated with a health or health-related organization regulated by State~~
22 ~~Government.~~

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

27 **2-A. Qualifications of voting members.** Voting members of the board must be
28 qualified in accordance with this subsection.

29 **A.** Six of the voting members of the board must have knowledge of and experience
30 in one or more of the following areas:

- 31 (1) Health care purchasing;
- 32 (2) Health insurance;
- 33 (3) MaineCare;
- 34 (4) Health policy and law;
- 35 (5) State management and budgeting;
- 36 (6) Health care financing;

1 (7) Labor or consumer advocacy; and

2 (8) Marketing.

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

5 (1) Accounting;

6 (2) Banking;

7 (3) Securities; and

8 (4) Insurance.

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

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

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

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

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

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

20 **3. Terms of office.** Voting members serve 3-year terms. Voting members may serve
21 up to 2 consecutive terms. Of the initial appointees, one member serves an initial term of
22 one year, 2 members serve initial terms of 2 years and 2 members serve initial terms of 3
23 years. The Governor shall fill any vacancy for an unexpired term in accordance with
24 subsections 1 and ~~2~~ 2-A. Members reaching the end of their terms may serve until
25 replacements are named.

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

28 **5. Quorum.** ~~Three~~ Five voting members of the board constitute a quorum.

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

31 **7. Compensation.** A member of the board must be compensated according to the
32 provisions of Title 5, section 12004-G, subsection 14-D; a member must receive
33 compensation whenever that member fulfills any board duties in accordance with board
34 bylaws.

35 **8. Meetings.** The board shall meet ~~at least 4 times a year at regular intervals~~
36 monthly and may also meet at other times at the call of the chair or the executive director.

1 All meetings of the board are public proceedings within the meaning of Title 1, chapter
2 13, subchapter 1.

3 **Sec. 5. 24-A MRSA §6905**, as enacted by PL 2003, c. 469, Pt. A, §8, is repealed
4 and the following enacted in its place:

5 **§6905. Limitation on liability**

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

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

15 **Sec. 6. 24-A MRSA §6908, sub-§2, ¶E**, as amended by PL 2005, c. 400, Pt. C,
16 §6, is further amended to read:

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

21 **Sec. 7. 24-A MRSA §6908, sub-§13**, as reallocated by PL 2005, c. 683, Pt. B,
22 §20, is amended to read:

23 **13. Report; jurisdiction.** Dirigo Health shall report twice annually, once in January
24 and once during the last month of the regular legislative session, to the joint standing
25 committee of the Legislature having jurisdiction over insurance and financial services
26 matters on the Dirigo Health Program and budget. Minutes of meetings of the Board of
27 ~~Directors~~ Trustees of Dirigo Health must be provided to each member of the joint
28 standing committees of the Legislature having jurisdiction over insurance and financial
29 services matters, health and human services matters and appropriations and financial
30 affairs.

31 **Sec. 8. 24-A MRSA §6909, sub-§2, ¶A**, as enacted by PL 2003, c. 469, Pt. A,
32 §8, is amended to read:

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

35 **Sec. 9. 24-A MRSA §6910, sub-§1**, as amended by PL 2005, c. 400, Pt. C, §8, is
36 further amended to read:

37 **1. Dirigo Health Program.** Dirigo Health shall arrange for the provision of health
38 benefits coverage through the Dirigo Health Program not later than October 1, 2004. The

1 Dirigo Health Program must comply with all relevant requirements of this Title. Dirigo
2 Health Program coverage may be offered by health insurance carriers that apply to the
3 board and meet qualifications described in this section and any additional qualifications
4 set by the board or may be provided through the Dirigo Health Self-administered Plan
5 pursuant to section 6981.

6 **Sec. 10. 24-A MRSA §6916** is enacted to read:

7 **§6916. Marketing and sale of Dirigo Health Program; qualifications of insurance**
8 **producers**

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

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

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

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

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

28 **2. Annual certification required.** Training pursuant to subsection 1 must be
29 completed annually, and any certificate establishing successful completion of training is
30 valid for one year from the date of issuance. If a producer fails to obtain certification
31 following the expiration of the prior year's certification, the producer may not continue to
32 solicit, negotiate and sell insurance products offered by or through the Dirigo Health
33 Program.

34 **3. Carrier appointment not required.** Notwithstanding any other provision of law,
35 an insurance producer licensed pursuant to chapter 16 who complies with this section
36 may solicit, negotiate and sell insurance products offered by or through the Dirigo Health
37 Program without being appointed by the carrier or carriers contracting with the Dirigo
38 Health Program to underwrite and provide Dirigo Health Program coverage. A producer
39 may not solicit, negotiate or sell insurance products offered by or through the Dirigo
40 Health Program if the producer is not in compliance with this subsection.
41 Notwithstanding section 1445, the carrier or carriers contracting with the Dirigo Health
42 Program to underwrite and provide Dirigo Health Program coverage are not liable for the

1 actions of an insurance producer who has not been appointed to solicit, negotiate and sell
2 insurance products offered by or through the Dirigo Health Program.

3 **Sec. 11. 24-A MRSA c. 87, sub-c. 4** is enacted to read:

4 **SUBCHAPTER 4**

5 **DIRIGO HEALTH SELF-ADMINISTERED PLAN**

6 **§6981. Dirigo Health Self-administered Plan**

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

10 **1. Establishment.** Dirigo Health may provide access to health benefits coverage
11 through the self-administered plan subject to the requirements of this section. The board
12 may make a determination that Dirigo Health will provide access to health benefits
13 coverage through the self-administered plan after the board evaluates competitive bids for
14 health benefits coverage for self-administered and fully underwritten health benefits
15 coverage. If the board determines that Dirigo Health will provide access to health
16 coverage through the self-administered plan as authorized under this section, the board
17 shall submit a report explaining the reasons for the decision to the joint standing
18 committee of the Legislature having jurisdiction over health insurance matters within 30
19 days of the decision. Upon receipt of a report from the board, the chairs of the joint
20 standing committee of the Legislature having jurisdiction over health insurance matters
21 may call a meeting of the committee. Following receipt of such a report, the joint
22 standing committee of the Legislature having jurisdiction over health insurance matters
23 may report out legislation to the next regular or special session of the Legislature relating
24 to the establishment of the self-administered plan.

25 **2. Cooperative agreements.** Dirigo Health may enter into voluntary cooperative
26 agreements with a public purchaser for purchasing purposes and administrative functions.
27 If a cooperative agreement is entered into pursuant to this subsection, the self-
28 administered plan and any public purchaser shall maintain separate and distinct risk pools
29 and reserves and may not commingle risk pools or reserve funds under any
30 circumstances. For the purposes of this subsection, "public purchaser" means an entity
31 that purchases health coverage in whole or in part with public funds, including, but not
32 limited to, the state employee health insurance program, the University of Maine System,
33 the Maine Community College System, the Maine Education Association benefits trust,
34 the Maine School Management Association benefits trust and municipal and county
35 governments. For the purposes of this subsection, "public purchaser" does not mean the
36 Department of Health and Human Services, Office of MaineCare Services except for
37 cooperative agreements for the purchasing of pharmaceuticals pursuant to Title 5, section
38 2031.

39 **3. Additional responsibilities of board.** In addition to the duties and
40 responsibilities set out in sections 6908 and 6910, the board is authorized to:

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

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

5 C. Establish an operating budget for the self-administered plan subject to legislative
6 approval in the biennial budget process in accordance with section 6908, subsection
7 3;

8 D. Ensure the ongoing fiscal integrity and stability of the self-administered plan in
9 accordance with subsections 5 and 11 and monitor statistics provided by the
10 executive director relating to the number of plan enrollees, working rates, utilization
11 of benefits, operating costs and reimbursement for losses related to excess or stop
12 loss coverage;

13 E. Establish administrative and accounting procedures in accordance with section
14 6908, subsection 2, paragraph A and develop financial statements that are consistent
15 with generally accepted accounting principles;

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

19 G. Take any actions necessary to comply with federal and state Medicaid rules
20 regarding Dirigo Health plan members eligible for MaineCare;

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

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

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

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

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

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

- 1 (3) Analyze the year's operations and results and the experience of the self-
2 administered plan;
- 3 (4) Determine appropriate actuarial assumptions for recommendation to the
4 board; and
- 5 (5) Determine the appropriate level of reserves needed to sustain the self-
6 administered plan and pay benefits.
- 7 B. The board shall secure the services of one or more fiduciaries or registered
8 investment advisors through negotiated contractual arrangements. The contract must
9 require the fiduciary or registered investment advisor to:
- 10 (1) Invest and reinvest the funds in accordance with appropriate financial and
11 trust standards;
- 12 (2) Advise the board as to reasonable investment philosophy; and
- 13 (3) Submit regular reports of investments and changes to the board.
- 14 C. The board shall contract with an appropriate financial institution for custodial
15 services for the securities and other investment assets of the self-administered plan.
16 The contract must require the custodian to meet financial safeguards and other
17 qualifications determined by the board, including restrictions on the manner in which
18 deposits and withdrawals of funds are completed.
- 19 D. When the self-administered plan is established, the board shall purchase, through
20 contracts from one or more 3rd-party administrators or any organization necessary to
21 administer and provide a health plan, a policy or policies or a contract to provide the
22 benefits specified by this section. The purchase of policies by the board must be
23 accomplished by use of a written contract for a term determined by the board.
- 24 The board may contract for any other applicable services necessary to comply with
25 federal law.
- 26 5. Administration. The following provisions govern the administration of the self-
27 administered plan.
- 28 A. The assets and liabilities of the self-administered plan are solely the assets and
29 liabilities of Dirigo Health.
- 30 B. The actuary under contract with the board pursuant to subsection 4 shall
31 determine:
- 32 (1) The appropriate level of reserves estimated to be sufficient to pay claims and
33 administrative costs according to subsection 11, paragraph B;
- 34 (2) Whether the program is operating on an actuarially sound basis and any
35 recommendations based on that determination;
- 36 (3) A rate structure for the self-administered plan, including working rates
37 actuarially sufficient to pay anticipated claims for the current claims year as well
38 as to provide sufficient reserves for incurred but not reported claims;
- 39 (4) Recommendations as to the purchase of excess or stop loss insurance
40 including suggested attachment levels and limits; and

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

3 The actuary shall annually present information to the board on the determinations
4 made pursuant to this paragraph as well as the method of distribution of any
5 accumulations above the reserves including use of excess reserves to moderate the
6 working rates.

7 C. Upon receipt of the initial presentation and recommendations of the actuary
8 pursuant to paragraph B and annually thereafter, the board shall submit that
9 presentation to the superintendent for review. The superintendent shall review the
10 actuary's presentation and provide comments to the board.

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

17 **7. Public entity.** The self-administered plan is a public entity for the purposes of 42
18 Code of Federal Regulations, Section 438.116.

19 **8. Health benefit coverage.** Health benefits coverage provided under the self-
20 administered plan in accordance with this subchapter must be comprehensive and include
21 a low deductible plan option for enrollees in the Dirigo Health Program.

22 **9. Application of certain insurance provisions.** The self-administered plan must
23 meet or exceed the following requirements in the same manner as when health benefits
24 coverage is provided by a health insurance carrier:

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

27 B. The requirements for guaranteed issuance pursuant to section 2736-C, subsection
28 3 and section 2808-B, subsection 4;

29 C. The requirements for guaranteed renewal pursuant to section 2736-C, subsection
30 3 and section 2808-B, subsection 4 subject to the limitations of available funds
31 maintained by the self-administered plan in accordance with subsection 11;

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

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

37 F. The requirements for the benefits, rights and protections for individuals enrolled
38 in health plans pursuant to chapter 56-A and Bureau of Insurance Rule Chapter 850.
39 Notwithstanding any statute or common law to the contrary, an individual enrolled in
40 the self-administered plan may maintain a cause of action against the self-

1 administered plan subject to the requirements of section 4313. This paragraph is a
2 waiver of the State's defense of immunity under Title 14, chapter 741.

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

6 **10. Self-administered plan not an insurer.** The self-administered plan is not an
7 insurer, reciprocal insurer or joint underwriting association under the laws of the State.
8 The administration of the self-administered plan by the board does not constitute doing
9 the business of insurance.

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

11 A. The Dirigo Health Reserve is created as an account within the Dirigo Health
12 Enterprise Fund, as established pursuant to section 6915, for the deposit of reserves
13 as required by paragraph B.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 **Sec. 12. New appointments to Board of Trustees of Dirigo Health;**
25 **staggered terms.** Notwithstanding the Maine Revised Statutes, Title 24-A, section
26 6904, subsection 3, the terms of the 4 members added to the Board of Trustees of Dirigo
27 Health pursuant to this Act must be staggered. The Governor shall appoint one member
28 for a term of 1 year, one member for a term of 2 years and 2 members for terms of 3
29 years.

30 **SUMMARY**

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

38 The bill permits licensed insurance producers with health authority to sell the Dirigo
39 Health Program insurance products if the producer meets certain training requirements.
40 Additionally, the bill exempts producers from the appointment requirement solely for
41 purposes of selling the Dirigo Health Program insurance products and holds a carrier

1 underwriting Dirigo Health Program coverage harmless from liability for any actions of
2 such producers.

3 The bill gives authority to Dirigo Health to provide access to health benefits coverage
4 through the Dirigo Health Self-administered Plan after the board evaluates bids for self-
5 administered and fully insured benefits coverage. If the board makes the decision to
6 provide coverage through the self-administered plan, the bill requires the board to report
7 to the joint standing committee of the Legislature having jurisdiction over health
8 insurance matters within 30 days of the decision. The bill also gives the committee the
9 authority to report out legislation relating to the self-administered plan.

10 If the Dirigo Health Self-administered Plan is established, the bill authorizes the
11 board to enter into voluntary cooperative agreements with a public purchaser for
12 purchasing and administrative functions only, but requires that the risk pools and reserves
13 of the Dirigo Health Self-administered Plan and any public purchaser not be commingled.
14 The bill expands the duties and responsibilities of the board with regard to the
15 establishment and ongoing management of the self-administered plan. The bill requires
16 the board to contract for services from actuaries, investment counsel, financial
17 institutions, 3rd-party administrators and any other organization necessary to administer
18 the plan. The bill requires an actuary under contract to the board to determine the
19 appropriate level of reserves and administrative costs for the plan and the amount of stop
20 loss insurance necessary, provide opinions regarding the actuarial soundness of the plan,
21 develop a rate structure for the plan and report annually to the board.

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

34 The bill requires any Dirigo Health Self-administered Plan health benefits coverage
35 provided to be comprehensive and include a low deductible plan option for enrollees in
36 the Dirigo Health Program.

37 The bill requires the Dirigo Health Self-administered Plan to meet the same
38 requirements of the Maine Insurance Code that would be required by state law if health
39 benefits coverage were provided by a health insurance carrier for community rating,
40 guaranteed issuance, guaranteed renewal, continuity of coverage and mandated benefits.
41 The bill also requires that the self-administered plan extend the same benefits, rights and
42 protections of the Maine Revised Statutes, Title 24-A, chapter 56-A and Bureau of
43 Insurance Rule Chapter 850, including a limited right to sue the Dirigo Health Self-

1 administered Plan. The bill specifically waives the State's defense of immunity under the
2 Maine Tort Claims Act.