

**TESTIMONY
REPRESENTATIVE SHARON ANGLIN TREAT**

SPONSOR, LD 1498

"An Act To Phase Out Dirigo Health and Establish the Maine Health Benefit Exchange for Small Businesses and Individuals"

Joint Standing Committee on Insurance & Financial Services
May 10, 2011

Good afternoon Senator Whittemore, Representative Richardson, and fellow members of the Joint Standing Committee on Insurance & Financial Services. I am Representative Sharon Treat and I represent House District 79, Farmingdale, Hallowell, and West Gardiner. I am pleased to present for your consideration, LD 1498, *"An Act To Phase Out Dirigo Health and Establish the Maine Health Benefit Exchange for Small Businesses and Individuals"*.

Basic principles. This legislation is intended to implement the insurance exchange provisions of the Affordable Care Act (which I will now refer to as the ACA), and to do so in a manner that is respectful of Maine values; builds on past experience; recognizes the different needs of businesses and families; starts with the premise that people should be able to keep the insurance they have; provides for a smooth transition to new systems and requirements; and keeps a strong emphasis on prevention, quality, improving efficiencies and reducing medical costs.

Joint Select Committee guidance. My approach has been directly informed by the work of the Legislature's Joint Select Committee on Health Care Reform Opportunities and Implementation. Where that Committee's unanimous bipartisan final report of December 2010 has provided guidance, I have sought to follow the Committee's recommendations.

The role of the Maine Health Benefits Exchange established in LD 1498. This legislation is in many respects similar, and in places identical, to LD 1497 sponsored by Rep. McCane. I am encouraged that there is a bipartisan support for creating a Maine-designed and Maine-based exchange, and that's as it should be. It's a good idea that is central to the effectiveness of the Affordable Care Act, and it will lower insurance costs and help more people get access to care. An exchange is an insurance marketplace that allows small businesses and individuals to band together to purchase insurance, and essentially act as big businesses do with the help of the management of the Exchange.

By creating a large insurance pool, the Exchange will lower the health insurance costs of those in the pool and allow more businesses and their employees to get quality health care coverage. The exchange is where we can purchase insurance starting in 2014 using significant federal tax credits that will greatly reduce the cost of insurance including deductibles and copays. LD 1498 is good for jobs and the economy, because if done right, the insurance exchange gives small businesses the purchasing power of big businesses.

The Joint Select Committee envisioned the Exchange taking an active role helping businesses and individuals secure the most cost-effective insurance and LD 1498 carries out this directive.

The final Joint Select report advises the Exchange should be *"more than a website"* and that *"Maine's exchange should take an active role in selecting health plans to contain costs and ensure quality"* and *"The exchange has a role in standardizing plans to make it easier for consumers to select coverage."* (see pages ii-iii, 5-6)

Section 7010 paragraphs I through L (on pages 18-19) in LD 1498 clarify the role of the Exchange in making sure that the power of these many businesses and individuals banding together is harnessed to get the biggest bang for the buck, that all regions of the state are served by the Exchange, and that insurers can't just offer the cheapest plan or just cater to urban or southern parts of the state, but must affirmatively market all 5 levels of policies established in the ACA. These provisions are important if the Exchange is actually to be effective, and so insurers can't cherry-pick based on geographic location or other factors.

Provisions that assist small businesses. LD 1498 has a particular focus on assisting small businesses.

- ***SHOP Exchange.*** LD 1498 establishes a SHOP exchange through which qualified employers may access coverage for their employees. The bill envisions – as recommended by the Joint Select Committee – that while the individual and business members are within the same pool, which increases the bargaining power of the Exchange, individuals and businesses have different needs and accordingly will access the Exchange through different “doors” or “portals.”
- ***Insurance brokers.*** Recognizing that businesses usually work with insurance brokers and producers to evaluate and purchase a range of insurance products, not limited to health insurance, but also including workers' compensation, property, liability, business practices and other policies, LD 1498 provides that brokers may be certified as navigators to assist businesses in using the Exchange.
- ***Extra tax subsidy assistance for small businesses.*** LD 1498 follows through on a number of policy options listed by the Joint Select Committee (at pages 14-16 of its report) and gives the Exchange Board the authority to establish tax subsidies for small businesses providing insurance to employees. Although the ACA currently provides a tax benefit to offset the costs of coverage, this subsidy phases out in 2014. LD 1498 gives the Exchange Board

discretion to vote to provide for this or other business assistance funding through the health access assessment that currently funds Dirigo Health.

- ***Continuation of Dirigo Choice insurance until 2014.*** Sole proprietors make up 22% of Dirigo's subsidized population, and there are 1,700 sole proprietors that participate in Dirigo. There are 2,300 small businesses enrolling their employees in Dirigo, including 600 businesses of 2-15 employees. Ending Dirigo or cutting it back before the Exchange is up and running and the subsidized insurance is available is harmful to small businesses. LD 1498 provides a transition to the Exchange that phases out Dirigo only when replacement insurance is available in 2014.

Provisions specific to individuals.

- Coverage of individuals will also continue under the current Dirigo Health program until January 1, 2014, when coverage will transition to the Exchange.
- LD 1498 provides that navigators in the non-business side of the Exchange should not be brokers and producers, since they will need to be experts in Medicaid and trained in helping families navigate from between public and private insurance – adhering to the the "no wrong door" principle discussed in the Joint Select report. LD 1498 will require navigators to be qualified and accountable, but avoids the issue of potential conflicts of interest as brokers are paid with commissions, as recommended by the Joint Select Committee.
- LD 1498 provides that the Exchange Board may establish a Basic Health Plan for low-income families. This provision enhances portability and the goal that policyholders retain their medical providers even as they shift between MaineCare and private insurance, as recommended by the Joint Select Committee.

Board structure and avoiding conflicts of interest. The bill establishes a quasi-public agency subject to freedom of access law and legislative oversight, but with the flexibility to manage its responsibilities, with similarities to FAME, the Housing Authority, the Dirigo Health Agency, and other independent agencies. It avoids conflicts of interest on the Exchange Board by requiring members to have experience and expertise, but excluding providers and insurers, or other business interests that have a financial stake in the outcome of the Board's decisions. It insures that stakeholders are represented and have input to the Board through the Maine Health Benefit Exchange Business Advisory Council which includes providers, insurance carriers and producers, small and large employers, and consumers. It provides transitional language so that the Exchange may, at its discretion, hire staff of the Dirigo Health Agency with appropriate experience and expertise, as that agency is phased out.

Funding. An Enterprise Fund is created for the deposit of funds advanced for initial operating expenses, payments made by employers and individuals, health access assessments on paid claims that currently fund Dirigo Health, federal funds and any funds received from any public or private source. In addition to supporting the operation of the Exchange, these funds are also to be used to fund the Maine Quality Forum [same as currently]; provide consumer assistance and

navigators as required by the ACA; and for subsidies to facilitate coverage through the Exchange for sole proprietors and small businesses as determined by the Board. If sufficient funds are available, the Exchange Board may use the funds to provide subsidies for benefits beyond the minimum essential benefits package, or to reduce the payments by health insurance carriers and other insurers.

Cushioning the impact of rating band changes. The Enterprise Fund in LD 1498 could be tapped to provide additional subsidies to cushion potential premium increases, if rating band changes such as the 3:1 initial ratio in LD 1333 are carried out. The ACA subsidies provided through the exchange starting in 2014 also would ameliorate negative impacts from changes in the rating bands, so that a move to a 3:1 ratio in 2014, rather than 2012, won't hurt rural residents and older Mainers as much.

A continuing focus on prevention, quality and efficiencies in the delivery of medical services. Instead of repealing the Maine Health Plan and ACHSD as in LD 1333, LD 1498 continues to fund these and the highly effective Maine Quality Forum in order to reduce medical costs, improve quality, provide transparency in the marketplace, and increase the value of our medical purchasing. Such an approach reduces health insurance costs while improving health. The Joint Select Committee stated in its report the importance of a *"strong relationship to the State Health Plan"* in evaluating pilot projects and implementation grants under the ACA (page 6).

Mandate study and hearing. The bill provides for a thoughtful study by the Bureau of Insurance and a report back on the benefits and costs of any mandates that may be outside of the "essential benefits" package after the ACA rules are issued this summer. Unlike LD 882, it does not arbitrarily repeal any mandates but seeks to gather information that will assist the Legislature in making informed choices before the Exchange is fully implemented in 2014. The Bureau must hold at least one public hearing as part of its review and submit its report to the Legislature.

Role of the Superintendent of Insurance. The bill makes changes to the Maine Insurance Code to preserve the authority of the Superintendent of Insurance to enforce the federal Patient Protection and Affordable Care Act (ACA). The bill also clarifies that the Superintendent of Insurance has oversight over health insurance plans offered through the Exchange.

Conclusion. I have really thought through the provisions of this bill, but I know that there is room for improvement. My sincere hope is that there is an interest on the part of this committee in developing a truly bipartisan bill that we can all agree to. This is a complex undertaking, and the bottom line is the Exchange has to work for Maine families and businesses. There are a lot of issues to sort through and a lot of practicalities to consider. I look forward to working with the committee to achieve a good result that will make the purchase of insurance easier and the end product more affordable. Thank you.