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No. 1049

H.P. 740

House of Representatives, March 14, 2013

An Act To Establish an Insurance Exchange

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CAMPBELL of Newfield.
Cosponsored by Senator CRAVEN of Androscoggin and
Representatives: CAREY of Lewiston, DORNEY of Norridgewock, MASTRACCIO of
Sanford, MORRISON of South Portland, Senators: HILL of York, SAVIELLO of Franklin,
TUTTLE of York, WOODBURY of Cumberland.

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

2 **Sec. 1. 2 MRSA §6, sub-§1**, as amended by PL 2011, c. 657, Pt. Y, §1, is further
3 amended to read:

4 **1. Range 91.** The salaries of the following state officials and employees are within
5 salary range 91:

- 6 Commissioner of Transportation;
- 7 Commissioner of Agriculture, Conservation and Forestry;
- 8 Commissioner of Administrative and Financial Services;
- 9 Commissioner of Education;
- 10 Commissioner of Environmental Protection;
- 11 Executive Director of Dirigo Health;
- 12 Commissioner of Public Safety;
- 13 Commissioner of Professional and Financial Regulation;
- 14 Commissioner of Labor;
- 15 Commissioner of Inland Fisheries and Wildlife;
- 16 Commissioner of Marine Resources;
- 17 Commissioner of Corrections;
- 18 Commissioner of Economic and Community Development;
- 19 Commissioner of Defense, Veterans and Emergency Management; ~~and~~
- 20 Executive Director, Workers' Compensation Board; and
- 21 Executive Director, Maine Health Benefit Marketplace.

22 **Sec. 2. 5 MRSA §934-C** is enacted to read:

23 **§934-C. Maine Health Benefit Marketplace**

24 The position of executive director is a major policy-influencing position within the
25 Maine Health Benefit Marketplace established pursuant to Title 24-A, chapter 93.
26 Notwithstanding any other provision of law, this position and any successor position are
27 subject to this chapter.

28 **Sec. 3. 5 MRSA §12004-G, sub-§14-I** is enacted to read:

29 **14-I.**

30 <u>Health Care</u>	<u>Board of Directors</u>	<u>\$100 per diem and</u>	<u>24-A MRSA §7204</u>
	<u>of the Maine Health</u>	<u>expenses</u>	
	<u>Benefit Marketplace</u>		

- 1 (6) Credit-only insurance;
2 (7) Coverage for on-site medical clinics; or
3 (8) Insurance coverage similar to any coverage listed in subparagraphs (1) to (7),
4 as specified in federal regulations issued pursuant to the federal Health Insurance
5 Portability and Accountability Act of 1996, Public Law 104-191, 110 Stat. 1936,
6 under which benefits for health care services are secondary or incidental to other
7 insurance benefits.

8 B. "Health benefit plan" does not include the following benefits if they are provided
9 under a separate policy, certificate or contract of insurance or are otherwise not an
10 integral part of the plan:

- 11 (1) Limited-scope dental or vision benefits;
12 (2) Benefits for long-term care, nursing home care, home health care,
13 community-based care or any combination thereof; or
14 (3) Limited benefits similar to benefits listed in subparagraphs (1) and (2) as
15 specified in federal regulations issued pursuant to the federal Health Insurance
16 Portability and Accountability Act of 1996, Public Law 104-191, 110 Stat. 1936.

17 C. "Health benefit plan" does not include the following benefits if the benefits are
18 provided under a separate policy, certificate or contract of insurance, there is no
19 coordination between the provision of the benefits and any exclusion of benefits
20 under any group health plan maintained by the same plan sponsor and the benefits are
21 paid with respect to an event without regard to whether benefits are provided with
22 respect to such an event under any group health plan maintained by the same plan
23 sponsor:

- 24 (1) Coverage only for a specified disease or illness; or
25 (2) Hospital indemnity or other fixed indemnity insurance.

26 D. "Health benefit plan" does not include the following if offered as a separate
27 policy, certificate or contract of insurance:

- 28 (1) Medicare supplemental health insurance as defined under the United States
29 Social Security Act, Section 1882(g)(1);
30 (2) Coverage supplemental to the coverage provided under 10 United States
31 Code, Chapter 55; or
32 (3) Supplemental coverage similar to coverage listed in subparagraphs (1) and
33 (2) provided under a group health plan.

34 **6. Health carrier.** "Health carrier" or "carrier" means:

35 A. An insurance company licensed in accordance with this Title to provide health
36 insurance;

37 B. A health maintenance organization licensed pursuant to chapter 56;

38 C. A preferred provider arrangement administrator registered pursuant to chapter 32;

1 D. A nonprofit hospital or medical service organization or health plan licensed
2 pursuant to Title 24; or

3 E. An employee benefit excess insurance company licensed in accordance with this
4 Title to provide property and casualty insurance that provides employee benefit
5 excess insurance pursuant to section 707, subsection 1, paragraph C-1.

6 **7. Marketplace.** "Marketplace" means the Maine Health Benefit Marketplace
7 established in section 7203 pursuant to Section 1311 of the federal Affordable Care Act.

8 **8. Qualified employer.** "Qualified employer" means a small employer that elects to
9 make its full-time employees and, at the option of the employer, some or all of its part-
10 time employees eligible for one or more qualified health plans or qualified stand-alone
11 dental benefit plans offered through the SHOP exchange and that:

12 A. Has its principal place of business in this State and elects to provide coverage
13 through the SHOP exchange to all of its eligible employees, wherever employed; or

14 B. Elects to provide coverage through the SHOP exchange to all of its eligible
15 employees who are principally employed in this State.

16 **9. Qualified health plan.** "Qualified health plan" means a health benefit plan that
17 has in effect a certification that the plan meets the criteria for certification described in
18 Section 1311(c) of the federal Affordable Care Act and this chapter.

19 **10. Qualified individual.** "Qualified individual" means an individual, including a
20 minor, who:

21 A. Is seeking to enroll in a qualified health plan or qualified stand-alone dental
22 benefit plan offered to individuals through the marketplace;

23 B. Resides in this State within the meaning of the federal Affordable Care Act;

24 C. At the time of enrollment, is not incarcerated, other than incarceration pending the
25 disposition of charges; and

26 D. Is, and is reasonably expected to be, for the entire period for which enrollment is
27 sought, a citizen or national of the United States or an alien lawfully present in the
28 United States.

29 **11. Qualified stand-alone dental benefit plan.** "Qualified stand-alone dental
30 benefit plan" means a stand-alone dental benefit plan that has been certified in accordance
31 with section 7211.

32 **12. Secretary.** "Secretary" means the Secretary of the United States Department of
33 Health and Human Services.

34 **13. SHOP exchange.** "SHOP exchange" means the Small Business Health Options
35 Program described under section 7203.

36 **14. Small employer.** "Small employer" means an employer that employed an
37 average of not more than 100 employees during the preceding calendar year except that,
38 for plan years beginning before January 1, 2016, "small employer" means an employer

1 that employed an average of not more than 50 employees during the preceding calendar
2 year. For purposes of this subsection:

3 A. All persons treated as a single employer under 26 United States Code, Section
4 414(b), (c), (m) or (o) must be treated as a single employer;

5 B. An employer and a predecessor employer must be treated as a single employer;

6 C. All employees must be counted, including part-time employees and employees
7 who are not eligible for coverage through the employer;

8 D. If an employer was not in existence throughout the preceding calendar year, the
9 determination of whether that employer is a small employer must be based on the
10 average number of employees that is reasonably expected that employer will employ
11 on business days in the current calendar year; and

12 E. An employer that makes enrollment in qualified health plans or qualified
13 stand-alone dental benefit plans available to its employees through the SHOP
14 exchange, and would cease to be a small employer by reason of an increase in the
15 number of its employees, must continue to be treated as a small employer for
16 purposes of this chapter as long as the employer continuously makes enrollment
17 through the SHOP exchange available to its employees.

18 **15. Stand-alone dental benefit plan.** "Stand-alone dental benefit plan" means a
19 policy, contract, certificate or agreement offered or issued by a carrier to provide, deliver,
20 arrange for, pay for or reimburse any of the costs of limited-scope dental benefits meeting
21 the requirements of Section 9832(c)(2)(A) of the federal Internal Revenue Code of 1986.

22 **§7203. Maine Health Benefit Marketplace established; declaration of necessity**

23 **1. Marketplace established.** The Maine Health Benefit Marketplace is established
24 as an independent executive agency to provide, pursuant to the federal Affordable Care
25 Act, for the establishment of a health benefit exchange to facilitate the purchase and sale
26 of qualified health plans and qualified stand-alone dental benefit plans in the individual
27 market in this State and for the establishment of the Small Business Health Options
28 Program to assist qualified small employers in this State in facilitating the enrollment of
29 their employees in qualified health plans and qualified stand-alone dental benefit plans
30 offered in the small group market. The intent of the exchange is to reduce the number of
31 uninsured individuals, provide a transparent marketplace and consumer education and
32 assist individuals with access to programs, premium tax credits and cost-sharing
33 reductions. The Maine Health Benefit Marketplace is also responsible for monitoring and
34 improving the quality of health care in this State. The exercise by the Maine Health
35 Benefit Marketplace of the powers conferred by this chapter is deemed and held to be the
36 performance of essential governmental functions.

37 **2. Contracting authority.** The marketplace may contract with an eligible entity for
38 any of its functions described in this chapter. For the purposes of this subsection,
39 "eligible entity" includes, but is not limited to, the MaineCare program or any entity that
40 has experience in individual and small group health insurance or benefits administration
41 or other experience relevant to the responsibilities to be assumed by the entity, except that
42 a health carrier or an affiliate of a health carrier is not an eligible entity.

1 **3. Information sharing.** The marketplace may enter into information-sharing
2 agreements with federal and state agencies and other states' exchanges to carry out its
3 responsibilities under this chapter; such agreements must include adequate protections
4 with respect to the confidentiality of the information to be shared and comply with all
5 state and federal laws, rules and regulations.

6 **§7204. Board of Directors of Maine Health Benefit Marketplace**

7 The Board of Directors of the Maine Health Benefit Marketplace, as established in
8 Title 5, section 12004-G, subsection 14-I, shall supervise the marketplace.

9 **1. Appointments.** The board consists of 9 voting members and 4 ex officio,
10 nonvoting members as follows.

11 A. The 9 voting members of the board are appointed as follows, subject to review by
12 the joint standing committee of the Legislature having jurisdiction over insurance and
13 financial services matters and confirmation by the Senate:

14 (1) Three members appointed by the Governor;

15 (2) Two members appointed by the President of the Senate;

16 (3) Two members appointed by the Speaker of the House;

17 (4) One member appointed by the President of the Senate upon recommendation
18 from the leader of the minority in the Senate; and

19 (5) One member appointed by the Speaker of the House upon recommendation
20 from the leader of the minority in the House of Representatives.

21 B. The 4 ex officio, nonvoting members of the board are:

22 (1) The Commissioner of Professional and Financial Regulation or the
23 commissioner's designee;

24 (2) The Commissioner of Health and Human Services or the commissioner's
25 designee;

26 (3) The Commissioner of Administrative and Financial Services or the
27 commissioner's designee; and

28 (4) The Treasurer of State or the treasurer's designee.

29 **2. Qualifications of voting members.** Voting members of the board must be
30 qualified in accordance with this subsection.

31 A. Five voting members of the board must have knowledge of and experience in at
32 least 2 of the following areas:

33 (1) Health care purchasing;

34 (2) Individual health insurance coverage;

35 (3) Small group health insurance coverage;

36 (4) The MaineCare program;

- 1 (5) Health benefit plan or dental benefit plan administration;
- 2 (6) Administering a public or private health care delivery system;
- 3 (7) Health care financing; and
- 4 (8) Health policy and law.

5 B. Four voting members of the board must be qualified as follows:

- 6 (1) One member who serves as the chair of the Medicaid advisory committee
7 within the Department of Health and Human Services;
- 8 (2) One member representing a federally recognized Indian tribe; and
- 9 (3) Two members representing consumers, including either one employee who
10 receives health care coverage through a commercially insured product or one
11 representative of organized labor and either one representative of a consumer
12 health advocacy organization or one representative of the uninsured or Medicaid
13 recipients.

14 C. A member or staff member of the board or an immediate family member of a
15 member or staff member of the board may not be employed by, a consultant to, a
16 member of the board of directors of, affiliated with or otherwise a representative of a
17 carrier or other insurer, an agent or broker, a health care provider or a health care
18 facility or a health clinic while serving on or employed by the board. A member or
19 staff member of the board or an immediate family member of a member or staff
20 member of the board may not be a member, a board member or an employee of a
21 trade association of carriers, health facilities, health clinics or health care providers
22 while serving on or employed by the board. A member or staff member of the board
23 or an immediate family member of a member or staff member of the board may not
24 be a health care provider unless the member or staff member receives no
25 compensation for rendering services as a health care provider and does not have an
26 ownership interest in a professional health care practice.

27 (1) A member or staff member of the board may not make, participate in making
28 or in any way attempt to use that member's or staff member's official position to
29 influence the making of any decision that the member or staff member knows or
30 has reason to know will have a reasonably foreseeable material financial effect,
31 distinguishable from its effect on the public generally, on that member or staff
32 member or a member of that member's or staff member's immediate family, or on
33 either of the following:

34 (a) Any source of income, other than gifts and other than loans by a
35 commercial lending institution in the regular course of business on terms
36 available to the public without regard to official status, aggregating \$250 or
37 more in value provided to, received by or promised to the member or staff
38 member within 12 months prior to the time when the decision is made; or

39 (b) Any business entity in which the member or staff member is a director,
40 officer, partner, trustee or employee or holds any position of management.

41 (2) If a member or staff member of the board has a conflict of interest in a matter
42 before the board requiring member or staff action, the member or staff member

1 shall recuse that member's or staff member's self from the matter and may not
2 vote on or attempt to influence the outcome of the matter. Whether or not recusal
3 is required under this subparagraph, a member or staff member of the board shall
4 consider recusing that member's or staff member's self from any matter that
5 would give rise to an appearance of a conflict of interest.

6 D. Notwithstanding any other provision of law, a current or former member of the
7 Board of Trustees of Dirigo Health may also serve as a member of the board.

8 **3. Terms of office.** Voting members of the board serve 3-year terms. Voting
9 members may serve up to 2 consecutive terms. Any vacancy for an unexpired term must
10 be filled in accordance with subsections 1 and 2. A member may serve until a
11 replacement is appointed and qualified.

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

14 **5. Quorum.** Five voting members of the board constitute a quorum.

15 **6. Affirmative vote.** An affirmative vote of a majority of the members who have
16 not recused themselves from voting on an action is required for any action taken by the
17 board.

18 **7. Compensation.** A member of the board is entitled to compensation according to
19 the provisions of Title 5, section 12004-G, subsection 14-I; a member must receive
20 compensation whenever that member fulfills any board duties in accordance with board
21 bylaws.

22 **8. Meetings.** The board shall meet monthly and may also meet at other times at the
23 call of the chair or the executive director appointed under section 7208. All meetings of
24 the board are public proceedings within the meaning of Title 1, chapter 13, subchapter 1.

25 **§7205. Limitation on liability**

26 **1. Indemnification of marketplace employees.** A board member or employee of
27 the marketplace is not subject to personal liability for having acted within the course and
28 scope of membership or employment to carry out any power or duty under this chapter.
29 The marketplace shall indemnify a member of the board or an employee of the
30 marketplace against expenses actually and necessarily incurred by that member or
31 employee in connection with the defense of an action or proceeding in which that
32 member or employee is made a party by reason of past or present authority with the
33 marketplace.

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

36 **§7206. Prohibited interests of board members and employees**

37 Board members and employees of the marketplace and their spouses and dependent
38 children may not receive any direct personal benefit from the activities of the marketplace
39 in assisting any private entity, except that they may participate in the marketplace on the

1 same terms as others may under this chapter. This section does not prohibit corporations
2 or other entities with which board members are associated by reason of ownership or
3 employment from participating in activities of the marketplace or receiving services
4 offered by the marketplace as long as the ownership or employment is made known to the
5 board and, if applicable, the board members abstain from voting on matters relating to
6 that participation.

7 **§7207. Records**

8 Except as provided in subsections 1 and 2, information obtained by the marketplace
9 under this chapter is a public record within the meaning of Title 1, chapter 13, subchapter
10 1.

11 **1. Financial information.** Any personally identifiable financial information,
12 supporting data or tax return of any person obtained by the marketplace under this chapter
13 is confidential and not open to public inspection.

14 **2. Health information.** Health information obtained by the marketplace under this
15 chapter that is covered by the federal Health Insurance Portability and Accountability Act
16 of 1996, Public Law 104-191, 110 Stat. 1936 or information covered by chapter 24 or
17 Title 22, section 1711-C is confidential and not open to public inspection.

18 **§7208. Executive director**

19 **1. Appointed position.** The board shall appoint an executive director, who serves at
20 the pleasure of the board. The position of Executive Director of the Maine Health Benefit
21 Marketplace is a major policy-influencing position as designated in Title 5, section
22 934-C.

23 **2. Duties of executive director.** The executive director appointed under subsection
24 1 shall:

25 A. Serve as the liaison between the board and the marketplace and serve as secretary
26 and treasurer to the board;

27 B. Manage the marketplace's programs and services;

28 C. Employ or contract on behalf of the marketplace for professional and
29 nonprofessional personnel or service. Employees of the marketplace are subject to the
30 Civil Service Law;

31 D. Approve all accounts for salaries, per diems, allowable expenses of the
32 marketplace or of any employee or consultant and expenses incidental to the
33 operation of the marketplace; and

34 E. Perform other duties prescribed by the board to carry out the functions of this
35 chapter.

36 **§7209. Availability of coverage**

37 **1. Coverage.** The marketplace shall make qualified health plans and qualified
38 stand-alone dental benefit plans available to qualified individuals and qualified employers

1 no later than January 1, 2015. The marketplace may enroll qualified individuals and
2 qualified employers beginning on or after September 1, 2014.

3 **2. Qualified plan required.** The marketplace may not make available any health
4 benefit plan that is not a qualified health plan or any stand-alone dental benefit plan that
5 is not a qualified stand-alone dental benefit plan.

6 **3. Dental benefits.** The marketplace shall allow a health carrier to offer a qualified
7 stand-alone dental benefit plan through the marketplace, either separately or in
8 conjunction with a qualified health plan, if the plan provides pediatric dental benefits
9 meeting the requirements of Section 1302(b)(1)(J) of the federal Affordable Care Act.
10 This subsection does not prohibit a carrier from offering other dental benefit plans
11 consistent with the requirements of section 7211, subsections 5 and 6.

12 **4. No fee or penalty for termination of coverage.** The marketplace or a carrier
13 offering qualified health plans or qualified stand-alone dental benefit plans through the
14 marketplace may not charge an individual a fee or penalty for termination of coverage if
15 the individual enrolls in another type of minimum essential coverage because the
16 individual has become newly eligible for that coverage or because the individual's
17 employer-sponsored coverage has become affordable under the standards of Section 1401
18 of the federal Affordable Care Act.

19 **5. Standardized plans.** The marketplace may standardize qualified health plans to
20 be offered through the marketplace.

21 **§7210. Powers and duties of the Maine Health Benefit Marketplace**

22 **1. Powers.** Subject to any limitations contained in this chapter or in any other law,
23 the marketplace may:

24 A. Take any legal actions that are necessary for the proper administration of the
25 marketplace;

26 B. Make and alter bylaws, not inconsistent with this chapter or with the laws of this
27 State, for the administration and regulation of the activities of the marketplace;

28 C. Have and exercise all powers necessary or convenient to effect the purposes for
29 which the marketplace is organized or to further the activities in which the
30 marketplace may lawfully be engaged, including the establishment of the
31 marketplace;

32 D. Engage in legislative liaison activities, including gathering information regarding
33 legislation, analyzing the effect of legislation, communicating with Legislators and
34 attending and giving testimony at legislative sessions, public hearings or committee
35 hearings;

36 E. Enter into contracts with qualified 3rd parties both private and public for any
37 service necessary to carry out the purposes of this chapter;

38 F. Apply for and receive funds, grants or contracts from public and private sources;
39 and

1 G. In accordance with the limitations and restrictions of this chapter, cause any of its
2 powers or duties to be carried out by one or more organizations organized, created or
3 operated under the laws of this State.

4 **2. Duties.** The marketplace shall:

5 A. Implement procedures for the certification, recertification and decertification,
6 consistent with guidelines developed by the secretary under Section 1311(c) of the
7 federal Affordable Care Act and pursuant to section 7211, of health benefit plans as
8 qualified health plans and of stand-alone dental benefit plans as qualified stand-alone
9 dental benefit plans;

10 B. Provide for the operation of a toll-free telephone hotline to respond to requests for
11 assistance except that the hotline may not be automated unless the hotline provides
12 the opportunity for live customer service;

13 C. Provide for enrollment periods as provided under Section 1311(c)(6) of the
14 federal Affordable Care Act;

15 D. Maintain a publicly accessible website through which enrollees and prospective
16 enrollees of qualified health plans and qualified stand-alone dental benefit plans may
17 obtain standardized comparative information on such plans;

18 E. Assign a rating to each qualified health plan offered through the marketplace in
19 accordance with the criteria developed by the secretary under Section 1311(c)(3) of
20 the federal Affordable Care Act and determine each qualified health plan's level of
21 coverage in accordance with regulations issued by the secretary under Section
22 1302(d)(2)(A) of the federal Affordable Care Act;

23 F. Use a standardized format for presenting health and dental benefit options in the
24 marketplace, including the use of the uniform outline of coverage established under
25 the federal Public Health Service Act, 42 United States Code, Section 300gg-15
26 (2010);

27 G. In accordance with Section 1413 of the federal Affordable Care Act, inform
28 individuals of eligibility requirements for the Medicaid program under the United
29 States Social Security Act, Title XIX, or the State Children's Health Insurance
30 Program under the United States Social Security Act, Title XXI, or under any
31 applicable state or local public program and if, through screening of an application by
32 the marketplace, the marketplace determines that an individual is eligible for any
33 such program, enroll the individual in that program;

34 H. Determine the criteria and process for eligibility, enrollment and disenrollment of
35 enrollees and potential enrollees in the marketplace and coordinate that process with
36 the state and local government entities administering other health care coverage
37 programs, including the MaineCare program and the basic health program, if
38 established, required by paragraph O, in order to ensure consistent eligibility and
39 enrollment processes and seamless transitions between coverages. To the extent
40 possible, the board shall encourage the use of existing infrastructure and capacity
41 from other state agencies;

42 I. Determine the minimum requirements a carrier must meet to be considered for
43 participation in the marketplace and the standards and criteria for selecting qualified

1 health plans to be offered through the marketplace that are in the best interests of
2 qualified individuals and qualified employers. The board shall consistently and
3 uniformly apply these requirements, standards and criteria to all carriers offering
4 qualified health plans through the marketplace and, if relevant, shall apply those
5 requirements, standards and criteria to carriers offering qualified stand-alone dental
6 benefit plans or other dental benefit plans through the marketplace. In the course of
7 selectively contracting for health care coverage offered to qualified individuals and
8 qualified employers through the marketplace, the board shall seek to contract with
9 carriers so as to provide health care coverage choices that offer the optimal
10 combination of choice, value, quality and service. In its evaluation of the quality of
11 health care coverage offered by a carrier, the board shall consider comparative health
12 care quality information and assessments developed by the Maine Quality Forum, as
13 established in section 6951;

14 J. Provide, in each region of the State, a choice of qualified health plans at each of
15 the 5 levels of coverage contained in Section 1302(d) and (e) of the federal
16 Affordable Care Act;

17 K. Require, as a condition of participation in the marketplace, carriers to fairly and
18 affirmatively offer, market and sell in the marketplace at least one product within
19 each of the 5 levels of coverage contained in Section 1302(d) and (e) of the federal
20 Affordable Care Act. The board may require carriers to offer additional products
21 within each of those 5 levels of coverage. This paragraph does not apply to a carrier
22 that solely offers supplemental coverage in the marketplace or that solely offers a
23 qualified stand-alone dental benefit plan;

24 L. Require, as a condition of participation in the marketplace, carriers that sell any
25 products outside the marketplace to:

26 (1) Fairly and affirmatively offer, market and sell all products made available to
27 individuals in the marketplace to individuals purchasing coverage outside the
28 marketplace; and

29 (2) Fairly and affirmatively offer, market and sell all products made available to
30 small employers in the marketplace to small employers purchasing coverage
31 outside the marketplace;

32 M. Establish and make available by electronic means and by a toll-free telephone
33 number a calculator to determine the actual cost of coverage after application of any
34 premium tax credit under Section 1401 of the federal Affordable Care Act and any
35 cost-sharing reduction under Section 1402 of the federal Affordable Care Act;

36 N. Establish a SHOP exchange through which qualified employers may access
37 coverage for their employees, enabling any qualified employer to specify a level of
38 coverage or amount of contribution toward coverage so that any of its employees may
39 enroll in any qualified health plan or qualified stand-alone dental benefit plan offered
40 through the SHOP exchange at the specified level of coverage;

41 O. Consider, in consultation with the Department of Health and Human Services and
42 the MaineCare Advisory Committee, establishing a basic health program for eligible
43 individuals in accordance with Section 1331 of the federal Affordable Care Act in
44 order to ensure continuity of care and that families previously enrolled in Medicaid

1 remain in the same plan. On or before April 1, 2014, the board shall submit its
2 recommendation on whether to establish a basic health plan in accordance with this
3 paragraph for review by the joint standing committee of the Legislature having
4 jurisdiction over insurance and financial services matters;

5 P. Subject to Section 1411 of the federal Affordable Care Act, issue a certification
6 attesting that, for purposes of the individual responsibility penalty under 26 United
7 States Code, Section 5000A, an individual is exempt from the individual
8 responsibility requirement or from the penalty because:

9 (1) There is no affordable qualified health plan available through the
10 marketplace, or the individual's employer, covering the individual; or

11 (2) The individual meets the requirements for any other exemption from the
12 individual responsibility requirement or penalty;

13 Q. Transfer to the United States Secretary of the Treasury the following:

14 (1) A list of the individuals who are issued a certification under paragraph P,
15 including the name and taxpayer identification number of each individual;

16 (2) The name and taxpayer identification number of each individual who was an
17 employee of an employer but who was determined to be eligible for the premium
18 tax credit under Section 1401 of the federal Affordable Care Act because:

19 (a) The employer did not provide the minimum essential coverage; or

20 (b) The employer provided the minimum essential coverage, but it was
21 determined under Section 1401 of the federal Affordable Care Act to either
22 be unaffordable to the employee or not provide the required minimum
23 actuarial value; and

24 (3) The name and taxpayer identification number of:

25 (a) Each individual who notifies the marketplace under Section 1411(b)(4)
26 of the federal Affordable Care Act that the individual has changed
27 employers; and

28 (b) Each individual who ceases coverage under a qualified health plan
29 during a plan year and the effective date of that cessation;

30 R. Provide to each employer the name of each employee of the employer described
31 in paragraph Q, subparagraph (3) who ceases coverage under a qualified health plan
32 during a plan year and the effective date of the cessation;

33 S. Perform duties required of the marketplace by the secretary and the United States
34 Secretary of the Treasury related to determining eligibility for premium tax credits,
35 reduced cost sharing or individual responsibility requirement exemptions;

36 T. Select entities qualified to serve as navigators in accordance with section 7212,
37 Section 1311(i) of the federal Affordable Care Act and standards developed by the
38 secretary and award grants to enable navigators to:

39 (1) Conduct public education activities to raise awareness of the availability of
40 qualified health plans and qualified stand-alone dental benefit plans;

- 1 (2) Distribute fair and impartial information concerning enrollment in qualified
2 health plans and qualified stand-alone dental benefit plans and the availability of
3 premium tax credits under Section 1401 of the federal Affordable Care Act and
4 cost-sharing reductions under Section 1402 of the federal Affordable Care Act;
- 5 (3) Facilitate enrollment in qualified health plans and qualified stand-alone
6 dental benefit plans;
- 7 (4) Provide referrals to any applicable office of health insurance consumer
8 assistance or health insurance ombudsman established under the federal Public
9 Health Service Act, 42 United States Code, Section 300gg-93 (2010), or any
10 other appropriate state agency or agencies, for an enrollee with a grievance,
11 complaint or question regarding a health benefit plan or stand-alone dental
12 benefit plan or coverage or a determination under that plan or coverage; and
- 13 (5) Provide information in a manner that is culturally and linguistically
14 appropriate to the needs of the population being served by the marketplace.
- 15 An individual licensed as an insurance producer pursuant to chapter 16 may serve as
16 a navigator to qualified individuals in the marketplace and in the SHOP exchange in
17 accordance with Section 1311(i) of the federal Affordable Care Act;
- 18 U. Review the rate of premium growth within the marketplace and outside the
19 marketplace and consider the information in developing recommendations on
20 whether to continue limiting qualified employer status to small employers;
- 21 V. Credit the amount of any free choice voucher to the monthly premium of the plan
22 in which a qualified employee is enrolled, in accordance with Section 10108 of the
23 federal Affordable Care Act, and collect the amount credited from the offering
24 employer;
- 25 W. Consult with stakeholders regarding carrying out the activities required under this
26 chapter, including, but not limited to:
- 27 (1) Educated health care consumers who are enrollees in qualified health plans
28 and qualified stand-alone dental benefit plans;
- 29 (2) Individuals and entities with experience in facilitating enrollment in qualified
30 health plans and qualified stand-alone dental benefit plans;
- 31 (3) Representatives of small businesses and self-employed individuals;
- 32 (4) Representatives of the MaineCare program; and
- 33 (5) Advocates for enrolling hard-to-reach populations;
- 34 X. Keep an accurate accounting of all activities, receipts and expenditures and
35 annually submit to the secretary, the Governor, the superintendent and the Legislature
36 a report concerning such accountings;
- 37 Y. Fully cooperate with any investigation conducted by the secretary pursuant to the
38 secretary's authority under the federal Affordable Care Act and allow the secretary, in
39 coordination with the Inspector General of the United States Department of Health
40 and Human Services, to:

- 1 (1) Investigate the affairs of the marketplace;
2 (2) Examine the properties and records of the marketplace; and
3 (3) Require periodic reports in relation to the activities undertaken by the
4 marketplace; and

5 Z. In carrying out its activities under this chapter, avoid using any funds intended for
6 the administrative and operational expenses of the marketplace for staff retreats,
7 promotional giveaways, excessive executive compensation or promotion of federal or
8 state legislative and regulatory modifications.

9 **3. Budget.** The revenues and expenditures of the marketplace are subject to
10 legislative approval in the biennial budget process. At the direction of the board, the
11 executive director appointed under section 7208 shall prepare the budget for the
12 administration and operation of the marketplace in accordance with the provisions of law
13 that apply to departments of State Government.

14 **4. Audit.** The marketplace must be audited annually by the State Auditor. The board
15 may, in its discretion, arrange for an independent audit to be conducted. A copy of any
16 audit must be provided to the State Controller, the superintendent, the joint standing
17 committee of the Legislature having jurisdiction over appropriations and financial affairs,
18 the joint standing committee of the Legislature having jurisdiction over insurance and
19 financial services matters and the joint standing committee of the Legislature having
20 jurisdiction over health and human services matters.

21 **5. Rulemaking.** The marketplace may adopt rules as necessary for the proper
22 administration and enforcement of this chapter pursuant to the Maine Administrative
23 Procedure Act. Unless otherwise specified, rules adopted pursuant to this subsection are
24 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted
25 pursuant to this subsection may not conflict with or prevent the application of regulations
26 promulgated by the secretary under the federal Affordable Care Act.

27 **6. Annual report.** Beginning February 1, 2016, and annually thereafter, the board
28 shall report on the operation of the marketplace to the Governor, the joint standing
29 committee of the Legislature having jurisdiction over appropriations and financial affairs,
30 the joint standing committee of the Legislature having jurisdiction over insurance and
31 financial services matters and the joint standing committee of the Legislature having
32 jurisdiction over health and human services matters.

33 **7. Technical assistance from other state agencies.** Other state agencies, including,
34 but not limited to, the bureau; the Department of Health and Human Services; the
35 Department of Administrative and Financial Services, Maine Revenue Services; and the
36 Maine Health Data Organization, shall provide technical assistance and expertise to the
37 marketplace upon request.

38 **8. Legal counsel.** The Attorney General, when requested, shall furnish any legal
39 assistance, counsel or advice the marketplace requires in the discharge of its duties.

40 **9. Coordination with federal, state and local health care systems.** The
41 marketplace shall institute a system to coordinate the activities of the marketplace with

1 the health care programs of the Federal Government and state and municipal
2 governments.

3 **10. Advisory committees.** At the direction of the board, the marketplace may
4 appoint advisory committees to advise and assist the board in discharging its
5 responsibilities under this chapter. Members of an advisory committee serve without
6 compensation but may be reimbursed by the marketplace for necessary expenses while on
7 official business of the advisory committee.

8 **11. Publication of costs.** The marketplace shall publish the average costs of
9 licensing, regulatory fees and any other payments required by the marketplace, and the
10 administrative costs of the marketplace, on a publicly accessible website to educate
11 consumers on such costs. This information must include information on money lost to
12 waste, fraud and abuse.

13 **§7211. Health benefit plan certification**

14 **1. Certification.** The marketplace may certify a health benefit plan as a qualified
15 health plan if:

16 A. The health benefit plan provides the essential health benefits package described in
17 Section 1302(a) of the federal Affordable Care Act, except that the plan is not
18 required to provide essential benefits that duplicate the minimum benefits of qualified
19 stand-alone dental benefit plans, as provided in subsection 5, if:

20 (1) The marketplace has determined that at least one qualified stand-alone dental
21 benefit plan is available to supplement the plan's coverage; and

22 (2) The carrier makes prominent disclosure at the time it offers the plan, in a
23 form approved by the marketplace, that the plan does not provide the full range
24 of essential pediatric dental benefits and that qualified stand-alone dental benefit
25 plans providing those benefits and other dental benefits not covered by the plan
26 are offered through the marketplace;

27 B. The premium rates and contract language have been approved by the
28 superintendent;

29 C. The health benefit plan provides at least a bronze level of coverage, as determined
30 pursuant to Section 1302(d)(1)(A) of the federal Affordable Care Act for catastrophic
31 plans, and will be offered only to individuals eligible for catastrophic coverage;

32 D. The health benefit plan's cost-sharing requirements do not exceed the limits
33 established under Section 1302(c)(1) of the federal Affordable Care Act and, if the
34 plan is offered through the SHOP exchange, the plan's deductible does not exceed the
35 limits established under Section 1302(c)(2) of the federal Affordable Care Act;

36 E. The health carrier offering the health benefit plan:

37 (1) Is licensed and in good standing to offer health insurance coverage in this
38 State;

39 (2) Offers at least one qualified health plan in the silver level and at least one
40 plan in the gold level as described in Section 1302(d)(1)(B) and (d)(1)(C) of the

1 federal Affordable Care Act through each component of the marketplace in
2 which the carrier participates. As used in this subparagraph, "component" means
3 the SHOP exchange and the marketplace;

4 (3) Offers at least one qualified health plan that provides the essential health
5 benefits package described in Section 1302(a) of the federal Affordable Care Act
6 without benefits that duplicate the minimum dental benefits of stand-alone dental
7 benefit plans, if the marketplace has determined that at least one qualified
8 stand-alone dental benefit plan is available through the marketplace to
9 supplement the qualified health plan's coverage;

10 (4) Charges the same premium rate for each qualified health plan without regard
11 to whether the plan is offered through the marketplace and without regard to
12 whether the plan is offered directly from the carrier or through an insurance
13 producer;

14 (5) Does not charge any fees or penalties for termination of coverage in violation
15 of section 7209, subsection 4; and

16 (6) Complies with the regulations developed by the secretary under Section
17 1311(c) of the federal Affordable Care Act and such other requirements as the
18 marketplace may establish;

19 F. The health benefit plan meets the requirements of certification as adopted by rules
20 pursuant to section 7210, subsection 5 and by regulation promulgated by the secretary
21 under Section 1311(c) of the federal Affordable Care Act, which include, but are not
22 limited to, minimum standards in the areas of marketing practices, network adequacy,
23 essential community providers in underserved areas, accreditation, quality
24 improvement, uniform enrollment forms and descriptions of coverage and
25 information on quality measures for health benefit plan performance; and

26 G. The marketplace determines that making the health benefit plan available through
27 the marketplace is in the interest of qualified individuals and qualified employers in
28 this State.

29 **2. Authority to exclude health benefit plans.** The marketplace may not exclude a
30 health benefit plan:

31 A. On the basis that the health benefit plan is a fee-for-service plan;

32 B. Through the imposition of premium price controls by the marketplace; or

33 C. On the basis that the health benefit plan provides treatments necessary to prevent
34 patients' deaths in circumstances in which the marketplace determines the treatments
35 are inappropriate or too costly.

36 **3. Carrier requirements.** The marketplace shall require each health carrier seeking
37 certification of a health benefit plan as a qualified health plan to:

38 A. Submit a justification for any premium increase before implementation of that
39 increase. The carrier shall prominently post the information on its publicly accessible
40 website. The marketplace shall take this information, along with the information and
41 the recommendations provided to the marketplace by the superintendent under the

1 federal Public Health Service Act, 42 United States Code, Section 300gg-94 (2010),
2 into consideration when determining whether to allow the carrier to make plans
3 available through the marketplace;

4 B. Make available to the public and submit to the marketplace, the secretary and the
5 superintendent accurate, transparent and timely disclosure of the following:

6 (1) Claims payment policies and practices;

7 (2) Periodic financial disclosures;

8 (3) Data on enrollment;

9 (4) Data on disenrollment;

10 (5) Data on the number of claims that are denied;

11 (6) Data on rating practices;

12 (7) Information on cost sharing and payments with respect to any out-of-network
13 coverage;

14 (8) Information on enrollee and participant rights under Title I of the federal
15 Affordable Care Act; and

16 (9) Other information as determined appropriate by the secretary.

17 The information required in this paragraph must be provided in plain language, as
18 that term is defined in Section 1311(e)(3)(B) of the federal Affordable Care Act;

19 C. Permit an individual to learn, in a timely manner upon the request of the
20 individual, the amount of cost sharing, including deductibles, copayments and
21 coinsurance, under the individual's plan or coverage that the individual would be
22 responsible for paying with respect to the furnishing of a specific item or service by a
23 participating provider. At a minimum, this information must be made available to the
24 individual through a publicly accessible website and through other means for an
25 individual without access to the Internet; and

26 D. Make a separate disclosure of the price of pediatric dental benefits if the plan
27 provides a comprehensive essential health benefits package described in Section
28 1302(a) of the federal Affordable Care Act, as long as the carrier is not required to
29 offer the pediatric dental benefit for sale on the marketplace on a stand-alone basis.

30 **4. No exemption from licensing or solvency requirements.** The marketplace may
31 not exempt any health carrier seeking certification of a qualified health plan, regardless of
32 the type or size of the carrier, from state licensure or solvency requirements and shall
33 apply the criteria of this section in a manner that ensures fairness between or among
34 health carriers participating in the marketplace.

35 **5. Application to qualified stand-alone dental benefit plans.** The provisions of
36 this chapter that are applicable to qualified health plans also apply to the extent relevant
37 to qualified stand-alone dental benefit plans except as modified in this subsection or by
38 rules adopted by the marketplace.

1 A. The marketplace may certify a stand-alone dental benefit plan as a qualified
2 stand-alone dental benefit plan if the carrier offering the plan:

3 (1) Is licensed and in good standing to offer dental coverage in this State. The
4 carrier need not be licensed to offer other health benefits;

5 (2) Offers at least one stand-alone dental benefit plan that includes only the
6 essential pediatric dental benefit requirement of Section 1302(b)(1)(J) of the
7 federal Affordable Care Act, as long as this requirement does not limit a carrier
8 from providing other stand-alone dental benefit plans that are certified by the
9 marketplace;

10 (3) Charges the same premium rate for each stand-alone dental benefit plan
11 without regard to whether the plan is offered through the marketplace and
12 without regard to whether the plan is offered directly from the carrier or through
13 an insurance producer;

14 (4) Submits the premium rates and contract language to the superintendent for
15 approval;

16 (5) Does not charge any fees or penalties for termination of coverage in violation
17 of section 7209, subsection 4; and

18 (6) Complies with any regulations adopted by the secretary under Section
19 1311(d) of the federal Affordable Care Act and any rules adopted by the
20 marketplace pursuant to this chapter.

21 B. The qualified stand-alone dental benefit plan must be limited to dental and oral
22 health benefits, without substantially duplicating the benefits typically offered by
23 health benefit plans without dental coverage, and must meet the requirements for
24 essential pediatric dental benefits prescribed by the secretary pursuant to Section
25 1302(b)(1)(J) of the federal Affordable Care Act and such other dental benefits as the
26 marketplace or the secretary may specify by rule or regulation.

27 C. Carriers may jointly offer a comprehensive plan through the marketplace in which
28 the dental benefits are provided by a carrier through a qualified stand-alone dental
29 benefit plan and the other benefits are provided by a carrier through a qualified health
30 plan, if the plans are priced separately and are also made available for purchase
31 separately at the same prices.

32 D. The marketplace may not exclude a stand-alone dental benefit plan on the basis
33 that the plan is a fee-for-service plan or through the imposition of premium price
34 controls by the marketplace.

35 E. The marketplace may adopt rules as necessary to carry out the requirements of
36 this subsection, including but not limited to rules to enhance transparency and choice
37 for consumers in the purchase of qualified health plans, qualified stand-alone dental
38 benefit plans or other dental benefit plans offered through the marketplace and rules
39 relating to consumer protections relevant to qualified stand-alone dental benefit plans
40 or other dental benefit plans offered through the marketplace.

41 **6. Other dental benefit plans.** In addition to the certification of a qualified
42 stand-alone dental benefit plan pursuant to this section, the marketplace may certify other

1 denial benefit plans, either as part of a qualified health plan or separately, in accordance
2 with this section and any rules adopted by the marketplace.

3 **§7212. Navigators**

4 **1. Navigator grant program.** The marketplace shall establish a navigator grant
5 program to award grants to entities qualified to serve as navigators, in accordance with
6 this section, Section 1311(i) of the federal Affordable Care Act and standards developed
7 by the secretary, to enable navigators to perform the activities described in section 7210,
8 subsection 2, paragraph T.

9 **2. Selection of navigators.** The board shall, in the board's sole discretion, award
10 grants to an eligible entity described in subsection 3 that demonstrates to the satisfaction
11 of the board that it has the capacity and experience to effectively reach out to individuals,
12 including uninsured individuals, underinsured individuals, low-income individuals and
13 self-employed individuals, and small employers and their employees likely to be qualified
14 to enroll in a qualified health plan or qualified stand-alone dental benefit plan. In
15 awarding grants to eligible entities, the board shall ensure that an entity is able to address
16 the needs of individuals and small employers and their employees in all geographic
17 regions of the State in a manner that is culturally and linguistically appropriate to the
18 needs of the population being served.

19 **3. Eligible entities.** The board may award navigator grants in accordance with
20 subsection 1 to any of the following eligible entities:

- 21 A. A trade, industry or professional association;
- 22 B. A community-focused and consumer-focused nonprofit group;
- 23 C. A chamber of commerce;
- 24 D. A labor union;
- 25 E. A small business development center; or
- 26 F. An insurance producer or broker licensed in this State.

27 A navigator may not be an insurer or receive any consideration directly or indirectly from
28 any insurer in connection with the enrollment of any qualified individual or employees of
29 a qualified employer in a qualified health plan.

30 **4. Compliance.** A navigator shall comply with all applicable provisions of the
31 federal Affordable Care Act, regulations adopted thereunder and federal guidance issued
32 pursuant to the federal Affordable Care Act.

33 **5. Information standards.** The marketplace shall collaborate with the secretary to
34 develop standards to ensure that the information distributed and provided by navigators is
35 fair and accurate.

36 **6. Performance standards; accountability.** The marketplace shall establish
37 performance standards, accountability requirements and maximum grant amounts for
38 navigators.

1 **7. Antisteering provisions; participation of insurance producers.** The
2 marketplace shall prohibit an insurance producer, as a condition of that insurance
3 producer's participation as a navigator, from steering, directly or indirectly, a qualified
4 individual or an employee of a qualified employer to any particular qualified health plan.

5 **§7213. Carrier participation**

6 **1. Required levels of coverage.** Beginning January 1, 2015, a carrier shall, with
7 respect to health benefit plans, fairly and affirmatively offer, market and sell only the 5
8 levels of coverage contained in Section 1302(d) and (e) of the federal Affordable Care
9 Act, except that a carrier that does not participate in the marketplace shall, with respect to
10 health benefit plans, fairly and affirmatively offer, market and sell only the 4 levels of
11 coverage contained in Section 1302(d) of the federal Affordable Care Act.

12 **2. Standardized products.** Beginning January 1, 2015, a carrier that does not
13 participate in the marketplace shall, with respect to health benefit plans, fairly and
14 affirmatively offer at least one standardized health benefit plan that has been designated
15 by the marketplace in each of the 4 levels of coverage contained in Section 1302(d) of the
16 federal Affordable Care Act. This subsection applies only if the marketplace exercises its
17 authority under section 7209, subsection 5. This subsection may not be construed to:

18 **A. Require a carrier that does not participate in the marketplace to offer standardized**
19 **health benefit plans in the small employer market if the carrier sells health benefit**
20 **plans only in the individual market;**

21 **B. Require a carrier that does not participate in the marketplace to offer standardized**
22 **health benefit plans in the individual market if the carrier sells health benefit plans**
23 **only in the small employer market; or**

24 **C. Prohibit a carrier from offering other health benefit plans as long as the carrier**
25 **complies with the required levels of coverage described in subsection 1.**

26 **§7214. The Maine Health Benefit Marketplace Enterprise Fund**

27 **The Maine Health Benefit Marketplace Enterprise Fund is created as an enterprise**
28 **fund for the deposit of any funds advanced for initial operating expenses, payments made**
29 **by employers and individuals, federal funds and any funds received from any public or**
30 **private source. The fund may not lapse, but must be carried forward to carry out the**
31 **purposes of this chapter.**

32 **§7215. Maine Health Benefit Marketplace Business Advisory Council**

33 **The Maine Health Benefit Marketplace Business Advisory Council, referred to in this**
34 **chapter as "the advisory council," is established to advise the marketplace. Except as**
35 **provided in section 7207, subsection 2, information obtained by the advisory council is a**
36 **public record as provided by Title 1, chapter 13, subchapter 1.**

37 **1. Appointment; composition.** The Governor shall appoint the following members
38 of the advisory council with the approval of the joint standing committee of the
39 Legislature having jurisdiction over insurance and financial services matters:

- 1 A. Three members representing providers, including one physician, one
2 representative of hospitals and one health care practitioner who is not a physician;
- 3 B. One member representing consumers;
- 4 C. One member representing large employers;
- 5 D. One member representing small employers;
- 6 E. One representative of health insurance or dental insurance carriers; and
- 7 F. One representative of health insurance producers.

8 Prior to making appointments to the advisory council, the Governor shall seek
9 nominations from the public statewide associations representing the interests under
10 paragraphs A to F and other entities as appropriate.

11 **2. Terms.** Members of the advisory council serve 5-year terms. A member may not
12 serve more than 2 consecutive terms.

13 **3. No compensation.** Members of the advisory council serve as volunteers and
14 without compensation or reimbursement for expenses.

15 **4. Quorum.** A quorum is a majority of the members of the advisory council.

16 **5. Chair and officers.** The advisory council shall annually choose one of its
17 members to serve as chair for a one-year term. The advisory council may select other
18 officers and designate their duties.

19 **6. Meetings.** The advisory council shall meet at least 4 times a year at regular
20 intervals and may meet at other times at the call of the chair or the executive director
21 appointed under section 7208. Meetings of the council are public proceedings as provided
22 by Title 1, chapter 13, subchapter 1.

23 **7. Duties.** The advisory council shall:

24 A. Advise and support the marketplace on matters referred to it by the board or the
25 executive director appointed under section 7208; and

26 B. Serve as a liaison between the marketplace and individuals and small businesses
27 enrolled in the marketplace.

28 **§7216. Relation to other laws**

29 This chapter, and any action taken by the marketplace pursuant to this chapter, may
30 not be construed to preempt or supersede the authority of the superintendent to regulate
31 the business of insurance within this State. Except as expressly provided to the contrary
32 in this chapter, all health carriers offering qualified health plans or qualified stand-alone
33 dental benefit plans in this State shall comply fully with all applicable health insurance
34 laws of this State and rules adopted and orders issued by the superintendent.

35 **Sec. 6. Staggered terms; Board of Directors of the Maine Health Benefit**
36 **Marketplace.** Notwithstanding the Maine Revised Statutes, Title 24-A, section 7204,
37 subsection 3, of the initial voting members appointed to the Board of Directors of the

1 Maine Health Benefit Marketplace, 2 members must be appointed to serve initial terms of
2 one year, 3 members must be appointed to serve initial terms of 2 years and 4 members
3 must be appointed to serve initial terms of 3 years.

4 **Sec. 7. Staggered terms; Maine Health Benefit Marketplace Business**
5 **Advisory Council.** Notwithstanding the Maine Revised Statutes, Title 24-A, section
6 7215, subsection 2, of the initial members appointed to the Maine Health Benefit
7 Marketplace Business Advisory Council, 3 members must be appointed to serve initial
8 terms of 3 years, 3 members must be appointed to serve initial terms of 4 years and 2
9 members must be appointed to serve initial terms of 5 years.

10 **Sec. 8. Transition.** The following provisions apply to the establishment of the
11 Maine Health Benefit Marketplace pursuant to the Maine Revised Statutes, Title 24-A,
12 chapter 93.

13 1. Within 30 days of the effective date of this Act, the President of the Senate,
14 Speaker of the House and Governor shall post nominations for the appointment of the
15 members of the Board of Directors of the Maine Health Benefit Marketplace. As soon as
16 practicable after Senate confirmation of board members, the board shall appoint the
17 Executive Director of the Maine Health Benefit Marketplace pursuant to Title 24-A,
18 section 7208.

19 2. Upon request from the Board of Directors of the Maine Health Benefit
20 Marketplace, the Executive Director of Dirigo Health shall provide initial staffing
21 assistance to the Maine Health Benefit Marketplace in the initial phases of its operations
22 until the appointment of the Executive Director of the Maine Health Benefit Marketplace.
23 The Executive Director of the Maine Health Benefit Marketplace shall hire staff and
24 contract for services to implement this Act. In hiring and contracting, the Executive
25 Director of the Maine Health Benefit Marketplace may give preference to state
26 employees and contractors who are employed by Dirigo Health.

27 3. As soon as practicable after Senate confirmation of board members, the Board of
28 Directors of the Maine Health Benefit Marketplace shall submit an application to the
29 Secretary of the United States Department of Health and Human Services for any grant
30 funding made available to states for exchange planning and implementation pursuant to
31 the federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended
32 by the federal Health Care and Education Reconciliation Act of 2010, Public Law 111-
33 152.

34 4. No later than November 18, 2013, the Board of Directors of the Maine Health
35 Benefit Marketplace shall submit a declaration of intent to establish a state-based
36 exchange to the Secretary of the United States Department of Health and Human
37 Services, together with any necessary supporting documentation as required by the
38 secretary, pursuant to the federal Patient Protection and Affordable Care Act, Public Law
39 111-148, as amended by the federal Health Care and Education Reconciliation Act of
40 2010, Public Law 111-152 and any regulations adopted by the secretary.

41 5. Beginning 90 days after the effective date of this Act and until June 30, 2015, the
42 Executive Director of the Maine Health Benefit Marketplace shall report on a quarterly

1 basis to the joint standing committee of the Legislature having jurisdiction over insurance
2 and financial services matters on the actions taken by the Board of Directors of the Maine
3 Health Benefit Marketplace and the initial operations of the Maine Health Benefit
4 Marketplace.

5 **Sec. 9. Maine Health Benefit Marketplace funding mechanism; report.**

6 The Board of Directors of the Maine Health Benefit Marketplace shall consider how to
7 ensure that the Maine Health Benefit Marketplace is financially sustainable as required by
8 federal law, including, but not limited to:

9 1. Recommending a plan for the budget of the marketplace; and

10 2. Recommending a funding mechanism to fund the operation of the marketplace.
11 Any funding mechanism recommended by the board must be broad-based, may not
12 disadvantage health benefit plans offered inside the marketplace and must minimize
13 adverse selection.

14 On or before February 1, 2015, the Board of Directors of the Maine Health Benefit
15 Marketplace shall submit a report, including suggested legislation, with its recommended
16 funding mechanism to the joint standing committee of the Legislature having jurisdiction
17 over insurance and financial services matters. The joint standing committee of the
18 Legislature having jurisdiction over insurance and financial services matters may submit
19 a bill based on the report to the First Regular Session of the 127th Legislature.

20 **Sec. 10. Impact of adverse selection on the Maine Health Benefit
21 Marketplace; report.**

22 The Board of Directors of the Maine Health Benefit
23 Marketplace, in consultation with any advisory committees established pursuant to the
24 Maine Revised Statutes, Title 24-A, chapter 93 and with other stakeholders, shall study
25 and make recommendations regarding the rules under which health benefit plans should
26 be offered inside and outside the Maine Health Benefit Marketplace in order to mitigate
adverse selection and encourage enrollment in the marketplace, including:

27 1. Whether any benefits should be required of qualified health plans beyond those
28 mandated by the federal Affordable Care Act, as defined in Title 24-A, section 14, and
29 whether any such additional benefits should be required of health benefit plans offered
30 outside the marketplace; and

31 2. Whether carriers offering health benefit plans outside the marketplace should be
32 required to offer either all the same health benefit plans inside the marketplace or,
33 alternatively, at least one health benefit plan inside the marketplace.

34 On or before April 1, 2014, the Board of Directors of the Maine Health Benefit
35 Marketplace shall submit a report, including any suggested legislation, with its
36 recommendations to the joint standing committee of the Legislature having jurisdiction
37 over insurance and financial services matters. The joint standing committee of the
38 Legislature having jurisdiction over insurance and financial services matters may submit
39 a bill based on the report to the Second Regular Session of the 126th Legislature.

1

SUMMARY

2 This bill establishes the Maine Health Benefit Marketplace as the State's health
3 benefit exchange as authorized by the federal Patient Protection and Affordable Care Act,
4 Public Law 111-148 as amended by the federal Health Care and Education Reconciliation
5 Act of 2010, Public Law 111-152 to facilitate the purchase of health care coverage by
6 individuals and small businesses. The Maine Health Benefit Marketplace is established
7 as an independent executive agency governed by the Board of Directors of the Maine
8 Health Benefit Marketplace, which has 9 voting members appointed by the President of
9 the Senate, the Speaker of the House and the Governor subject to confirmation by the
10 Senate and 4 ex officio, nonvoting members representing the Department of Professional
11 and Financial Regulation, the Department of Health and Human Services, the Department
12 of Administrative and Financial Services and the Treasurer of State.

13 The bill requires coverage to be available through the state-based marketplace no
14 later than January 1, 2015 and requires the Board of Directors of the Maine Health
15 Benefit Marketplace to submit a declaration of intent to establish a state-based exchange
16 under federal law to the federal Department of Health and Human Services no later than
17 November 18, 2013. The bill also requires the board of directors to submit applications
18 for any available federal grant funding to support planning and implementation of the
19 state-based exchange as soon as practicable after Senate confirmation of the board
20 members.