

Dirigo Health Agency  
Board of Directors  
Minutes of Meeting  
February 23rd, 2006

The Dirigo Health Agency Board of Directors held a meeting on Thursday, February 23rd, 2006. Dr. Robert McAfee, Chair, convened the meeting at approximately 1:00 PM in the Dirigo Health Agency Board Room, located at 211 Water Street in Augusta. Other Board members in attendance: Dana Connors, Mary Henderson, Commissioner Christine Bruenn, and Trish Riley. Joining by telephone was Charlene Rydell. Also in attendance: Karynlee Harrington, Executive Director of Dirigo Health Agency, Dennis Schubert, Director of the Maine Quality Forum and William Kilbreth, Technical Director of Dirigo Health Agency.

The Board unanimously approved the minutes of the 01/10/2006 meeting.

Ms. Riley noted that the national PBS program “Now” airing on Friday the 24<sup>th</sup> was going to feature Dirigo Health.

### **Legislative Updates**

Ms. Riley provided legislative updates:

The IFS Committee held a four hour hearing on LD 1935, the bill to prevent the SOP from being passed on to consumers. The Committee has scheduled a work session to further consider the bill.

The IFS Committee held a hearing on LD 1845, the bill to allow the DHA Board to form a non-profit to administer the DirigoChoice program, including an amendment to allow more producers to sell the product. The Committee has scheduled a work session on the 7<sup>th</sup> of March to further consider the bill. Ms. Riley noted that the Legislature has concerns about checks and balances and oversight over the program, while recognizing that the Board needs authority to move forward with the initiative.

The IFS Committee held a hearing on the establishment of a High Risk Pool. The Committee has scheduled a work session for the 2<sup>nd</sup> of March to further consider the Pool.

Ms. Riley stated that the only legislation specifically pertaining to the Agency was to allow the Maine Quality Forum to become a bonding partner and to allow the Forum to protect quality data it collects until it had opportunity to collaborate with the providers from whom the data is collected.

Dr. McAfee asked Ms. Riley if there was any update on changing the date of the upcoming Adjudicatory Hearing. Ms. Riley indicated that Ms. Harrington would clarify

during the Agency Update, but that other parties had expressed no interest in delaying the hearing.

Mr. Connors stated that he had testified against LD 1935 at the Committee hearing. He told the Board that he felt himself in an uncomfortable position at the hearing. While he had no objection to the Chair and other members of the Board speaking in favor of the bill, he felt the representation to the Committee of a 5 – 0 Board vote in support of the bill was not accurate. Mr. Connors stated he had voted to continue discussion around the pass through, not to support the legislation. If supporting the legislation had been what the Board considered, Mr. Connors stated he would have voted against it. Mr. Connors hoped he had not embarrassed the Chair or other members of the Board at the hearing.

### **MQF Update**

Dr. Shubert provided an update on MQF:

Dr. Shubert stated that the goal of the update was to explain how the MQF fits in the current environment. In light of that context, he reviewed the primary goals of the MQF and the timelines and activities associated with those goals.

One of the primary goals of the MQF is to increase investment in the health care system to improve safety.

Dr. Shubert pointed out that Maine has a number of existing entities, initiatives, and resources relating to health quality, including the Discharge Database, the Paid Claims Database, the Maine Health Management Coalition, practice based self-examination, and the Maine Health Information Center. MQF is working with most of these entities.

Dr. Shubert further remarked that the MQF needed to consider the national situation. The National Quality Forum has provided significant leadership in defining quality metrics. In addition, CMS has adopted measurements of performance (140 indicators of quality by end of 2007). These initiatives, among others, are helping define basic methodologies and definitions for quality data gathering and analysis.

In the context of these associations and initiatives, the MQF has taken on a number of key projects:

- Working with Health Dialog to perform analysis on the Paid Claims Database
- Providing quality leadership recognition through the Safety Star program
- Starting to gather quality indicators (such as Health Care Associated Infections (IHI) and Nursing Sensitive indicators) 270 measures
- Sponsoring the Acute MI project
- Sponsoring the ventilator associated infections project
- Assessing practices

- Continuing to promote improvements to Maine's electronic health systems through the MHINT and telemedicine initiatives

Dr. Shubert noted the importance of gathering and reporting data on quality: procedures where data are reported improve 3 times faster than those where they are not.

Dr. Shubert concluded by pointing out that the MQF must distribute the gathered information via the web. The MQF's current web site is a "billboard." The site must become interactive, allowing the public and providers to query the web site. The Forum was preparing to issue an RFP to find a vendor to undertake this effort. Dr. Shubert estimated that this development would be a nine month effort, concurrent with the other Forum initiatives.

Mr. Connors asked Dr. Shubert for a self-assessment on the progress and impact of the MQF.

Dr. Shubert pointed out that the MQF was one voice among many, which made it difficult to know where to take credit. However, it is clear that people are paying more attention to safe practices and that quality departments in practices are getting resources.

### **Agency Updates**

Ms. Harrington provided updates on Agency business:

#### *Legal Matters*

Ms. Harrington related to the Board that she and Ms. Riley had had a series of conversations with Anthem, the Maine Association of Health Plans, and the Maine State Chamber of Commerce regarding the Adjudicatory Hearing. At issue was changing the date of the Board's Hearing to a later time, possibly September, and potentially eliminating one of the two hearings. Not all parties were able to make all meetings, and as such Ms. Harrington asked the parties to communicate their positions in writing.

The Maine Association of Health Plans felt that both changes would require rapid legislation. In light of all issues in front of the Legislature relating to Dirigo, the MAHP stated it was too late to make changes for this year's Hearing. However, they would be willing to discuss changes for next year. The MAHP further reiterated the need for a reasonable amount of time to analyze the SOP determination and to communicate to members about it, which would require a determination by June of 2006.

Anthem provided similar feedback: they were not comfortable separating the dates of the hearing from the other major Dirigo related issues pending in front of the Legislature.

The Chamber stated they would be open to changing the statute to have one hearing by the Superintendent. However, they felt it would be necessary to clarify that the hearing be *de novo*, with no deference to any determination made by the Board. The Chamber pointed

out that the parties must resolve the issue of the number of hearings prior to timing issues. They further re-iterated their position that the current funding mechanism is flawed, and that the State should find a new funding mechanism before tackling other issues.

Ms. Harrington stated that the conclusion of the Agency was that it must go forward with the hearing without resolution from the courts regarding current lawsuits and with no updated data.

The Board discussed the process of the Hearings. Ms. Harrington noted that the date of the Hearing has been moved forward to March 27<sup>th</sup>, with the 28<sup>th</sup> and 29<sup>th</sup> scheduled if necessary. The Agency had posted a Procedural Order yesterday to that effect and sent the Order to counsel. Ms. Harrington reported that the Agency had engaged a Hearing Officer, Jim Smith from the Dept. of Transportation, who had come highly recommended and that she expected he would be contacting counsel.

Ms. Harrington stated that the Agency would post Revised Orders in the Bangor, Portland, and Augusta papers that included an amended scheduled of proceedings.

Ms. Harrington commented on the relationship of the Executive Director and the Agency with the Board during the Hearing. She stated the Attorney General's Office would provide separate counsel to the Agency and to the Board. Kelly Turner will represent the Agency; Bill Laubenstein will provide counsel to the Board.

Ms. Harrington provided an update on the pending lawsuits relating to the 2005 SOP determination. On March 20<sup>th</sup>, the Superintendent's brief is due. Other parties may then submit reply briefs. The courts will then schedule oral arguments. The presiding judge is Justice Cole

In terms of the appeal of the Board's decision, Ms. Harrington stated that the Agency had submitted a request for stay on February 14th.

### *Operations*

Ms. Harrington reported that as of next Wednesday, March 1st, DHA will assume 100% of the discount determination process. This assumption of responsibilities will require the Agency to configure the office differently, as the Agency must comply with HIPPA and maintain the confidentiality of its members. Ms. Harrington stated that staff would be designating certain areas of the building for the public to take phone calls and meet as it was important to keep general staff areas clear of the public.

### *Membership*

Ms. Harrington discussed her Feb 17<sup>th</sup> memo to the IFS Committee. The memo detailed the average size DirigoChoice employer group as 4 employees and the average contract size for sole proprietors and individuals as 1.6 members.

Ms. Harrington introduced a one page overview of membership. She stated that with Board approval this overview would become a standard report to the IFS Committee and to the Board. She noted that there continues to be discrepancies with reported numbers, and she hoped this report would provide greater consistency. She noted that the Agency is now experiencing renewals and that process increased the fluctuation in the numbers throughout the month of enrollment. Given that fluctuation, the Agency would like to report membership numbers the month following the enrollment month, e.g., January numbers were being reported now, February numbers would be reported March 1st.

Ms. Harrington discussed the details of the report, including the new DirigoChoice members, new parents, total enrolled DirigoChoice members, and total enrolled parents. She also noted the discount level distributions, employer type distributions, and member months charts.

Ms. Harrington noted that the average DirigoChoice demographic (age, location) adjustment is now 15%. Ms. Harrington stated that the difference may be due, in part, to an increase in enrolled individuals. Individuals are, on average, slightly older than the rest of the group.

Ms. Harrington further noted that the loss ratio for individuals and sole props on claims incurred through October and paid through December was 80.6%, compared to 65% for small group members, leaving the program with an average loss ratio of 74.7%. These percentages represented a slight increase in the loss ratio for individuals, who had been running at 79%. Ms. Harrington noted that the EMP is priced on an 80% loss ratio, so the program was still under, but as more individuals come in to the program, which is not unexpected given the waiting list, the Agency will need to track any increase in the loss ratio.

Ms. Harrington commented on analysis from Anthem of individuals who terminate coverage within three months. Anthem's conclusion, looking at eight months of experience, is that this group has consistent experience with the rest of the group. The Agency had been concerned that these individuals were enrolling in the program, obtaining services, and then terminating. Anthem's analysis indicates that this is not the case.

#### *FOIA requests*

Ms. Harrington brought the Board's attention to a FOIA request from Representatives McKane and Vaughn. She noted that the request, similar to that of Representative Glynn, was seeking applications and information pertaining to the uninsured. She also discussed the Agency's correspondence with Representative Glynn, including Rep. Glynn's assertion that the Agency violated the spirit of the FOIA in its initial response to his request. Ms. Harrington noted that Rep. Glynn's concern appeared to be that the Agency did not set a specific date to provide the information he requested but instead

suggested the Representative meet with her to set up a time. She noted that the Agency subsequently stated that the information will be available to him the week of March 20<sup>th</sup>.

The Board discussed the FOIA requests. Ms. Harrington stated to the Board that she had made the decision not to charge the Representatives for the work involved in producing and redacting the information, since the Agency's internal estimates were that the cost would have been over \$ 1,000.

Ms. Harrington further noted that Anthem is handling the gathering and redacting of their application forms for the requests and has been helpful and cooperative in the effort.

Ms. Riley expressed concern about conclusions that one might draw from the application forms. She stated that it has to be on the record that the Agency has repeatedly said that there are problems with gathering information from the applications alone and that this data will not give sufficient information on the uninsured.

Ms. Rydell expressed concern that the Agency communicates to members and applicants that all personal information is kept confidential and that the Agency will never reveal personal health information. Ms. Harrington confirmed that all personal health information on the application forms provided to the Representatives is redacted. She noted the Agency must comply with HIPPA.

Ms. Harrington noted correspondence from Senator Sullivan and Representative Perry regarding HSAs and high-deductible plans and an updated calendar with IFS schedule included in the Board members' packets.

Ms. Harrington referred to a correspondence from the Agency to the IFS Committee relative to specific questions regarding monthly costs that Senator Mills had submitted. Ms. Harrington stated that this memo could serve as a useful guide, but that membership is growing and other variables can change, e.g., the demographic adjustment discussed earlier.

Ms. Harrington introduced Robert English, the Agency's Managing Staff Account, and thanked him for his efforts in helping to move the Agency to an enterprise fund structure and in producing the Income Statements and Balance Sheets that would now serve to detail the Agency's financials. Ms. Harrington noted that the Balance Sheet and Income statement for January were included in the Board's packets. She reminded the Board that the Agency's cash balance is not reflected in the income statement, but does appear on the balance sheet.

Mr. Connors asked for clarification of the Agency's financial numbers for a better understanding of the Agency's costs. He stated this clarification would help the groups attempting to come up with alternative funding sources for DirigoChoice understand the amount of income required to sustain the program.

Ms. Harrington agreed to submit a memo to the Board with clarification of Agency costs.

Ms. Harrington brought the Board's attention to an expungement issue. The system, due to changes required for Food Stamps, is removing discount amounts that members have not used in six months. The Agency is having these funds manually restored on the same day. There will be a system fix in mid April to prevent the removal from happening at all.

Ms. Harrington noted that she and Ms. Riley had met with Anthem to discuss strategies around marketing and distribution, with a focus on reaching the uninsured. Anthem is now putting together a focus group with Ms. Harrington and Anthem producers which should take place in the next few weeks. Anthem is also putting out an RFP for an outreach initiative.

Ms. Rydell noted that she had experience with at least one small business owner who had not received a quote for the DirigoChoice product when moving to the state.

The Board tentatively scheduled March 14<sup>th</sup> for their next meeting.

### **Public Comments**

Joe Ditre from the Consumers for Affordable Health Care noted that the Superintendent's brief was actually due on the 21<sup>st</sup> of March, not the 20<sup>th</sup>, per a clarification issued yesterday.

Katie Fullham-Harris of Anthem Blue Cross and Blue Shield of Maine asked that Ms. Rydell, if possible, communicate the name of the broker and the month that the small business owner she had spoken to attempted to enroll.

Dr. McAfee adjourned the meeting at approximately 2:45 PM.