

**Maine Revised Statute Title 24-A, Chapter 54:
MAINE INDIVIDUAL REINSURANCE ASSOCIATION**

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24-A §3901. SHORT TITLE

This chapter may be known and cited as "the Maine Individual Reinsurance Association Act." [2007, c. 629, Pt. A, §8 (NEW).]

SECTION HISTORY

2007, c. 629, Pt. A, §8 (NEW).

24-A §3902. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2007, c. 629, Pt. A, §8 (NEW).]

1. Association. "Association" means the Maine Individual Reinsurance Association established in section 3903.

[2007, c. 629, Pt. A, §8 (NEW) .]

2. Board. "Board" means the board of directors of the association.

[2007, c. 629, Pt. A, §8 (NEW) .]

3. Health maintenance organization. "Health maintenance organization" means an organization authorized under chapter 56 to operate a health maintenance organization in this State.

[2007, c. 629, Pt. A, §8 (NEW) .]

4. Insurer. "Insurer" means an entity that is authorized to write medical insurance or that provides medical insurance in this State. "Insurer" includes an insurance company, a nonprofit hospital and medical service organization, a fraternal benefit society, a health maintenance organization, a self-insurance arrangement that provides health care benefits in this State to the extent allowed under the federal Employee Retirement Income Security Act of 1974, a 3rd-party administrator, a multiple-employer welfare arrangement, any other entity providing medical insurance or health benefits subject to state insurance regulation, any reinsurer of health insurance in this State, the Dirigo Health Program established in chapter 87 or any other state-run or state-sponsored health benefit program, whether fully insured or self-funded.

[2007, c. 629, Pt. A, §8 (NEW) .]

5. Medical insurance. "Medical insurance" means a hospital and medical expense-incurred policy, a nonprofit hospital and medical service plan, a health maintenance organization subscriber contract or other health care plan or arrangement that pays for or furnishes medical or health care services by insurance or otherwise, whether sold as an individual or group policy. "Medical insurance" does not include accidental injury, specified disease, hospital indemnity, dental, vision, disability income, Medicare supplement, long-term care or other limited benefit health insurance or credit insurance; coverage issued as a supplement to liability insurance; insurance arising out of workers' compensation or similar law; or automobile medical payment insurance or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

[2007, c. 629, Pt. A, §8 (NEW) .]

6. Medicare. "Medicare" means coverage under both Parts A and B of Title XVIII of the Social Security Act, 42 United States Code, Section 1395 et seq., as amended.

[2007, c. 629, Pt. A, §8 (NEW) .]

7. Member insurer. "Member insurer" means an insurer that offers individual medical insurance, is marketing an individual medical insurance policy in this State and has a medical-loss ratio of at least 70% in the individual insurance market.

[2007, c. 629, Pt. A, §8 (NEW) .]

8. Producer. "Producer" means a person who is licensed to sell health insurance in this State.

[2007, c. 629, Pt. A, §8 (NEW) .]

9. Reinsurer. "Reinsurer" means an insurer from whom a person providing health insurance for a resident procures insurance for itself with the insurer with respect to all or part of the medical insurance risk of the person. "Reinsurer" includes an insurer that provides employee benefits excess insurance.

[2007, c. 629, Pt. A, §8 (NEW) .]

10. Resident. "Resident" has the same meaning as in section 2736-C, subsection 1, paragraph C-2.

[2007, c. 629, Pt. A, §8 (NEW) .]

11. Third-party administrator. "Third-party administrator" means an entity that is paying or processing medical insurance claims for a resident.

[2007, c. 629, Pt. A, §8 (NEW) .]

SECTION HISTORY

2007, c. 629, Pt. A, §8 (NEW) .

24-A §3903. MAINE INDIVIDUAL REINSURANCE ASSOCIATION

1. Association established. The Maine Individual Reinsurance Association is established as a nonprofit legal entity. As a condition of doing business, every member insurer must participate in the association. The Dirigo Health Program established in chapter 87 and any other state-run or state-sponsored health benefit program shall also participate in the association.

[2007, c. 629, Pt. A, §8 (NEW) .]

2. Board of directors. The association is governed by a board of directors in accordance with this subsection.

A. The board consists of 11 members appointed pursuant to this paragraph:

(1) Five members appointed by the superintendent, of whom:

- (a) Two members must be chosen from the general public and may not be associated with the medical profession, a hospital or an insurer;
- (b) One member must be a representative of a public health plan;
- (c) One member must represent health insurance producers; and
- (d) One member must represent a statewide association representing small businesses that receives the majority of its funding from persons and businesses in the State; and

(2) Six members appointed by insurers licensed to do business in this State, at least one of whom is a 3rd-party administrator other than an insurer. [2007, c. 629, Pt. A, §8 (NEW) .]

B. A board member appointed by the superintendent may be removed at any time without cause.

[2007, c. 629, Pt. A, §8 (NEW) .]

C. A board member may not be a registered lobbyist under Title 3, chapter 15. [2007, c. 629, Pt. A, §8 (NEW).]

D. Members of the board serve terms of 3 years. [2007, c. 629, Pt. A, §8 (NEW).]

E. The board shall elect one of its members as chair. [2007, c. 629, Pt. A, §8 (NEW).]

F. Board members may be reimbursed from funds of the association for actual and necessary expenses incurred by them as members but may not otherwise be compensated by the association for their services. [2007, c. 629, Pt. A, §8 (NEW).]

[2007, c. 629, Pt. A, §8 (NEW) .]

3. Plan of operation; rules. The association shall adopt a plan of operation in accordance with the requirements of this chapter and submit its articles, bylaws and operating rules to the superintendent for approval. If the association fails to adopt the plan of operation and suitable articles and bylaws within 90 days after the appointment of the board, the superintendent shall adopt rules to effectuate the requirements of this chapter, and those rules remain in effect until superseded by a plan of operation and articles and bylaws submitted by the association and approved by the superintendent. Rules adopted pursuant to this subsection by the superintendent are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2007, c. 629, Pt. A, §8 (NEW) .]

4. Immunity. A board member is not liable and is immune from suit at law or equity for any conduct performed in good faith that is within the subject matter over which the board has been given jurisdiction.

[2007, c. 629, Pt. A, §8 (NEW) .]

SECTION HISTORY

2007, c. 629, Pt. A, §8 (NEW).

24-A §3904. LIABILITY AND INDEMNIFICATION

1. Liability. The board and its employees may not be held liable for any obligations of the association. A cause of action may not arise against the association; the board, its agents or its employees; any insurer belonging to the association or its agents, employees or producers; or the superintendent for any action or omission in good faith in the performance of powers and duties pursuant to this chapter.

[2007, c. 629, Pt. A, §8 (NEW) .]

2. Indemnification. The board in its bylaws or rules may provide for indemnification of, and legal representation for, its members and employees.

[2007, c. 629, Pt. A, §8 (NEW) .]

SECTION HISTORY

2007, c. 629, Pt. A, §8 (NEW).

24-A §3905. DUTIES AND POWERS OF THE ASSOCIATION

1. Duties. The association shall:

A. Establish administrative and accounting procedures for the operation of the association; [2007, c. 629, Pt. A, §8 (NEW).]

- B. Establish procedures under which applicants and participants in the plan may have grievances reviewed by an impartial body and reported to the board; [2007, c. 629, Pt. A, §8 (NEW).]
- C. Select a plan administrator in accordance with section 3906; [2007, c. 629, Pt. A, §8 (NEW).]
- D. Establish procedures for the handling and accounting of association assets; and [2007, c. 629, Pt. A, §8 (NEW).]
- E. Establish an amount to be retained in the Reinsurance Association Reserve in accordance with section 3907. [2007, c. 629, Pt. A, §8 (NEW).]

[2007, c. 629, Pt. A, §8 (NEW) .]

2. Powers. The association may:

- A. Exercise powers granted to nonprofit corporations under the laws of this State; [2007, c. 629, Pt. A, §8 (NEW).]
- B. Enter into contracts as necessary or proper to carry out the provisions and purposes of this chapter, including the authority, with the approval of the superintendent, to enter into contracts with similar organizations in other states for the joint performance of common administrative functions or with persons or other organizations for the performance of administrative functions; [2007, c. 629, Pt. A, §8 (NEW).]
- C. Sue or be sued, including taking any legal actions necessary or proper to recover or collect obligations due the association; [2007, c. 629, Pt. A, §8 (NEW).]
- D. Take any legal actions necessary to avoid the payment of improper claims against the association or the coverage provided by or through the association, to recover any amounts erroneously or improperly paid by the association, to recover any amounts paid by the association as a result of mistake of fact or law or to recover other amounts due the association; [2007, c. 629, Pt. A, §8 (NEW).]
- E. Appoint appropriate legal, actuarial and other committees as necessary to provide technical assistance in the operation of the plan, policy or other contract design and any other function within the authority of the association; [2007, c. 629, Pt. A, §8 (NEW).]
- F. Establish procedures for reinsuring risks of insurers in the association in accordance with section 3908; [2007, c. 629, Pt. A, §8 (NEW).]
- G. Provide for reinsurance of risks incurred by the association. The provision of reinsurance may not subject the association to any of the capital or surplus requirements, if any, otherwise applicable to reinsurers; and [2007, c. 629, Pt. A, §8 (NEW).]
- H. Apply for funds or grants from public or private sources, including federal grants provided to qualified high-risk reinsurance associations. [2007, c. 629, Pt. A, §8 (NEW).]

[2007, c. 629, Pt. A, §8 (NEW) .]

3. Additional duties and powers. The superintendent may, by rule, establish additional powers and duties of the association and may adopt such rules as are necessary and proper to implement this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2007, c. 629, Pt. A, §8 (NEW) .]

4. Review for solvency. The superintendent shall review the operations of the association at least every 3 years to determine its solvency. If the superintendent determines that the funds of the association are insufficient to support the need for reinsurance, the superintendent may order the association to adjust the initial level of claims and the reserve amount to be retained by the association.

[2007, c. 629, Pt. A, §8 (NEW) .]

5. Annual report. The association shall report annually to the joint standing committee of the Legislature having jurisdiction over health insurance matters by March 15th. The report must include information on the financial solvency of the association and the administrative expenses of the association.

[2007, c. 629, Pt. A, §8 (NEW) .]

6. Audit. The association must be audited at least every year by an independent auditor. A copy of the audit must be provided to the superintendent and to the joint standing committee of the Legislature having jurisdiction over health insurance matters.

[2007, c. 629, Pt. A, §8 (NEW) .]

SECTION HISTORY

2007, c. 629, Pt. A, §8 (NEW).

24-A §3906. SELECTION OF PLAN ADMINISTRATOR

1. Selection of plan administrator. The board shall select an insurer or 3rd-party administrator, through a competitive bidding process, to administer the association.

[2007, c. 629, Pt. A, §8 (NEW) .]

2. Contract with plan administrator. The plan administrator selected pursuant to subsection 1 is contracted for a period of 3 years. At least one year prior to the expiration of each 3-year period of service by a plan administrator, the board shall invite all insurers, including the current plan administrator, to submit bids to serve as the plan administrator for the succeeding 3-year period. The selection of the plan administrator for the succeeding period must be made at least 6 months prior to the expiration of the 3-year period.

[2007, c. 629, Pt. A, §8 (NEW) .]

3. Duties of plan administrator. The plan administrator selected pursuant to subsection 1 shall:

A. Perform all administrative functions relating to the association; [2007, c. 629, Pt. A, §8 (NEW) .]

B. Submit regular reports to the board regarding the operation of the association. The frequency, content and form of the reports must be as determined by the board; [2007, c. 629, Pt. A, §8 (NEW) .]

C. Following the close of each calendar year, report to the superintendent the amount of revenue received from the Dirigo Health Enterprise Fund pursuant to section 6915, the expenses of administration pertaining to reinsurance operations of the program and the incurred losses of the year; and [2007, c. 629, Pt. A, §8 (NEW) .]

D. Pay reinsurance amounts as provided for in the plan of operation. [2007, c. 629, Pt. A, §8 (NEW) .]

[2007, c. 629, Pt. A, §8 (NEW) .]

4. Payment to plan administrator. The plan administrator selected pursuant to subsection 1 must be paid, as provided in the contract of the association under subsection 2, for the plan administrator's direct and indirect expenses incurred in the performance of the plan administrator's services. As used in this subsection, "direct and indirect expenses" includes that portion of the audited administrative costs, printing expenses, management expenses, building overhead expenses and other actual operating and administrative expenses of the plan administrator that are approved by the board as allocable to the administration of the association and included in the specifications of a bid under subsection 2.

[2007, c. 629, Pt. A, §8 (NEW) .]

SECTION HISTORY

2007, c. 629, Pt. A, §8 (NEW).

24-A §3907. REINSURANCE ASSOCIATION RESERVE

1. Reserve established. The Reinsurance Association Reserve is established within the Dirigo Health Enterprise Fund as an account for the deposit of funds as required by subsection 2.

[2007, c. 629, Pt. A, §8 (NEW) .]

2. Funds. The Reinsurance Association Reserve is capitalized by money from the Dirigo Health Enterprise Fund, as established pursuant to section 6915, and any other fund advanced for initial operating expenses, any funds received from any public or private source, legislative appropriations, payments from state departments and agencies and such other means as the Legislature may approve. All money in the Reinsurance Association Reserve may be used only by the association for the purposes of this section. Funds in the reserve do not lapse, but must be carried forward to carry out the purposes of this chapter.

[2007, c. 629, Pt. A, §8 (NEW) .]

SECTION HISTORY

2007, c. 629, Pt. A, §8 (NEW).

24-A §3908. REINSURANCE

1. Reinsurance amount. Any member insurer offering an individual health insurance plan pursuant to section 2736-C must be reinsured by the association to the level of coverage provided in this subsection.

A. Beginning July 1, 2009, the association shall reimburse a member insurer with respect to claims of an insured individual at a rate of 50% of the aggregate claims paid between \$75,000 and \$250,000 for that person for covered benefits in a state fiscal year, to the extent funds are available pursuant to paragraph B. [2007, c. 629, Pt. A, §8 (NEW) .]

B. [2007, c. 629, Pt. A, §8 (NEW) .]

B. The association shall limit total annual reimbursements to member insurers to the amount of money transferred annually from the Dirigo Health Enterprise Fund. Any money at the end of the fiscal year not used for reimbursements must be transferred to the Reinsurance Association Reserve account under section 3907. [2007, c. 629, Pt. A, §8 (NEW) .]

[2007, c. 629, Pt. A, §8 (NEW) .]

SECTION HISTORY

2007, c. 629, Pt. A, §8 (NEW).

24-A §3909. ACTIONS AGAINST ASSOCIATION OR MEMBERS BASED UPON JOINT OR COLLECTIVE ACTIONS

Participation in the association, the establishment of forms or procedures or any other joint or collective action required by this chapter may not be the basis of any legal action or criminal or civil liability or penalty against the association or any insurer belonging to the association. [2007, c. 629, Pt. A, §8 (NEW).]

SECTION HISTORY

2007, c. 629, Pt. A, §8 (NEW).

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