

**TASK FORCE ON
HEALTH CARE COVERAGE FOR ALL OF MAINE**

Draft Meeting Agenda

October 15, 2018

9:00 am to 12:30 pm

Room 220, Cross State Office Building

- ❖ Welcome and Introduction of Chairs and Members
 - ❖ Review Revised Draft Recommendations and Finalize Report
- Public Comment (*at discretion of the chairs, time permitting*)



**STATE OF MAINE
128th LEGISLATURE**

Task Force on Health Care Coverage for All of Maine

November 2018

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Rep. Heather B. Sanborn, Chair
Sen. Geoffrey M. Gratwick
Sen. Eric L. Brakey
Rep. Robert A. Foley
Rep. Anne C. Perry
Rep. Paul Chace
Kristine Ossenfort
Joel Allumbaugh
Mark Hovey
Jeffery A. Austin
Daniel Kleban
Kevin Lewis
Francis McGinty**

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[TO BE COMPLETED]

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Executive Summary

[TO BE ADDED]

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I. INTRODUCTION

The Task Force on Health Care Coverage for All of Maine was established by Joint Order, SP 592 as amended by House Amendment "A". The purpose expressed in the Joint Order was to ensure that all residents of the State have access to and coverage for affordable, quality health care and to study the design and implementation of options for a health care plan that provides coverage for all residents of the State. A copy of the Joint Order, S.P. 592 as amended, is included as Appendix A.

Although the Joint Order asked the Task Force to study the design and implementation of options for different health care plans providing coverage for all residents of the State, the Joint Order also provided authority and discretion for the Task Force to consider a broad range of issues affecting the accessibility and affordability of health care coverage. The Task Force agreed to approach its work to first understand what is broken in the current health care system and then to work together to identify potential policy solutions.

The Task Force has 16 members: 8 legislative members; and 8 non-legislative members representing interests specifically identified in the Joint Order. Senator Rodney L. Whittemore was named Senate chair and Representative Heather B. Sanborn was named House chair. Pursuant to the Joint Order, the legislative members are bipartisan and 7 of the 8 members also serve on the Joint Standing Committee on Health and Human Services or the Joint Standing Committee on Insurance and Financial Services. The Task Force members are:

Sen. Rodney L. Whittemore, Senate Chair	<i>Senate Chair and member of Insurance and Financial Services Committee, appointed by the President of the Senate</i>
Rep. Heather B. Sanborn, House Chair	<i>House Chair and member of Insurance and Financial Services Committee, appointed by the Speaker of the House</i>
Sen. Geoffrey M. Gratwick	<i>Senate member, appointed by the President of the Senate</i>
Sen. Eric M. Brakey	<i>Senate member of Health and Human Services Committee, appointed by the President of the Senate</i>
Sen. Everett Brownie Carson	<i>Senate member of Insurance and Financial Services Committee, appointed by the President of the Senate</i>
Rep. Robert A. Foley	<i>House member of Insurance and Financial Services Committee, appointed by the Speaker of the House</i>
Rep. Anne C. Perry	<i>House member of Health and Human Services Committee, appointed by the Speaker of the House</i>
Rep. Paul Chace	<i>House member of Health and Human Services Committee, appointed by the Speaker of the House</i>

Kristine Ossenfort	<i>Representing the interests of health insurance carriers, appointed by the President of the Senate</i>
Joel Allumbaugh	<i>Representing the interests of consumers, appointed by the President of the Senate</i>
Mark Hovey	<i>Representing the interests of employers with greater than 50 employees, appointed by the President of the Senate</i>
Jeffrey A. Austin	<i>Representing the interests of hospitals, appointed by the President of the Senate</i>
Daniel Kleban	<i>Representing the interests of employers with fewer than 50 employees, appointed by the Speaker of the House</i>
Kevin Lewis	<i>Representing the interest of health insurance carriers, appointed by the Speaker of the House</i>
Francis McGinty	<i>Representing the interests of health care providers, appointed by the Speaker of the House</i>
Patricia Riley	<i>Representing the interests of consumers, appointed by the Speaker of the House</i>

The complete membership of the Task Force, including contact information, is included as Appendix B. As directed by the Joint Order, the President of the Senate and the Speaker of the House of Representatives invited the participation of the Commissioner of Health and Human Services and the Superintendent of Insurance or their designees, as members of the task force, but that invitation was declined. The Office of Policy and Legal Analysis provided staff support to the Task Force.

With authorization from the Legislative Council, the Task Force met 8 times: once in 2017 on December 20; and 7 times in 2018: January 22, March 2, April 2, May 23, September 12, October 2, and October 15. All of the meetings were held in the State House Complex in Augusta and open to the public. Live audio of each meeting was made available through the Legislature's webpage.

The Task Force also established a website which can be found at <http://legislature.maine.gov/task-force-on-health-care-coverage>. The website includes agendas, meeting materials and links to related resources.

This report fulfills the Task Force's requirement to submit a final report for presentation to the First Regular Session of the 129th Legislature.

II. [TO BE ADDED]

III. TASK FORCE PROCESS

❖ Survey

As a tool to help better understand the areas of agreement and identify possible areas of disagreement among the Task Force members, the chairs developed a survey. The chairs anticipated that the results of the survey and the expertise of Task Force members would be used to frame the task force's remaining work. Thirteen of the 16 members responded to the survey. A summary of the survey responses can be found in Appendix _____

After reviewing the survey, the Task Force recognized that there was some common ground among the members, particularly with regard to reducing the cost of health care services and prescription drugs. The survey responses were used by the study groups as a framework for discussion.

❖ Study Groups

The Task Force formed 3 study groups organized around the following topics: Controlling Costs; the Structure of the Health Insurance Market; and Public Options. The chairs considered preferences expressed by members and named the following members to each study group:

Controlling Costs Study Group: Sen. Brownie Carson, Rep. Paul Chace, Jeff Austin, Trish Riley, Mark Hovey

Public Options Study Group: Sen. Geoff Gratwick, Rep. Bob Foley, Dan Kleban, Kevin Lewis

Structure of the Health Insurance Market Study Group: Rep. Anne Perry, Sen. Eric Brakey, Joel Allumbaugh, Kristine Ossenfort, Frank McGinty

The Study Groups were directed to develop potential policy recommendations related to each subject area for consideration by all members of the Task Force. The Study Groups used the time between the Task Force's May and September meetings for discussion. The following summarizes the discussions of each Study Group.

Controlling Costs Study Group. The Controlling Costs Study Group met 3 times in person or by conference call: March 28, May 21 and September 20. The Study Group also circulated proposals for consideration and comment in writing. Rep. Sanborn, House Chair of the Task Force, and Sen. Gratwick participated in some discussions.

The Study Group's goal was to develop both long-term and short-term approaches to controlling costs. The Study Group initially identified four areas of interest for further discussion:

1. Reduction of administrative costs in the billing/claim processes
2. Reimbursement/rate reform-- reasonable reimbursement to providers for services

3. Reduction of prescription drug costs/growth rate
4. Incentives to change behavior to avoid medical care cost--prevention

Between the May and September meetings of the Study Group, the members narrowed its focus to potential policy options to help control prescription drug costs. At the September 20th meeting, the Study Group developed its preliminary recommendations for consideration by the Task Force. Rep. Chace was not present at that meeting, but circulated written comments expressing concerns about the potential legislative recommendations prior to the meeting.

The Study Group agreed to defer consideration of ways to reduce administrative costs and reporting burden by standardizing billing for medical services to allow stakeholders additional time to develop recommendations. At previous meetings, the Study Group members discussed the possibilities for reducing administrative costs through standardization of the billing and claims process. This issue was the focus for a 1998 legislative study by The Task Force to Study the Feasibility of a Single Claims Processing System for 3rd-Party Payors of Health Care Benefits. At that time, the task force declined to make recommendations for legislation and decided to defer to national efforts and private sector efforts to encourage electronic claims processing and simplify administrative claims processes. Many of the same issues raised years ago continue to exist today. Despite the use of the same form, government and commercial payers have different requirements for submitting claims. While Maine has enacted some laws designed to standardize the billing and claims process, the group determined that it may be useful to gather more information and suggestions from providers and payers for additional measures to streamline the claims process.

Jeff Austin has reached out to the State Uniform Billing Committee (SUBC) and providers to gather more information and seek suggestions for potential ways to streamline the process. One of the issues that members of the SUBC have expressed concerns about is the prior authorization process. One example described by Mr. Austin related to a recent proposed rule by DHHS for the MaineCare program; the proposed rule would require providers to call DHHS to determine if prior authorization is needed for lab services and then for providers to submit the necessary paperwork. Mr. Austin noted that hospitals alone provide approximately 250,000 lab services annually, frequently in evening and on weekends when DHHS will not be available for phone calls, and that the proposal raises many logistical concerns.

Because the next meeting of the SUBC isn't until after the Study Group and Task Force is expected to complete its work. Mr. Austin suggested that the Study Group defer any specific recommendation at this time. Mr. Austin and the Maine Hospital Association will work with the Maine Medical Association and members of the SUBC to develop recommendations and look for efficiencies in the process with all payers, public and commercial.

Public Options Study Group. The Public Options Study Group met 7 times: March 23, March 30, May 8, July 25, August 15, August 22 and September 5. Rep. Sanborn, House Chair of the Task Force, participated in some discussions.

The Study Group noted that significant time is needed to develop a concept for a new model or models for providing health care coverage to residents of Maine. The Study Group identified several important elements of any new health care model that must be included moving forward:

- System must be simpler and predictable
- Funded through contributions from all residents, including those receiving public benefits
- Coverage for all residents—everybody in
- Oversight through a centralized government trust or authority
- Coverage provided through existing carriers---focus competition among carriers on service and consumer engagement in health and wellness
- Provide agreed-upon “basic health plan” or uniform benefits package with supplemental coverage and benefits available
- Changes in reimbursement/payment model for health care providers to eliminate/reduce cost-shifting
- Reinsurance and risk adjustment for carriers
- Cost containment measures needed to bring down costs, including administrative costs and prescription drug costs
- Implement system for electronic sharing of individual health care data among carriers and providers---facilitate access to medical records/coverage information through single ID card

The study group acknowledged that any model would need careful actuarial analysis and study. The group also recognizes the difficult politics surrounding the enactment and implementation of such a model. Despite those challenges, the study group believes the system needs large scale and long-term reform.

Following the May task force meeting, the Public Options Study Group met four times by conference call. To facilitate public access, staff moderated the calls from the IFS Committee Room so members of the public could attend the meeting or listen through the audio links on the Legislature’s website. The primary purpose of the calls was to discuss current and past health care reform efforts in several states and to discern what lessons could be learned as the study group considers potential recommendations for health care policy changes.

The following conference calls were held by the Study Group.

Wednesday, July 25th from 12:00 pm to 2:00 pm with Trish Riley, current task force member who was Director of the Governor’s Office of Health Policy and Finance when Dirigo Health was enacted. Ms. Riley provided her perspective on the Dirigo Health Program here in Maine.

Wednesday, August 15th from 9:00 am to 11:00 am with Dr. Deb Richter. Dr. Richter is a physician and board member of Vermont Health Care for All. She discussed universal health care efforts in Vermont.

Wednesday, August 22nd from 12:00 pm to 2:00 pm with Lyn Gullette, Co-Operate Colorado, and Ivan Miller, Colorado Foundation for Universal Health Care. They discussed universal health care efforts in Colorado.

Wednesday, September 5th from 9:30 am to 11:30 am with John Colmers, Vice President, Health Care Transformation and Strategic Planning, Johns Hopkins Medicine. Mr. Colmers discussed health policy efforts in Maryland, including global budgeting and rate setting.

Structure of the Health Insurance Market Study Group. The Structure of the Health Insurance Market Study Group met five times: March 26, April 23, May 21, July 24 and August 28. Sen. Gratwick also participated in some discussions.

The Study Group focused on the consideration of policy recommendations related to the individual and small group health insurance market. The members hoped to develop recommendations that would target certain populations experiencing problems related to health insurance coverage in the existing market, including:

- Individuals who have incomes below 100% of the federal poverty level who do not qualify for the APTC (advanced premium tax credit);
- Individuals who are “lightly subsidized” and particularly sensitive to health insurance premium increases;
- Individuals who have incomes above 400% of the federal poverty level who do not qualify for the APTC; and
- Those enrolled in the small group health insurance market.

Study Group members noted that current federal law and uncertainty related to the action/inaction of the federal government are important factors in whether possible policy solutions can succeed at the state level to improve the affordability and stability of the health insurance market in Maine. Another significant factor not directly addressed by the study group is the underlying cost of health care, which drives the cost of health insurance; as a result, the efforts of the Controlling Costs Study Group and policy recommendations to control health care costs are very important.

The Study Group considered a number of possible policy options and identified the advantages and disadvantages of each policy option and the potential barriers to implementation. The Study Group also discussed the importance of having data to inform its policy recommendations and talked with the Maine Health Data Organization about whether its claims database could be more rigorously utilized to determine cost drivers, cost variations, trends and quality. The Maine Health Data Organization provided certain information related to health care claims costs requested by the Study Group.

IV. RECOMMENDATIONS

[TO BE ADDED AFTER TASK FORCE MEETINGS ON 10/2 AND 1/15]

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APPENDIX A

Authorizing Joint Order

APPENDIX B

Membership list, Task Force on Health Care Coverage for All of Maine

DRAFT FOR TASK FORCE REVIEW ON 10/15
Revised based on Task Force Discussion at 10/2 Meeting

TASK FORCE ON HEALTH CARE COVERAGE FOR ALL OF MAINE
DRAFT RECOMMENDATIONS

{NOT YET VOTED ON OR AGREED TO BY FULL TASK FORCE; TASK FORCE DEFERRED
DISCUSSION OF WHETHER TO MAKE DRAFT RECOMMENDATION RELATED TO
MEDICAID EXPANSION TO 10/15 MEETING}

1. Draft Recommendations related to Task Force and Legislative Oversight

- Recommend by letter to the Presiding Officers that the Joint Standing Committee on Insurance and Financial Services be renamed the Joint Standing Committee on Health Care, Insurance and Financial Services and that its jurisdiction be expanded to include consideration of proposed legislation related to cost containment and to access and affordability of health care coverage*

The Task Force recognizes that understanding issues related to health care affordability and access and developing proposals for health care reform will take a sustained effort over many years. While the work of the Task Force is significant, the existence of a task force or other study committee is limited to 2 years and dissolves at the end of each legislative biennium. The Task Force believes that the sustained effort of a joint standing committee of the Legislature is necessary to provide ongoing oversight of health care reform efforts.

To help provide that sustained effort, the Task Force recommends that Joint Standing Committee on Insurance and Financial Service be renamed the Health Care, Insurance and Financial Services Committee in the 129th Legislature and that the jurisdiction of the committee be expanded to include consideration of proposed legislation related to access and affordability of health care coverage and to cost containment. The Task Force believes this proposal would unify the consideration of legislative proposals related to health care access and affordability within a single committee that has the time and capacity to focus on our health care system in its entirety. The Task Force believes the newly-named Committee should also be responsible for continuing to study and monitor the innovations being introduced in other states and for working on a model for larger scale health care reform proposals. The Task Force recommends that the Committee coordinate its efforts with the Health and Human Services Committee so that public spending through the MaineCare program is part of the broader conversation about health reform as well. The Task Force also anticipates working closely with the Committee assuming the Task Force continues in the 129th Legislature.

- Reestablish the Task Force in the 129th Legislature to allow the Task Force additional time to continue its work to develop, study and analyze options for health care reform*

The Task Force believes that more time is needed to continue the discussions begun by the Task Force to develop proposals for providing health care coverage to residents of Maine. The Task Force acknowledges that development of a sustainable model for health care reform in Maine is a long-term endeavor and work should continue through the 129th Legislature. The Task Force recommends that the Legislature reestablish the Task Force with similar membership including legislators from the relevant policy committees and stakeholders representing the interests outlined in the original joint study order.

The Task Force also recommends that any reestablished Task Force be given broad authority and discretion to consider a wide range of issues affecting the accessibility and affordability of health care coverage. The Task Force does not believe it necessary for the work of the reestablished Task Force to be limited to the design of specific models for health care reform.

DRAFT FOR TASK FORCE REVIEW ON 10/15
Revised based on Task Force Discussion at 10/2 Meeting

- Pursue additional funding to provide consulting and actuarial support for the Task Force*

The Task Force believes that it will require the expertise of consultants and actuaries to assist in the development, study and analysis of options for health care reform. Additional funding and resources will be needed for that analysis. The Task Force recommends that the Task Force, Legislature and other stakeholders pursue all avenues for additional funding, including federal and State funding and grant funding from public and private sources.

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DRAFT FOR TASK FORCE REVIEW ON 10/15
Revised based on Task Force Discussion at 10/2 Meeting

2. Draft Recommendation related to implementation of current law—*not discussed at 10/2 meeting; deferred until 10/15*

- Support implementation of Medicaid expansion*{does not represent consensus of Study Group members}*

A majority of the members support Medicaid expansion and believe the task force should consider a recommendation supporting expansion and efforts to implement expansion.

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DRAFT FOR TASK FORCE REVIEW ON 10/15
Revised based on Task Force Discussion at 10/2 Meeting

3. Draft Recommendations related to suggested legislation for consideration by 129th Legislature

□ Propose legislation to regulate pharmacy benefits managers

The Task Force recommends that legislation be introduced in the 129th Legislature to increase regulatory oversight over pharmacy benefit managers (PBMs). The proposed legislation should be based on model legislation developed by the National Academy of State Health Policy that would set standards for pharmacy benefit manager (PBM) business practices and fiduciary duties and require licensure for PBMs. Under current Maine law, PBMs are required to register with the Bureau of Insurance, but are not licensed. Members of the Task Force suggested that there is a role for government on this issue and that it would benefit all payers, including self-insured employers. The model legislation is also designed to provide transparency and accountability for PBM business practices as it is very difficult to understand the “black box” of PBM contracts. The model legislation will soon be updated to address “spread pricing.” “Spread pricing” is a pricing model where payers purchase drugs at a retail rate higher than the discounted price negotiated by the PBM and the PBM retains the “spread”—the difference between the purchase price and the negotiated rate.

The Task Force noted that the model legislation can be changed and anticipates that some changes, if legislation were put forward in Maine, are warranted. These changes would account for certain provisions that have already been enacted in Maine and would designate the appropriate oversight agency. Members pointed out that the appropriate oversight entity for PBMs, whether it is the Bureau of Insurance or the Department of Health and Human Services, is an important consideration.

The Task Force discussed prior legislation enacted in Maine in 2003 to regulate PBMs, including a provision similar to the model’s provision stating that PBMs have a fiduciary duty to payers. The Maine law was repealed in 2011. Since 2011, members noted that the PBM industry has undergone significant changes. While Maine was at the forefront and originally one of the first states to enact legislation, 26 states now have laws addressing the regulation of PBMs.

Given the current state of prescription drug prices and the expanding role of PBMs, the members agreed that this is an appropriate time to take legislative action to address accountability and transparency of PBMs. The Task Force agreed to recommend that the legislation be proposed in the 129th Legislature to regulate pharmacy benefits managers, using the model legislation as the basis for the proposal.

More information on this issue and model legislation can be found at <https://nashp.org/pharmacy-benefit-manager/>

□ Propose legislation to consider changes to the Maine Health Data Organization statute to strengthen reporting requirements related to health care costs and to broaden its authority to provide data analysis

The Task Force recommends that legislation be proposed to consider changes to the Maine Health Data Organization statute to strengthen reporting requirements related to health care costs. The Task Force also recommends that the proposed legislation include consideration of changes to broaden MHDO’s authority to provide data analysis.

DRAFT FOR TASK FORCE REVIEW ON 10/15
Revised based on Task Force Discussion at 10/2 Meeting

Members of the Task Force's Structure of the Health Insurance Market Study Group had discussions with the Maine Health Data Organization about MHDO's capacity to provide health care cost information. MHDO's claims database has the capacity to provide a great deal of information, but has limited resources. Members were particularly interested in whether the claims database could be more rigorously utilized to determine cost drivers, cost variations, trends and quality and to assist policymakers and others in developing health care reform proposals. Members agreed to recommend that statutory changes to Section 8712 of MHDO's governing statutes be considered to strengthen and integrate MHDO's collection and reporting of cost and quality measures. Section 8712 of MHDO's governing statutes is the provision that guides MHDO in determining what data is collected and reported on its website. The members believe that the cost and quality measures available to the public can be strengthened.

The Task Force believes that policymakers should also consider expanding MHDO's responsibility and capacity for analysis of health care data, including analysis of health care costs and trends. If changes are made to MHDO's statutory responsibilities, the Task Force stresses that additional funding for MHDO must be included from the State's General Fund. MHDO is currently funded through assessments on health care providers and health insurance carriers and those entities cannot absorb any increases in assessments without passing those increases directly onto health care consumers.

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DRAFT FOR TASK FORCE REVIEW ON 10/15
Revised based on Task Force Discussion at 10/2 Meeting

4. Draft Recommendations related to continued study and monitoring of issues discussed by the Task Force Study Groups

Through the work of the Study Groups, the Task Force recommends that the Task Force continue to monitor and study the following topics and potential policy proposals related to prescription drug pricing, to responding to changes in federal law and regulation and to the regulatory structure of Maine's health insurance market.

Prescription Drug Pricing

- Monitor activity in Vermont and any other state to implement a state-sponsored wholesale importation program for certain high cost prescription drugs from Canada and explore opportunities for regional collaboration with Vermont and other New England states on wholesale importation program***

The Task Force recommends that the Task Force continue to monitor and analyze activities in Vermont and any other states to implement a wholesale importation program and to provide regular updates to the Legislature on those activities. The Task Force also agreed to recommend that the Legislature explore opportunities for regional collaboration with Vermont and other New England states related to a wholesale importation program.

The Controlling Costs Study Group considered a proposal to establish a state-administered system to import and distribute certain prescription drugs from Canada; drugs purchasers, including pharmacies, drug distributors and health plans, would agree to purchase and reimburse drugs based on the imported price. If enacted, this proposal would require a federal waiver/authorization. The National Academy for State Health Policy has developed model legislation. Vermont recently became the first state to enact legislation to authorize that State to establish an importation program and request the necessary federal approvals.

Task Force members expressed some concerns about moving forward immediately with the model legislation. Vermont has to obtain the necessary federal approvals to authorize the program. In addition, there are a number of administrative and business challenges to be considered if wholesale importation is to be implemented. Members suggested that Maine may be better off waiting and trying to learn from Vermont's experience and those in other states. Other members expressed concern about unintended consequences and whether costs would be shifted to other drugs. Although members noted that this approach may be more easily understood by consumers than other approaches, it was suggested that the group continue to monitor activities in Vermont and other states. Members suggested that the Legislature could require staff to report regularly on Vermont's activities and that there may be opportunities for Maine and other states to collaborate with Vermont on an importation program.

More information on this issue and model legislation can be found at <https://nashp.org/drug-importation/>

DRAFT FOR TASK FORCE REVIEW ON 10/15
Revised based on Task Force Discussion at 10/2 Meeting

- Continue to study and analyze model legislation to establish state commission authorized to set maximum rates paid for certain high cost prescription drugs*

The Task Force recommends that the Task Force continue to study and analyze model legislation to establish a state commission to set maximum rates paid for certain high cost prescription drugs.

The Controlling Costs Study Group considered model legislation developed by the National Academy for State Health Policy that would establish a state commission to review the cost of certain prescription drugs based on parameters set forth in the law and establish a maximum amount that payers, both public and private, would pay for those individual drugs. Similar legislation has been put forward in Maryland, but has not yet been enacted. Under such legislation, predetermined thresholds for prescription drug price increases trigger commission review and, if increases are not adequately justified, the commission could cap the reimbursement rate for those drugs for all payers. The commission would not set prices but would cap what payers pay for drugs.

The Task Force determined that additional costs and benefit analysis and refinement of the model should be done before recommending proposed legislation. The Task Force also agreed that identifying the source or sources of funding for a state commission would require further study. Given the concerns, the Task Force agreed that it would be worthwhile to continue study and analysis of the model legislation and activities in other states to consider similar legislation.

More information and model legislation can be found at <https://nashp.org/rate-setting/>

Responding to Changes in Federal Law and Regulation

- Monitor the practice of “silver loading” of ACA marketplace policies to mitigate impact of changes to changes to cost sharing reductions under the ACA*

The Task Force recommends that the Task Force monitor the practice of “silver loading” of ACA marketplace policies to mitigate the impact of changes to cost sharing reductions under the ACA.

The Structure of the Health Insurance Market Study Group discussed the impact of the elimination of cost-sharing reductions for enrollees in the federal marketplace that had incomes at or below 250% of the federal poverty level. For many enrollees, the impact of the reduction was mitigated by a practice called “silver loading”. Rather than simply raising the cost of all ACA health plans (“bronze,” “silver,” “gold,” and “platinum” plans), insurers added the CSR-related premium rate increases into just silver-level plan premiums. Because the ACA uses the premium for “silver” plans to determine the premium subsidies available to individuals with annual incomes below 400% of FPL, when premiums for silver plans increased, federal subsidies increased along with them. The study group recognizes that silver loading” has had a mitigating effect on premium increases for consumers receiving federal subsidies and recommends continued monitoring of activities at the federal and state level that affect the availability of cost-sharing reductions for enrollees in the federal marketplace or the practice of “silver loading”.

- Monitor federal activity related to the Sec. 1332 waiver process and consider engaging Congressional delegation to seek changes to streamline the waiver process*

The Task Force recommends that the Task Force monitor federal activity related to the Sec. 1332 waiver process and consider engaging Congressional delegation to seek changes to streamline the waiver process.

DRAFT FOR TASK FORCE REVIEW ON 10/15 Revised based on Task Force Discussion at 10/2 Meeting

The Structure of the Health Insurance Market Study Group acknowledged that several of the policy options discussed by the study group related to MGARA and the individual and small group market may require a 1332 waiver of certain requirements of the ACA. The requirements of the current waiver process are time consuming. Members noted that the Task Force should pay attention to activity at the federal level related to the waiver process and consider whether the task force should engage Maine's Congressional delegation to seek changes to streamline the waiver process for states.

Monitor activity in states that have enacted a state-level individual mandate

The Task Force recommends that the Task Force monitor activity in states that have enacted a state-level individual mandate.

The Structure of the Health Insurance Market Study Group discussed the issue of incentivizing the purchase of health insurance coverage and whether to recommend a state-level individual mandate to replace the federal mandate following its repeal. One member noted that it would be unfair to recommend such a mandate without providing access to coverage through Medicaid expansion and sufficient financial assistance to purchase health insurance in the face of premium increases. Other members wondered whether a mandate would really help without adequate enforcement and affordable options for coverage and whether it could be successful at the state level. Members agreed it would be useful to monitor New Jersey and other states that have recently enacted a state mandate. Members also discussed other policy options that could improve the stability of the individual market in the absence of a mandate. Members felt that financial incentives and financial assistance to purchase coverage could be more important than a mandate.

Monitor how changes in federal rules for short-term health insurance policies impact Maine's individual market

The Task Force recommends that the Task Force monitor how changes in federal rules for short-term health insurance policies impact Maine's individual market.

The Structure of the Health Insurance Market Study Group discussed the recent changes to federal rules related to short-term health insurance policies and reviewed Maine's current law governing short-term policies. Federal regulations governing short-term health insurance policies were changed in early August and become effective for short-term policies sold on or after October 2, 2018. The federal regulations extend the maximum coverage period for short-term policies from 3 months to less than 12 months (or 364 days). The regulation also permits carriers who offer short-term policies to renew those policies for a total of 36 months. The prior federal rule prohibited renewals. Current Maine law mirrors the federal rule by defining a short-term policy as one with a term of less than 12 months. However, Maine law prohibits renewal of short-term policies and limits the maximum coverage under successive short-term policies to 24 months. The federal rule allows states to regulate short-term policies in a more restrictive manner, including prohibiting the sale of short-term policies altogether. It was also suggested that the task force could consider statutory changes to mirror the federal rules. The members agreed that it is important to monitor how the changes in federal rules may impact the sale of short-term policies in Maine health insurance market, the availability and affordability of health insurance coverage and the stability of the market for ACA-compliant individual health plans.

DRAFT FOR TASK FORCE REVIEW ON 10/15
Revised based on Task Force Discussion at 10/2 Meeting

- Monitor impact of reduction in federal funding for navigators and consider the possibility of providing State funding for navigators*

The Task Force recommends that the Task Force monitor impact of reduction in federal funding for navigators and consider the possibility of providing State funding for navigators.

The Structure of the Health Insurance Market Study Group discussed the significant reduction in federal grant funding for navigators for the 2019 enrollment period. In terms of federal funding for navigator assistance in Maine, the total amount of funding allocated to Maine for the 2018-2019 program year is \$100,000; this is a significant reduction in total funding as \$551,750 was awarded in 2017. Maine's 2 grantees in 2017 were: 1) The Fishing Partnership Health Plan, which was awarded \$100,000; and 2) Western Community Action Program, which was awarded \$451,750. On September 12th, CMS announced the 2018 grant awards. Maine has one grantee: Western Maine Community Action Program was awarded \$100,000. The members agreed to suggest that the task force monitor the impact of the reduction in federal funding for navigators and consider the possibility of providing state funding be provided for navigators.

Regulatory Structure of Maine's Health Insurance Market

- Continue to study and analyze possible statutory changes, including changes related to Maine's reinsurance mechanism (MGARA), the segregation of the individual risk pool, the definition of small group, and the determination/counting of full-time equivalent employees for insurance purposes*

The Task Force recommends that the Task Force continue to study and analyze possible statutory changes to the individual and small group market.

While the Structure of the Health Insurance Market Study Group initially discussed developing a proposal to seek a waiver to restart operations of Maine's reinsurance mechanism (MGARA), that discussion became moot when a waiver request was submitted and granted by the Federal government on July 30, 2018. MGARA's operations are expected to resume in January 2019. The members did discuss the potential for changes that would have an impact on MGARA's operations, including the segregation of the risk pool within MGARA to limit reinsurance to unsubsidized policies or policies sold off the federal marketplace, changing the definition of "small group", merging the individual and small group markets, expanding eligibility for reinsurance to small group policies as well as individual policies and changing the way in which an FTE is determined for insurance purposes. The members decided to recommend that there be continued study, analysis and research done by MGARA and the Bureau of Insurance on these potential policy changes.

- Monitor implementation of "right to shop" programs by health insurance carriers subject to requirements*

The Task Force recommends that the Task Force monitor implementation of "right to shop" programs by health insurance carriers subject to requirements.

The Structure of the Health Insurance Market Study Group discussed whether the "right to shop" program should be expanded to include additional categories of health care services. Because the effective date for health insurers subject to the law to offer health plans with "right to shop" incentives is not until January 2019, the members believe it is premature to recommend changes, but that the program should be monitored to determine if additional changes should be considered.

Task Force on Health Care Coverage for All of Maine

October 2, 2018

Draft Meeting Summary

Task Force Members Present:

Rep. Heather Sanborn, House Chair; Sen. Brownie Carson; Sen. Geoff Gratwick; Rep. Robert Foley; Rep. Anne Perry; Joel Allumbaugh; Jeff Austin; Dan Kleban; Frank McGinty; Kris Ossenfort; and Trish Riley.

Task Force Members Absent:

Sen. Rodney Whittemore, Senate Chair; Sen. Eric Brakey; Rep. Paul Chace; Kevin Lewis; and Mark Hovey.

Staff: Colleen McCarthy Reid and Erin Lundberg

Welcome and Introductions

Rep. Sanborn convened the meeting and members introduced themselves.

Consideration of Preliminary Recommendations from Study Groups

The Task Force reviewed and discussed the draft document prepared by staff outlining a potential recommendation proposed by Rep. Sanborn and other potential recommendations developed by each Study Group.

Additional recommendation proposed by Rep. Sanborn to recommend renaming of IFS Committee and expansion of its jurisdiction over some health-care related proposals

Rep. Sanborn suggested that the Task Force send a letter to the presiding officers recommending that the Insurance and Financial Services Committee be renamed the Health Care and Financial Services Committee and that its jurisdiction be expanded to encompass proposals related to prescription drugs, hospital and other health care facility licensing and regulation, health information and data, and health care professional and occupational licensing. Rep. Sanborn's suggestion flowed from the fact that the Task Force's efforts to get a handle on health care affordability and access issues will require a sustained effort over many years. A two-year task force or select committee that will dissolve at the end of the 129th Legislature does not seem to represent the best path forward for these sustained efforts. Instead, Rep. Sanborn suggested that the expanded committee should be tasked with continuing to develop a more comprehensive model for driving down health care costs and increasing affordability and accessibility for all Mainers and for continuing to study and monitor the innovations being introduced in other states and for working on a model for larger scale reform proposals in Maine. Rep. Sanborn proposed that the Task Force recommend that the committee coordinate its efforts closely with the Health and Human Services Committee so that public spending through the MaineCare program is part of the broader conversation about health reform as well.

Several members expressed support for the proposal because it has potential to develop continuity, expertise and oversight over health reform proposals in one committee. Others asked questions about the proposal and suggested that the expertise of other legislative committee members was critical; an alternative suggestion was made to consider an ad hoc or joint select committee with members from several committees like HHS and IFS instead of an expanded joint standing committee. Another member pointed out that the proposal did not include oversight of MaineCare. Rep. Sanborn said including MaineCare was considered, but the integration of MaineCare within the oversight and budget of DHHS

made it very hard to separate that specific program from other programs overseen by the Health and Human Services Committee. Another member noted that legislative committees are often “reactive” to legislative proposals and that it would be beneficial to develop a proposal that would permit a legislative committee to be “proactive” in this area to develop policy recommendations for health care reform. Members also expressed concern about the political aspect of legislative committees and advocated for the continuation of work by the Task Force or another group of stakeholders on health care reform to develop consensus on proposals beyond the Legislature.

Given the discussion, Rep. Sanborn suggested that the potential recommendation could be revised into 2-parts: one that recommends the presiding officers consider expanding the jurisdiction of the IFS Committee to include proposals related to cost containment and to access and affordability of health care coverage; and one that recommends the continuation of the Task Force in the 129th Legislature. The Task Force agreed and Rep. Sanborn will bring back a revised draft recommendation on October 15th.

Controlling Costs Study Group draft recommendations

The Study Group recommended that the Task Force put forward legislation to regulate pharmacy benefits managers, using the model legislation developed by the National Academy of State Health Policy as the basis for the proposal. The proposal would set standards for pharmacy benefit manager (PBM) business practices and fiduciary duties, improve transparency and require licensure for PBMs. Although under current Maine law PBMs are required to register with the Bureau of Insurance, the Study Group believes that it is worthwhile to consider additional regulation of PBMs that would benefit all payers, including self-insured employers.

The Task Force noted that the model legislation can be changed and anticipates that some changes, if legislation were put forward in Maine, are warranted. These changes would account for certain provisions that have already been enacted in Maine and would designate the appropriate oversight agency. Members pointed out that the appropriate oversight entity for PBMs, whether it is the Bureau of Insurance or the Department of Health and Human Services, is an important consideration.

Given the current state of prescription drug prices and the expanding role of PBMs, the members agreed that this is an appropriate time to take legislative action to address accountability and transparency of PBMs. The Task Force agreed to recommend that the legislation be proposed in the 129th Legislature to regulate pharmacy benefits managers, noting that any proposed legislation would have further discussion and be fully vetted as part of the committee process.

The Study Group also considered a proposal to establish a state-administered system to import and distribute certain prescription drugs from Canada. The Study Group recommended that the Task Force not move forward with the proposal immediately, but continue to monitor activities in Vermont and other states and also to explore opportunities for regional collaboration with Vermont and other New England states related to a wholesale importation program.

The Task Force agreed with the Study Group recommendation.

The Controlling Costs Study Group also considered model legislation developed by the National Academy for State Health Policy that would establish a state commission to review the cost of certain prescription drugs based on parameters set forth in the law and establish a maximum amount that payers, both public and private, would pay for those individual drugs. Similar legislation has been put forward in Maryland, but has not yet been enacted. Under such legislation, predetermined thresholds for prescription drug price increases trigger commission review and, if increases are not adequately justified, the

commission could cap the reimbursement rate for those drugs for all payers. The commission would not set prices but would cap what payers pay for drugs.

The Task Force determined that additional costs and benefit analysis and refinement of the model should be done before recommending proposed legislation. The Task Force also agreed that identifying the source or sources of funding for a state commission would require further study. Given the concerns, the Task Force agreed that it would be worthwhile to continue study and analysis of the model legislation and activities in other states to consider similar legislation.

Another issue discussed by the Controlling Costs Study Group was the development of ways to reduce administrative costs through standardization of the billing and claims process. While Maine has enacted some laws designed to standardize the billing and claims process, the Study group determined that it may be useful to gather more information and suggestions from providers and payers for additional measures to streamline the claims process. The Study Group reached out to the State Uniform Billing Committee (SUBC) and providers to gather more information and seek suggestions for potential ways to streamline the process. However, because the next meeting of the SUBC isn't until after the Study Group and Task Force is expected to complete its work, the Study Group agreed to defer consideration of ways to reduce administrative costs and reporting burden by standardizing billing for medical services to allow stakeholder additional time to develop recommendations. The Maine Hospital Association has indicated it will work with the Maine Medical Association and members of the SUBC to develop potential recommendations and look for efficiencies in the process with all payers, public and commercial.

The Task Force agreed with the suggestion of the Study Group to defer consideration of this issue. Rep. Sanborn noted that the Study Group did not take any action on this and that the discussion of the issue may not fit as a "recommendation" of the Task Force. Rep. Sanborn suggested that the discussion of this issue be removed from the recommendations section in the revised draft and moved to the section describing the work of the Study Groups.

Public Options Study Group draft recommendations

The Public Options Study Group recommended that the work begun by the Task Force to develop, study and analyze options for health care reform continue through the 129th Legislature. The Study Group would like to spend more time developing a concept for a new model for providing health care coverage to residents of Maine. The Study Group acknowledged that the development of a public/private universal coverage model is a long-term endeavor; work should continue through the 129th Legislature.

The Task Force agreed with this recommendation.

The Study Group also recommended that the Task Force, Legislature and other stakeholders should pursue all avenues for additional funding to support the study and actuarial analysis of any model or models developed by the Task Force as it moves forward.

The Task Force agreed with this recommendation and acknowledged that any model or models would need careful study and actuarial analysis; funding is needed for that analysis.

The Study Group noted that significant time is needed to develop a concept for a new model or models for providing health care coverage to residents of Maine. During its discussions, the Study Group identified several important elements of any new health care model and suggested that the Task Force include as a recommendation that these elements be incorporated into the design of any public option or other model for health care reform moving forward.

Some members of the Task Force thought that it would be difficult to reach consensus on all of the elements identified by the Study Group and suggested that this recommendation not be included. Other members recognized that there might not be consensus, but wanted the identification of these elements to be included in the report in some way. Rep. Sanborn suggested that the discussion of this issue be removed from the recommendations section in the revised draft and moved to the section describing the work of the Study Groups.

Structure of the Health Insurance Market Study Group draft recommendations

The Structure of the Health Insurance Market Study Group made one recommendation related to proposed legislation: to consider changes to the Maine Health Data Organization statute to strengthen reporting requirements related to health care costs. The members talked about the possibility of amending MHDO's enabling law to improve the cost and quality information available to the public. The members agreed to recommend that statutory changes to Section 8712 of MHDO's governing statutes be considered to strengthen and integrate MHDO's collection and reporting of cost and quality measures.

The Task Force generally agreed with this recommendation, but suggested that the recommendation be revised to add that MHDO's duties be broadened to include responsibility for and capacity for analysis of health care data. Members noted that MHDO has not been given a clear statutory charge or funding to provide health information analysis; it was suggested that the Legislature should consider whether to expand MHDO's authority beyond being primarily a repository for health care data.

Many of the other recommendations of the Study Group asked that the Task Force continue to study and monitor several specific issues that impact Maine's individual and small group health insurance market. The Task Force agreed to accept all of these recommendations.

A majority of the Study Group also recommended that the Task Force include a recommendation in the report supporting Medicaid expansion. Because this recommendation was the only recommendation that did not represent the consensus of all of the Study Group members, the Task Force agreed to wait until the October 15th meeting to discuss this potential recommendation when more Task Force members can be present.

Discussion of Plans for Next Meeting

The Task Force agreed that staff would revise the draft recommendations based on the meeting discussion and input. The revised draft will be circulated to Task Force members prior to the October 15th meeting so that members have the chance to review in anticipation of taking final action on the recommendations.

Maine Medical Association's Statement on Reform of the U.S. Health Care System

With permission from the chairs, Andrew MacLean, Deputy Executive Vice President and General Counsel for the Maine Medical Association, briefed the Task Force on the Maine Medical Association's position state on reform of the U.S. health care system. Mr. MacLean shared the written position statement and explained the process used by the MMA to develop the statement with input from a steering group of physicians representing its membership. The steering group members were selected to provide balance for gender, geography, practice setting and primary and specialty area. The position statement is included with the written materials from the meeting at <http://legislature.maine.gov/doc/2433>

Mr. MacLean explained that the position statement does not advocate for a particular model of health care reform, but that the group was able to develop consensus on a policy statements and principles that will be used to evaluate legislative proposals. In response to questions from members, Mr. MacLean also

noted that the MMA supported the Dirigo Health reforms enacted in Maine in 2003 and continue to support the federal Affordable Care Act and Medicaid expansion. Task Force members pointed out that two of the principles outlined in the position statement relate to public health and prevention and expressed their hope that, if the Task Force moves forward, more attention can be focused on this area because of the greater potential for long-term health benefit to society and for savings.

Public Comment

No additional public comment was received by the Task Force.

Next Meeting

The next meeting was scheduled for October 15 from 9:00 am to 12:30 pm. The chair anticipates that the Task Force will discuss and review the revised draft recommendations and finalize the Task Force's report for submission to the Legislature by November 1, 2018.

DRAFT

DRAFT FOR TASK FORCE REVIEW 10/15
Proposed by Rep. Sanborn

As an alternative to a proposed recommendation, Rep. Sanborn proposes that the Task Force include the following statement about Medicaid expansion in a separate section of the Task Force's report.

Task Force Statement on Medicaid Expansion

On November 7, 2017, a citizen-initiated ballot measure to expand Medicaid eligibility under the terms of the Affordable Care Act was approved by 59% of Maine voters. When the Task Force first convened on December 20, 2017, and in subsequent Task Force meetings, Medicaid expansion was not directly addressed or discussed. As the work of the Task Force continued over the last ten months, the implementation of Medicaid expansion became very contentious and is currently the subject of a pending case in Maine's Superior Court. The majority of Task Force members believe strongly that Medicaid expansion should be implemented immediately, but the Task Force did not discuss, debate, vote, or attempt to reach consensus on this topic. Instead, the Task Force focused its efforts on other areas of our complex health care system where cost, access, and affordability could be improved and arrived at the recommendations that follow.

DRAFT