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October 12, 2005

***By E-mail and U.S. Mail***

Alessandro A. Iuppa, Superintendent  
Attn: Vanessa J. Leon, Docket No. INS-05-700  
Bureau of Insurance  
Maine Department of Professional & Financial Regulation  
124 Northern Avenue  
Gardiner, Maine 04345

**Re: In Re: Review of Aggregate Measurable Cost Savings Determined by Dirigo  
Health for the First Assessment Year  
Docket No. INS-05-700**

Dear Superintendent Iuppa:

Enclosed for filing in the above-referenced matter please find the original and one (1) copy of the following documents:

1. Filing Cover Sheet; and
2. Maine State Chamber of Commerce Objection to the Dirigo Health First Request to the Maine State Chamber of Commerce

Thank you for your attention to this matter.

Very truly yours,



William H. Stiles

WHS/rdl  
Enclosure

cc: Service List (*by e-mail*)  
John Kelly (*by e-mail and U.S. Mail*)  
Kristine Ossenfort

STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION  
BUREAU OF INSURANCE

IN RE: REVIEW OF AGGREGATE )  
MEASURABLE COST SAVINGS )  
DETERMINED BY DIRIGO ) FILING COVER SHEET  
HEALTH FOR THE FIRST )  
ASSESSMENT YEAR )

DOCKET NO. INS-05-700

**To: Alessandro Iuppa, Superintendent of Insurance**  
**Attn: Vanessa J. Leon**

Dated Filed: October 12, 2005

Name of Party: Maine State Chamber of Commerce

Document Title: Objection to the Dirigo Health First Request to the Maine State Chamber  
of Commerce

Document Type: Memorandum in Opposition

Confidential: No

Respectfully submitted,



William H. Stiles, Bar No. 8123

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STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION  
BUREAU OF INSURANCE

IN RE:	)	
	)	
REVIEW OF AGGREGATE	)	
MEASURABLE COST SAVINGS	)	<b>MAINE STATE CHAMBER</b>
DETERMINED BY DIRIGO HEALTH	)	<b>OF COMMERCE</b>
FOR THE FIRST ASSESSMENT YEAR	)	<b>OBJECTION TO THE</b>
	)	<b>DIRIGO HEALTH FIRST</b>
	)	<b>REQUEST TO THE MAINE</b>
	)	<b>STATE CHAMBER OF</b>
	)	<b>COMMERCE</b>
	)	
Docket No. INS-05-700	)	

The Maine State Chamber of Commerce (the “Chamber”), pursuant to Bureau of Insurance Rule Chapter 350 and the Superintendent’s Procedural Order dated September 19, 2005, hereby objects to the Dirigo Health First Request for information to the Maine State Chamber of Commerce.

**General Objections**

Pursuant to the Superintendent’s Procedural Order dated September 19, 2005, parties have five (5) calendar days to respond to information requests. The Dirigo Health Agency (“Dirigo”) served the Chamber with a request for information on Friday, October 7, 2005, at 2:25 p.m. Thus, three (3) of the five (5) calendar days to respond are either weekend days or a holiday, and the Chamber must obtain much of the requested information from its expert located outside the State of Maine. Many of Dirigo’s requests relate to an alternative methodology proposed by the payor group. In light of the Superintendent’s recent order on alternative methodologies, these questions are of questionable relevance.

Dirigo has objected to substantially all of the Chamber's requests on the basis that they are either duplicative, or require answers to relevant questions by written narrative. As set forth in the Chamber's Reply to Dirigo Health's Objection to Information Requests of the Maine Chamber of Commerce, the Chamber believes written narrative answers should be required. However, should the Superintendent grant Dirigo's request, the Chamber requests an Order that the Chamber is not required to respond to questions that require a narrative response that could be pursued in cross-examination.<sup>1</sup>

Specific objections are set forth below:

### **Specific Objections**

1. Please provide with regard to Attachment 7 to the Dirigo filing (Lewin Group presentation of September 13, 2005) the following information by hospital and hospital fiscal year for the years 1999-2004:

- a. Gross Patient Service Revenue (GPSR)
- b. Net Patient Revenue
- c. Total operating revenue
- d. Total operating expense
- e. Total operating income
- f. Total non-operating income
- g. Operating margin
- h. Case mix factors
- i. Discharges

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<sup>1</sup> The Chamber notes that it asked questions to be answered in narrative to help it understand the Board's adopted methodology, and dispense with such questions at hearing, thereby supporting the just, speedy and economic determination of this matter. If the Board will not provide the answers before the hearing, this may have the unfortunate effect of transforming the hearing into a discovery hearing.

- j. Cost per case mix adjusted discharges
- k. Annual growth inflation rates, indicating time periods and source

**OBJECTION:**

**The Chamber objects to this request to the extent it requires the Chamber to create documentation in a specific format, or to produce hospital cost report information that is publicly available from the Centers for Medicare and Medicaid Services (“CMS”). The source data for the above information is extraordinarily voluminous, and would be unduly burdensome to produce, even in electronic format (approximately 24 compact discs). The usual course is for users, like The Lewin Group, to access the information on CMS’s website, extract and input the relevant data for calculations, and then leave the website. Given its extremely large size, most users do not store the source data from CMS. Neither the Chamber nor The Lewin Group store this information. The Chamber will produce the calculations created by inputting the data from CMS, and Dirigo is free to reverse-engineer using information from [http://www.cms.hhs.gov/data/download/hcris\\_hospital/default.asp](http://www.cms.hhs.gov/data/download/hcris_hospital/default.asp), which is the location of the source data.**

7. Please provide with regard to Attachment 7 to the Dirigo filing (Lewin Group presentation of September 13, 2005) (case-mix adjusted charges per adjusted discharge) the following information by hospital and hospital fiscal year for the years 1999-2004:

- a. Total inpatient charges
- b. Total outpatient charges
- c. Total charges
- d. Total discharges
- e. Adjusted discharges

- f. Total inpatient payments
- g. Total outpatient payments
- h. Total payments
- i. Total discounts
- j. Discount factor

**OBJECTION:**

**The Chamber objects to this request to the extent it requires the Chamber to create documentation in a specific format, or to produce hospital cost report information that is publicly available from CMS.**

11. Please provide with regard to Attachment 7 to the Dirigo filing (Lewin Group presentation of September 13, 2005) (Estimation Error for Savings Formulas as a Percent of Hospital Revenues) the following information:

- a. All backup data used to calculate the “Estimation Error for Savings Formulas as a Percent of Hospital Revenues.”
- b. A description of the methodology used for this calculation

**OBJECTION:**

**To the extent the Superintendent rules that Dirigo is not required to respond to requests that require a narrative response, the Chamber objects to subpart b. on the basis that it requires a narrative response that may be elicited on cross-examination.**

17. Please provide with regard to Attachment 7 to the Dirigo filing (Lewin Group presentation of September 13, 2005) (Hospital Uncompensated Care Measure Should be on a

“Cost” Basis) a detailed description of the components that were used in developing the uncompensated care figure of \$61.5 million.

**OBJECTION:**

**To the extent the Superintendent rules that Dirigo is not required to respond to requests that require a narrative response, the Chamber objects to this Request on the basis that it requires a narrative response that may be elicited on cross-examination.**

20. If you contend that there have been increased costs in the health care system as a result of the operation of Dirigo Health, please:

- a. Identify each cost
- b. State the amount of each cost identified
- c. State how each cost identified is the result of the operation of Dirigo Health
- d. Provide all data, calculations, information, work papers, documents and other materials of whatever kind and nature used in developing each cost identified.

**OBJECTION:**

**The Chamber objects to this request because it is overbroad and unduly burdensome insofar as it seeks to require the Chamber to identify and assign a dollar figure to every conceivable cost increase as a result of Dirigo. The Chamber will identify, without limitation, increased costs as a result of Dirigo. It is Dirigo’s burden to show that its determination of aggregate measurable cost savings took costs into account, and is therefore reasonable.**

**To the extent the Superintendent rules that Dirigo is not required to respond to requests that require a narrative response, the Chamber objects to subpart c of this**

**Request on the basis that it requires a narrative response that may be elicited on cross-examination.**

21. If you contend there are savings in the health care system not the result of the operation of Dirigo Health, please:

- a. Identify each savings
- b. State the amount of each savings identified
- c. State how each savings identified was achieved
- d. Provide all data, calculations, information, work papers, documents and other materials of whatever kind and nature used in developing each savings identified.

**OBJECTION:**

**The Chamber objects to this request because it is overbroad and unduly burdensome insofar as it seeks to require the Chamber to identify and assign a dollar figure to every conceivable savings that is not the result of the operation of Dirigo. The Chamber will identify, without limitation, savings that are not the result of the operation of Dirigo. It is Dirigo's burden to show that its determination of aggregate measurable cost savings took these other savings into account, and is therefore reasonable.**

**To the extent the Superintendent rules that Dirigo is not required to respond to requests that require a narrative response, the Chamber objects to subpart c of this Request on the basis that it requires a narrative response that may be elicited on cross-examination.**

23. Please state in detail the role, if any, the Lewin Group played in the development of the methodology presented by the payor group to the Board on August 29, 2005, which is Attachment 4 to the Dirigo filing.

**OBJECTION:**

**To the extent the Superintendent rules that Dirigo is not required to respond to requests that require a narrative response, the Chamber objects to this Request on the basis that it requires a narrative response that may be elicited on cross-examination.**

24. Please state the purpose for which the Lewin Group was retained. Include in your answer a detailed description of the work performed by the Lewin Group.

**OBJECTION:**

**To the extent the Superintendent rules that Dirigo is not required to respond to requests that require a narrative response, the Chamber objects to this Request on the basis that it requires a narrative response that may be elicited on cross-examination.**

25. Please explain the reasons that the methodology presented by the Lewin Group to the Board on September 13 and 14, 2005 (Attachments 7 and 10 to the Dirigo filing) was different from the methodology presented by the payor group on August 29, 2005 (Attachment 4).

**OBJECTION:**

**To the extent the Superintendent rules that Dirigo is not required to respond to requests that require a narrative response, the Chamber objects to this Request on the basis that it requires a narrative response that may be elicited on cross-examination.**

26. Please identify the persons, organizations, groups or other entities that developed or contributed to development of the methodology presented by the Lewin Group to the Board on September 13 and 14, 2005. Include in your answer the contribution made by each person, organization, group or entity.

**OBJECTION:**

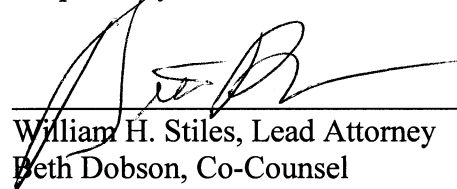
**To the extent the Superintendent rules that Dirigo is not required to respond to requests that require a narrative response, the Chamber objects to the second sentence in this Request on the basis that it requires a narrative response that may be elicited on cross-examination.**

WHEREFORE, the Chamber requests the Superintendent to grant the following relief:

- (1) The Chamber is not required to create and then produce hospital cost report information that is publicly available from CMS;
- (2) To the extent the Superintendent rules that Dirigo is not required to respond to requests that require a narrative response, the Chamber is not required to respond to Dirigo's requests that require a narrative response;
- (3) The Chamber's time to respond to Dirigo's Request is extended until the time set for Dirigo to respond to the Chamber's request for information.

Dated: October 12, 2005

Respectfully submitted,



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William H. Stiles, Lead Attorney  
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**CERTIFICATE OF SERVICE**

I, Bret D. Witham , attorney for the Maine State Chamber of Commerce, hereby certify that on this 12<sup>th</sup> day of October 2005 I caused the foregoing document to be served upon all counsel of record via First-Class Mail and/or E-mail as follows:

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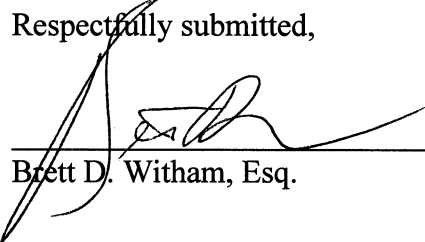
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Dated: October 12, 2005

Respectfully submitted,



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Brett D. Witham, Esq.

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