

October 11, 2005

Via mail & email

Alessandro A. Iuppa, Superintendent  
Attn: Vanessa J. Leon, Docket No. INS-05-700  
Bureau of Insurance  
Maine Department of Professional and Financial Regulation  
34 State House Station  
Augusta, Maine 04333-0034  
[vanessa.j.leon@maine.gov](mailto:vanessa.j.leon@maine.gov)

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

Dear Superintendent Iuppa:

Please find enclosed the following:

1. Filing Cover Sheet.
2. Two hard copies of Dirigo Health Objection to Information Request of Anthem Health Plans and MAHP and Information Request of Maine Chamber of Commerce.

Thank you for your assistance with this matter.

Yours very truly,

/s/William H. Laubenstein, III

William H. Laubenstein, III  
Assistant Attorney General

cc: (Via mail and email)  
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Trish Riley



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

Date Filed: October 11, 2005

Name of Party: Dirigo Health Board of Directors

Document Title: Dirigo Health Objections to Information Request of Anthem  
Health Plans and MAHP and Information Request of Maine  
Chamber of Commerce

Document Type: Memorandum in Opposition to Motion

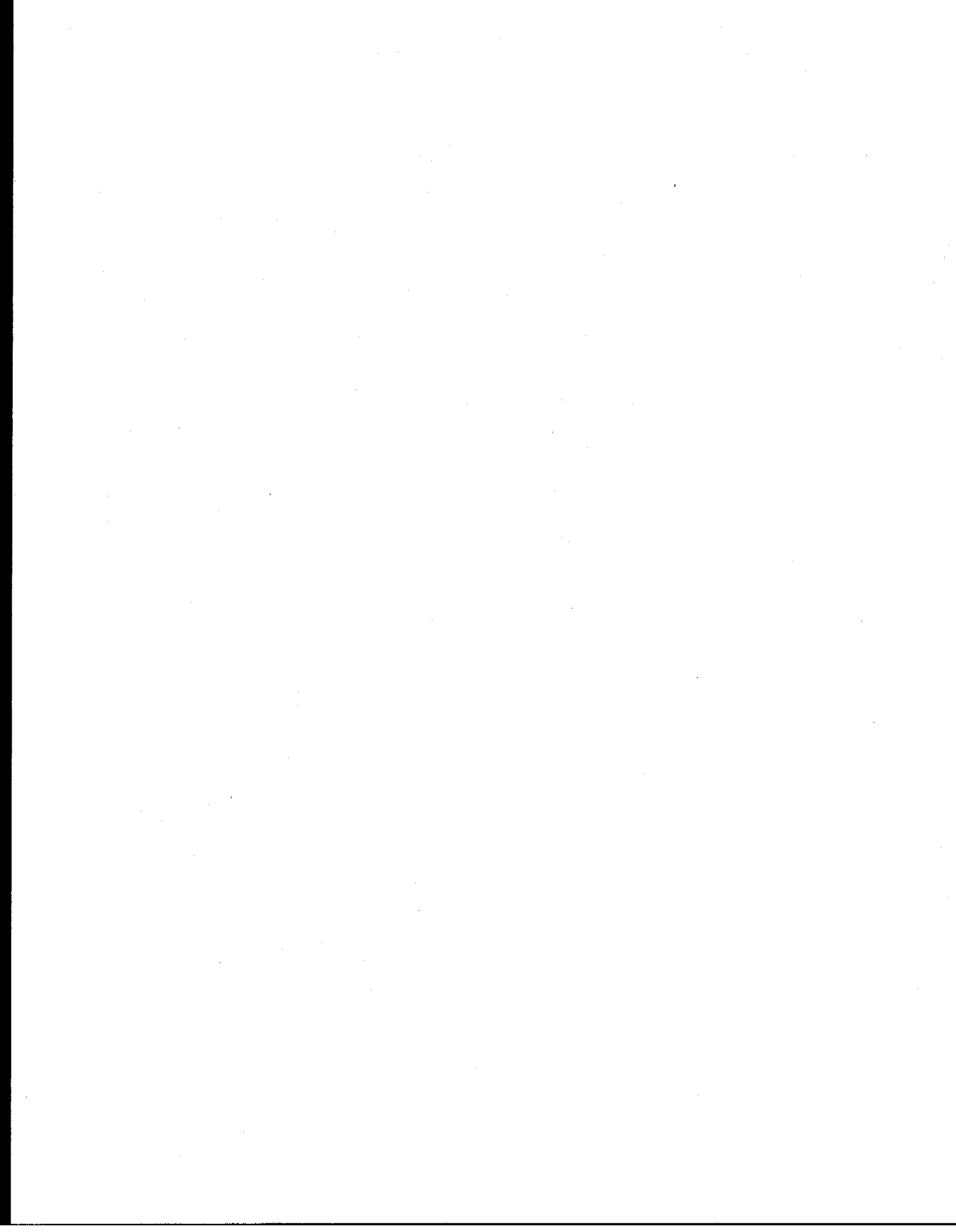
Confidential: No

Dated: October 11, 2005

Respectfully submitted,

/s/William H. Laubenstein, III

William H. Laubenstein, III  
Assistant Attorney General



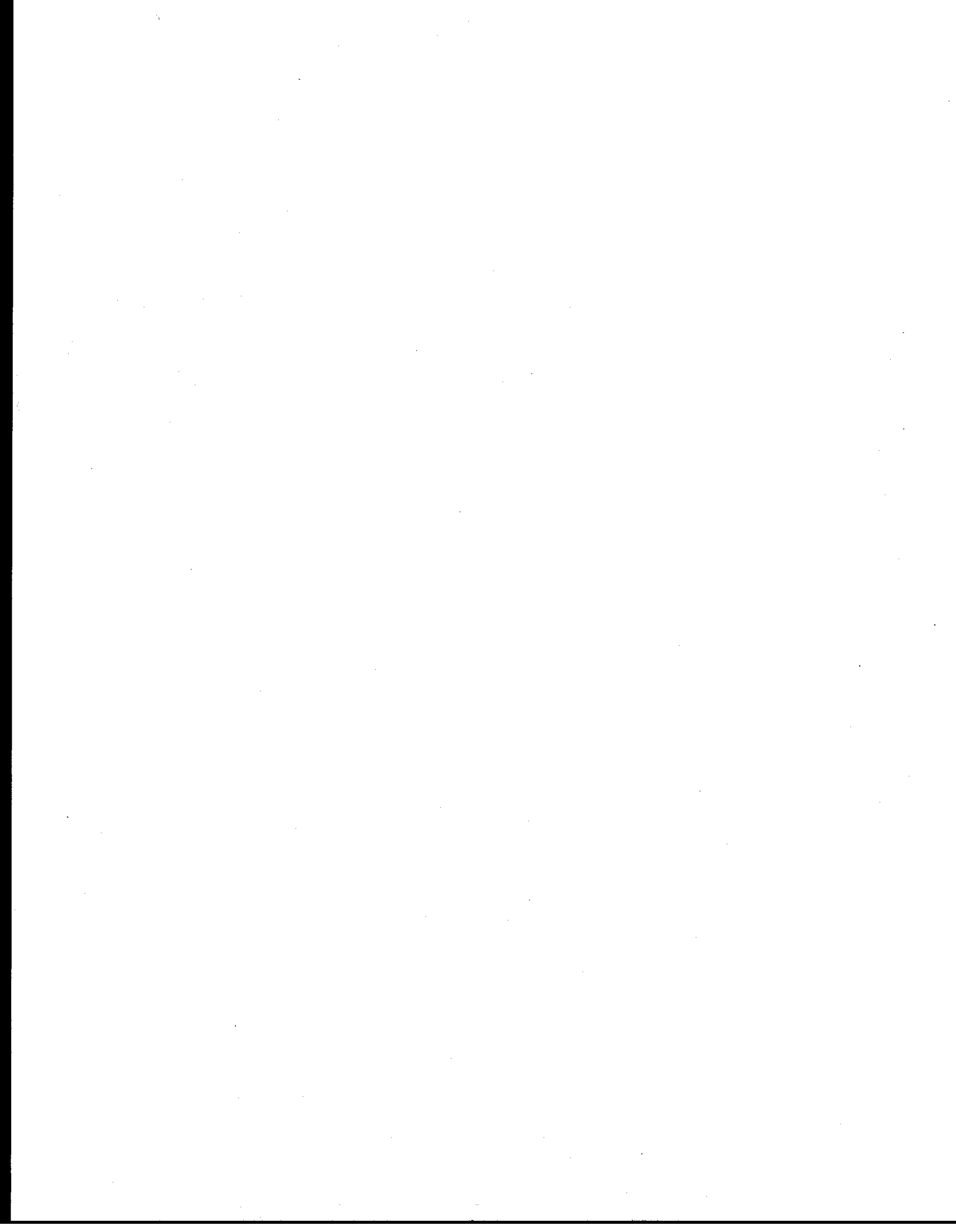
STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION  
BUREAU OF INSURANCE

IN RE: REVIEW OF AGGREGATE	)	DIRIGO HEALTH
MEASURABLE COST SAVINGS	)	OBJECTIONS TO
DETERMINED BY DIRIGO	)	INFORMATION REQUEST
HEALTH FOR THE FIRST	)	OF ANTHEM HEALTH
ASSESSMENT YEAR	)	PLANS AND MAHP AND
	)	INFORMATION REQUEST
Docket No. INS-05-700	)	OF MAINE CHAMBER
	)	OF COMMERCE

The Board of Directors of Dirigo Health (the "Board"), in accordance with Bureau of Insurance Rule Chapter 350 and the Procedural Order dated September 19, 2005, hereby objects to the Information Request filed on October 7, 2005 by Anthem Health Plans and Maine Association of Health Plans ( collectively "the Plans") and by the Maine State Chamber of Commerce (the "Chamber"). The Board's counsel has consulted with counsel for the Plans, but no agreement has been reached on resolving the issues presented.

General Objections

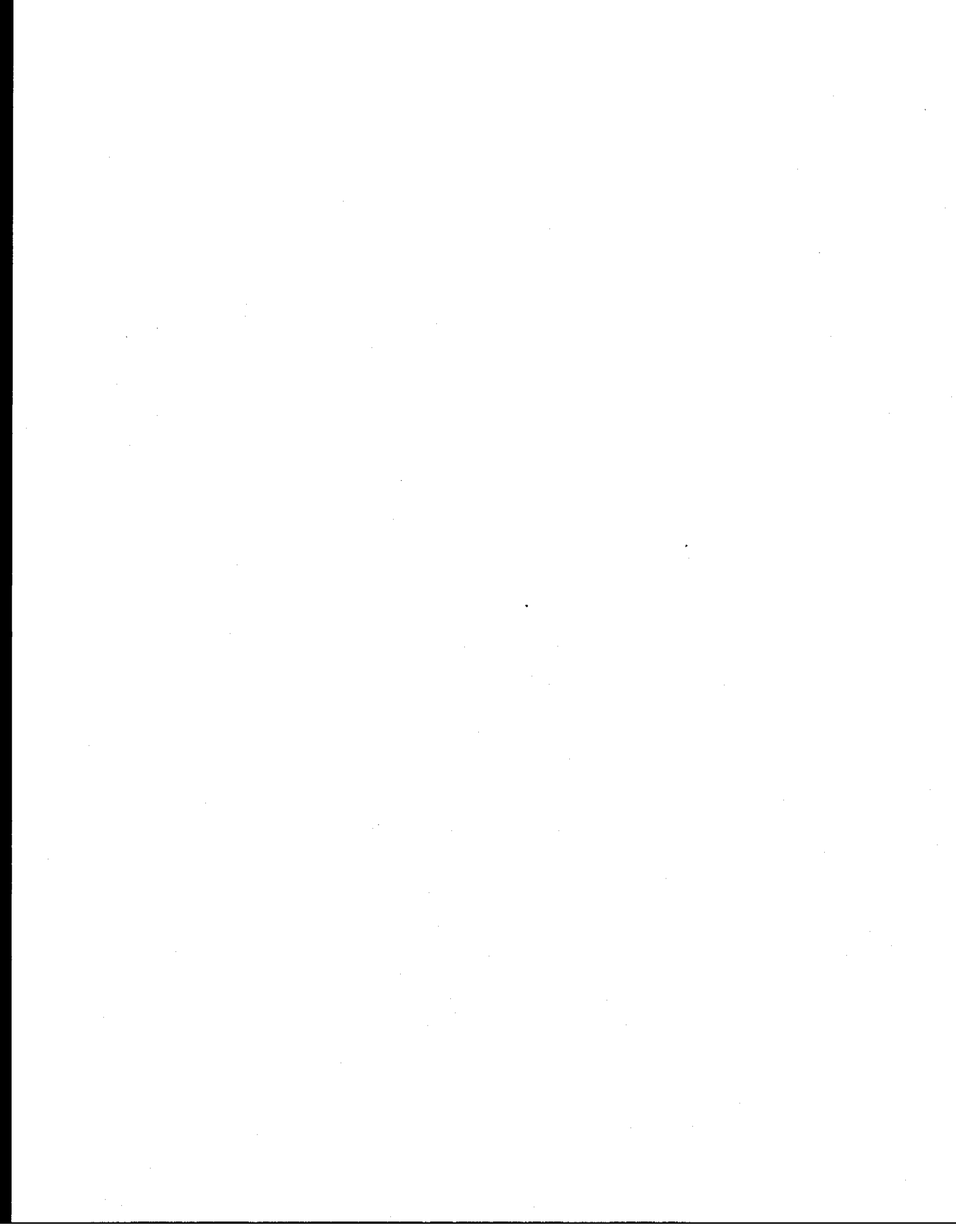
Chapter 350 states that the rules of practice are to be construed liberally "to secure just, speedy and economic determination of all matters pending before the Superintendent or his staff." Ch. 350, sec. 2(B). With regard to discovery, the rules require that informational requests be "relevant to the issues involved in the pending proceeding, and shall not be unduly burdensome or repetitious." Ch. 350, sec. 10 (B) (2). The information request filed by the Plans contains 57 requests, including document requests and narrative responses; the request filed by the Chamber contains 61 requests. This request follows a substantial request by the Maine Automobile Dealers Association Health Trust and the Bankers Health Trust (the "Trusts"). In addition, the Board has 20



questions from the Superintendent's First Informational Request and 18 questions in a Second Informational Request. The Board's response to the Superintendent's first request and the request of the Trusts is due on October 14, 2005. The Board's response to the requests of the Chamber and the Plans is due October 12, 2005 and a response to the Superintendent's second request is due October 17, 2005.

Neither the Bureau of Insurance rules nor the Procedural Order issued on September 19, 2005 contain a definition of the term "informational request" or describe the types of discovery to be permitted. It is note worthy, however, that the Rules and Procedural Order do not state that all methods of discovery set forth in the Maine Rules of Civil Procedural Procedure may be used. Nor is such a broad scope of discovery required in an administrative proceeding to satisfy due process. See, *Town of Jay v. Androscoggin Energy, LLC*, 2003 ME 64, ¶ 9, 822 A. 2d 1114, 1117 ("Due process at agency level does not require full trial-like procedures."), citing *Fichter v. Board of Environmental Protection*, 604 A. 2d 433, 37-438 (Me. 1992).

In the current proceeding, the Board has filed, with supporting information, its determination of aggregate measurable cost savings. The Plans and the Chamber have submitted requests seeking information underlying this determination. In addition, however, the Plans and the Chamber have submitted numerous questions with regard to specific statements or assumptions made by the Board. These questions may be informational requests in a broad sense, but are questions that in civil litigation would be asked in a deposition, written interrogatories or in cross-examination of a witness. The Board has already indicated that it will produce as witnesses the consultants who prepared the reports that support its determination. There will be full opportunity for all



parties to cross examine these witnesses. It therefore would appear to be unduly burdensome to require the Board's witnesses to prepare answers to all these questions and then to have the witnesses subject to the same questions at the hearing, for there is no likelihood that the intervenors will find it unnecessary to ask these same questions and many more related thereto at the hearing.

In his Procedural Order dated September 19, 2005, the Superintendent stated that parties are prohibited from making requests for information that are "duplicative of prior requests made by any party." This admonition was affirmed in the Superintendent's orders granting intervenor status to the Trusts, the Chamber and the Plans: "Intervenor parties with similar interests shall coordinate with each other to avoid duplication of efforts, particularly with respect to the service of multiple informational requests when one or more joint requests would accomplish the same goal". Order Granting the Consolidated Application to Intervene of the Maine Automobile Dealers Association Health Trust and the Bankers Health Trust.

There can be little doubt that the Trusts, the Chamber and the Plans have similar interests, but the requests for information contain much duplication. The requests of the Chamber and the Plans (and the Trusts) contain detailed questions about all aspects of the 11 savings initiatives. The Board appreciates the desire of the intervenors to understand the basis for the savings attributed to each initiative. Nevertheless, it is extremely burdensome for the Dirigo Agency and its consultants to undertake to respond to approximately 200 questions directed at the same data, assumptions and calculations in the short time remaining before the hearing commences. And even though the questions



may be worded differently, the questions all test the foundation for the total aggregate measurable costs savings determination made by the Board.

The Dirigo Agency staff and its consultants have been working diligently preparing responses to the requests of the Trusts and the Superintendent, but in order to complete this work by October 14, 2005, and respond to the non-duplicative questions, the Board will need additional time to respond to the requests of the Plans and the Chamber.

Objections to Document Requests/Duplication

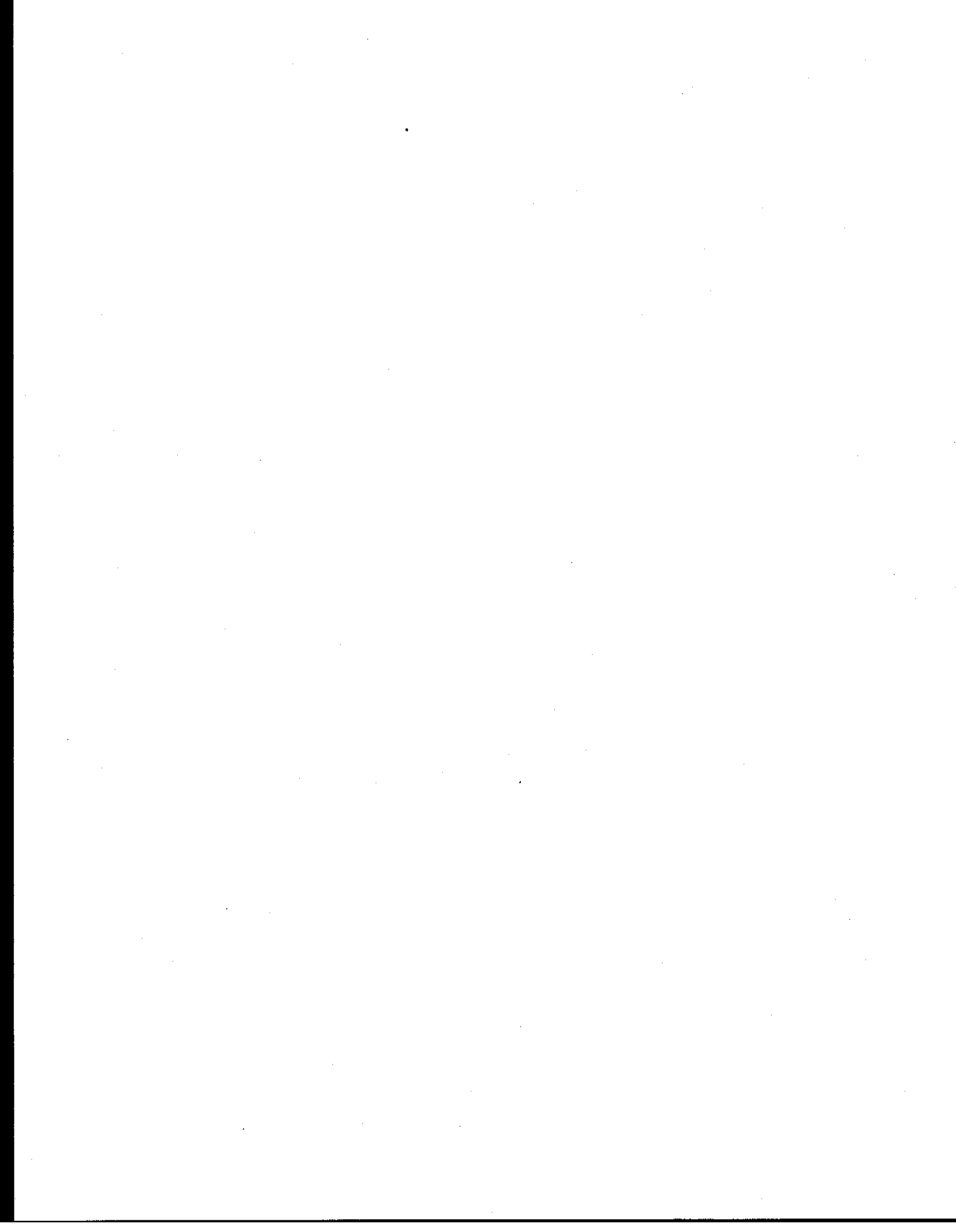
The Board objects to all document requests to the extent the documents are being produced in response to the Information Request of the Superintendent and the Trusts. This objection will not be repeated under Specific Objections.

Objections to Narrative Requests/Duplication/Trust, Chamber and Plans

Trust Request 4	Chamber Request 14	
Trust Request 5	Chamber Request 15	
Trust Request 6	Chamber Request 14	
Trust Request 7	Chamber Request 43	
Trust Request 8	Chamber Request 14	
Trust Request 9	Chamber Request 15	
Trust Request 10	Chamber Request 14	
Trust Request 11		Plans Request 51
Trust Request 15	Chamber Request 31	Plans Request 34
Trusts Request 19		Plans Request 48
Trusts Request 20	Chamber Request 2	



Trusts Request 21	Chamber Request 3	
Trusts Request 22	Chamber Request 2	
Trusts Request 23	Chamber Request 1	Plans Request 10
Trusts Request 24	Chamber Request 14	
Trusts Requests 25	Chamber Request 15	
Trusts Request 26	Chamber Request 14	
Trusts Request 27	Chamber Request 16	
Trusts Request 28	Chamber Request 2	
Trusts Request 29	Chamber Request 3	
Trusts Request 30	Chamber Request 2	
Trusts Request 51	Chamber Request 11	Plans Request 1, 21, 22
Trusts Request 52		Plans Request 1, 2, 3, 4, and 6
Trusts Request 53		Plans Request 52
Trusts Request 55	Chamber Request 43, 45	Plans Request 35, 44
Trusts Request 56	Chamber Request 43, 46	Plans Request 35, 44
Trusts Request 59	Chamber Request 4, 18	
Trusts Request 60	Chamber Request 4, 5, 6, 19	
Trusts Request 65	Chamber Request 41, 45	
Trusts Request 66	Chamber Request 6	Plans Request 5, 6
Trusts Request 68	Chamber Request 6	
Trusts Request 70	Chamber Request 1	Plans Request 14
Trusts Request 72	Chamber Request 31	
Trusts Request 74	Chamber Request 31	



Trusts Requests 76	Chamber Request 31
Trusts Request 78	Chamber Request 31
Trusts Request 80	Chamber Request 31
Trusts Request 82	Plans Request 12, 40, 43 (in parts)

Objections to Narrative Requests/Duplication/Chamber and Plans

Chamber 9	Plans 14
Chamber 16	Plans 15, 17
Chamber 18	Plans 18, 19
Chamber 22	Plans 16, 17
Chamber 23	Plans 14
Chamber 27	Plans 18, 23
Chamber 37	Plans 32, 36
Chamber 45	Plans 31
Chamber 48	Plans 50
Chamber 51	Plans 22
Chamber 55	Plans 55

Specific Objections to Request of the Plans In Addition to Duplication

Requests 8: The Board objects to this request as burdensome and irrelevant.

Request 11: The Board objects to this request as overly broad and burdensome.

Requests 15, 16, 19, 20, 22, 25, 27, 29, 30, 31, 32, 35, 38, 50, 51, 56 and 57: The Board objects to these requests as burdensome since they will be asked on cross examination.

Request 28: The Board objects to this request as unduly burdensome.



Request 42: The objects to this request as unduly burdensome and irrelevant.

Request 46: The Board objects to this request. The document is readily available to payors.

Request 47: The Board objects this request as burdensome and irrelevant.

Requests 48-49: The Board objects to these requests as overly broad, burdensome; in addition, the information is readily available from another agency.

Request 53: The Board objects to this request as unduly burdensome and the information is readily available from another agency.

Specific Objections to Request of the Chamber in Addition to Duplication

Requests 9, 11, 22, 23, 24, 25, 27, 34, 36, 37, 39, 40, 42, 44, 45, 48, 49, 50, 51, 55, 55(sic), 56, 57 and 58: The Board objects to these requests as burdensome; can be asked on cross examination.

Request 32: The Board objects to this request as burdensome; in addition the information is available to payors from another source.

Request 37: The Board will provide the documents only; see list of cross examination questions.

Requests 39-40: The Board will provide the documents only; see list of cross examination questions.

Request 43: The Board will provide the documents only; see list of cross examination questions.

Request 61: The Board objects to this request as overly broad; in addition, the minutes have already been provided to the Chamber through its representation on the Board.



WHEREFORE, the Board requests the Superintendent grant the following relief:

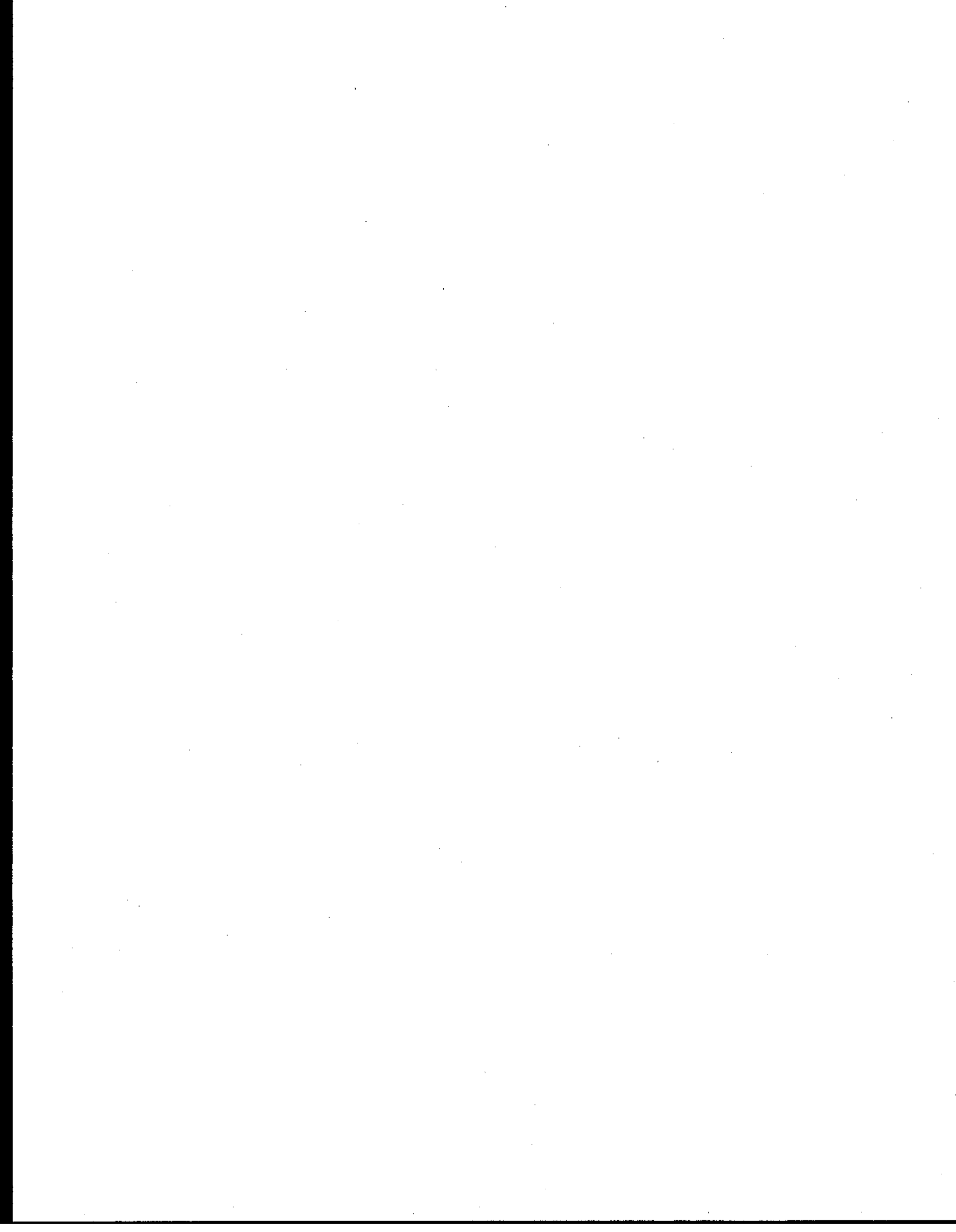
1. The Board is not required to respond to the requests of the Plans or the Chamber that are duplicative of requests of the Trusts;
2. The Board is not required to respond to the requests of the Plans that are duplicative of the requests of the Chamber;
3. The Board is not required to respond to the questions identified as cross examination questions. The intervenors may pursue these questions at the hearing.
4. The Board's time to respond to the non-duplicative questions is extended to October 21, 2005.

Dated: October 11, 2005

Respectfully submitted,

/s/William H. Laubenstein, III

William H. Laubenstein, III  
Assistant Attorney General



**CERTIFICATE OF SERVICE**

I, William H. Laubenstein, III, Assistant Attorney General for DIRIGO Health, do hereby certify that on this date the foregoing document was served on all counsel of record via U.S. first class mail, postage prepaid, and electronic mail as follows:

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Dated: October 11, 2005

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