



Bureau of Insurance Report

on

A Review of Health Insurers' Compliance with Rule 945 Reporting Requirements

August 7, 2007

John Elias Baldacci  
Governor

Eric A. Cioppa  
Acting Superintendent

Anne Head  
Acting Commissioner

## **Purpose of Report**

On April 3, 2006, the Consumers for Affordable Health Care Coalition (“CAHC”) sent a letter to Attorney General Steven Rowe and Superintendent of Insurance Alessandro Iuppa asking that they investigate “health insurance companies that have broken the law by failing to file accurate annual report supplements regarding their lobbying expenses for the calendar years 2004 and 2005.” CAHC pointed out that lobbyists report such expenses both to the Superintendent and to the Maine Commission on Governmental Ethics and Election Practices (the “Ethics Commission”). CAHC asserted that “[e]ach of these health insurers knows what their [sic] lobbying expenses were for each of these calendar years” because of the filing requirement with the Ethics Commission. CAHC argued that “intentionally inserting ‘\$0’ in individual report cells and/or leaving these cells blank, as well as reporting ‘\$0’ in the total lobbying expense line item where such expenses are known and have been reported to another state agency, constitutes a knowingly false material statement and, as such, a violation of the law subject to its full penalties”. A copy of CAHC’s letter appears as Attachment A to this report.

This report sets forth the Superintendent’s analysis of and conclusions as to CAHC’s allegations. For the reasons detailed below, the Superintendent does not intend to pursue enforcement action regarding these allegations. The Superintendent finds that the instructions regarding the Rule 945 report were ambiguous as to who should report lobbying expenses and how those expenses should be reported in the context of the annual report supplement. The Superintendent further finds that in light of that ambiguity the reporting entities behaved reasonably. All of the entities have also filed amended annual report supplements to properly reflect lobbying expenses in the State of Maine, consistent with the Bureau’s clarifying instructions. This report also proposes recommendations for clarifying what information insurers are expected to provide to the Bureau, which should alleviate any confusion as to what is required by the Bureau as to reporting of lobbying expenses on the annual report supplement.

## **Statutory and Regulatory Background**

In 2003, as part of the laws establishing Dirigo Health, the Legislature enacted legislation requiring each “health insurer and health maintenance organization” to file a supplement to its annual report.<sup>1</sup> The supplement “must provide the public with general, understandable and comparable financial information relative to the in-state operations and results” of such insurers and HMOs. The reported information must include, among other categories, administrative expense and “contain sufficient detail for the public to understand the components of cost incurred” by those entities. Each insurer must file the supplement by March 1.

The Superintendent adopted Rule 945 to implement 24-A M.R.S.A. §423-D. The rule became effective February 13, 2005. The first year for which information required under Rule 945 was to be reported was 2004. The deadline for filing reports containing information for 2004 was March 1, 2005.

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<sup>1</sup> P.L. 2003 c. 469, §E-2, enacted at 24-A M.R.S.A. § 423-D(1).

Rule 945 applies to “all health insurers and health maintenance organizations . . . renewing existing policies, whether or not they currently offer those policies for new issue.” Insurers must report information “consistent with that reported in their annual statutory financial statements and reconcile the annual report supplement to the applicable pages of their statements.” The rule includes two forms for reporting entities to use: Appendix A (the “Annual Report Supplement”) is for those insurers with direct written health insurance premium in Maine more than \$2,000,000 in the reporting year. Appendix B is for all other insurers subject to Rule 945.

The National Association of Insurance Commissioners [NAIC]<sup>2</sup> annual statement blank is a report filed by each insurer with its domiciliary state and the NAIC. In Maine the filing must be made by March 1<sup>st</sup> of each year and is to represent a “full and true statement of its financial condition, transactions and affairs as of December 31st preceding.”<sup>3</sup> The statement must be on an annual statement blank of the NAIC, be prepared in accordance with the NAIC’s annual statement instructions, and follow the NAIC Accounting Practices and Procedures Manual. The insurer must also verify the annual statement.

Filing the annual statutory financials, exhibits and disclosures in this format promotes an NAIC goal of having uniform information from each insurance company distributed among the various state regulators.

Although the annual statement instructions do not specifically require companies to report information about “lobbying expenses,” the general interrogatories that are part of the annual statement ask the insurer to report, among other items:

- the amount of payments to trade associations, service organizations and statistical or rating organizations and the name of and amount paid to any such organization that received 25 % or more of the total of such payments
- the amount of payments for legal expenses and the name of and amount paid to any firm that received 25 % or more of the total of such payments
- the amount of payments for expenditures in connection with matters before legislative bodies, officers or departments of government and the name of any firm and amount paid to any such firm that received 25 % or more of the total of such payments

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<sup>2</sup> Headquartered in Kansas City, Missouri, the NAIC is a voluntary organization of the chief insurance regulatory officials of the 50 states, the District of Columbia and the five U.S. territories. The NAIC's overriding objective is to assist state insurance regulators in protecting consumers and helping maintain the financial stability of the insurance industry by offering financial, actuarial, legal, computer, research, market conduct and economic expertise. Formed in 1871, the NAIC is the oldest association of state officials. For more than 135 years, state-based insurance supervision has served the needs of consumers, industry and the business of insurance at-large by ensuring hands-on, frontline protection for consumers, while providing insurers the uniform platforms and coordinated systems they need to compete effectively in an ever-changing marketplace. For more information, visit NAIC on the Web at: [http://www.naic.org/press\\_home.htm](http://www.naic.org/press_home.htm).

<sup>3</sup> 24-A M.R.S.A. § 423(1).

The NAIC Annual Statement Instructions (Health) (“NAIC Instructions”) state that the purpose of the trade association interrogatory is to “capture information about payments to any trade association, service organization, and statistical or rating bureau.” The NAIC Instructions state that the purpose of the legal expense interrogatory is to “capture information about legal expenses paid during the year.” Legal expenses include “matters before administrative legislative bodies, but exclude policy claim expense, real estate transactions and amounts reported under either the trade association or legislative interrogatory.” The NAIC Instructions describe legislative expenses as being “related to general legislative lobbying and direct lobbying of pending and proposed statutes or regulations before legislative bodies and/or officers or departments of government.” The instructions specify that such expenses do not include amounts reported under either the trade association or legal expenses interrogatory.

As noted above, Rule 945 requires the filing of a supplement to the NAIC Annual Statement. The Rule 945 Annual Report Supplement requires the reporting of four groups of information: members and contracts, revenues, expenses, and utilization statistics. Lobbying expense is to be reported as a subcategory of expense information. The instructions for completion of the Rule 945 Annual Report Supplement state that the insurer must “use the definitions and guidance found in the National Association of Insurance Commissioners’ Annual Statement Instructions and Accounting Practices and Procedures Manual or their successor publications.” However, relative to the unique reporting requirement for Maine neither the NAIC instructions nor the Maine Insurance Code provide a definition of “lobbying expense.”

In addition to the reporting requirements of Rule 945 insurers may be subject to specific Maine laws regulating lobbying activities. In particular, the statutes enforced by the Maine Commission on Governmental Ethics and Election Practices in part require that each Maine lobbyist and employer jointly register with the Ethics Commission.<sup>4</sup> The lobbyist must report monthly its activities and compensation received during that month. The lobbyist and employer must file an annual report detailing lobbying activities and compensation for the lobbying year, which runs from December 1 through the following November 30th. Lobbying is defined in Title 3 of the Maine Revised Statutes Annotated as communicating directly with any legislative official to influence any legislative action or with the Governor to influence the approval or veto of a legislative action when reimbursement for expenditures or compensation is made for those activities. Lobbying includes preparing and submitting oral or written proposals for, or testimony or analyses concerning, legislative action, to the Governor, a Legislator or a legislative committee. The definitions of lobbying and lobbyist are in Attachment D of this report.

## **Analysis**

The Bureau commenced its analysis by first determining what information was on file with the Bureau as well as with the Ethics Commission. First, The Bureau identified all insurers required to file Rule 945 reports for 2004 or 2005. The Bureau then determined:

- whether or not such entities had filed Rule 945 reports and what lobbying expenses they had reported

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<sup>4</sup> See, generally, the Lobbyist Disclosure Procedures Act, 3 M.R.S.A. §§ 311 – 326.

- whether or not such entities had registered and filed reports with the Ethics Commission for those years and, if so, what expenses were reported
- whether or not affiliates or holding companies of such entities had registered and filed reports with the Ethics Commission for those years and, if so, what expenses were reported

The preliminary information gathered is set forth in Table 1 on the following page:

**Table 1:  
Preliminary Information Compiled from Records on File for Rule 945 Entities**

Insurer	Rule 945 Filings				Ethics Comm'n Filings by Insurer				Parent/Affiliate Filing with Ethics Comm'n	Ethics Comm'n Filings by Parent/Affiliate			
	2004		2005		2004		2005			2004		2005	
	Filed	Lobbying Amt on Record as of 04/14/06	Filed	Lobbying Amt on Record as of 04/14/06	Filed	Lobbying Amt on Record as of 04/14/06	Filed	Lobbying Amt on Record as of 04/14/06		Filed	Lobbying Amt on Record as of 04/14/06	Filed	Lobbying Amt on Record as of 04/14/06
Aetna Health Inc Me Corp	Y	0	Y	0	N		N		Aetna, Inc.	Y	\$15,000	Y	\$22,500
Aetna Life Ins Co	Y	0	Y	0	N		N		Aetna Inc.	N		N	
Allianz Life Ins Co of NA	Y	\$138	Y <sup>5</sup>		N		N			N		N	
American United Life Ins Co	<sup>6</sup>		Y	0	N		N			N		N	
Anthem Health Plans of Me Inc	Y <sup>7</sup>	0	Y		N		N		Anthem Blue Cross Blue Shield	Y	\$21,860	Y	\$42,776
Avemco Ins Co	Y	\$5,280	Y	\$3,215	N		N			N		N	
CIGNA Healthcare of Me Inc	Y	0	Y	0	N		N		CIGNA Healthcare Public Affairs Group	Y	\$17,317	Y	\$21,350
Connecticut General Life Ins Co	Y	\$87	Y	\$1	N		N			N		N	
Great-West Life & Annuity Ins Co	Y	0	Y	0	N		N			N		N	
Harvard Pilgrim Health Care Inc	Y	0	Y	0	N		N			N		N	
John Alden Life Ins Co	Y	0	Y <sup>8</sup>		N		N			N		N	
Maine Partners Health Plan Inc	Y	0	N		N		N			N		N	
MEGA Life & Health Ins Co	Y	0	Y	0	N		N			N		N	
Standard Security Life Ins Co of NY	Y	0	Y	0	N		N			N		N	

<sup>5</sup> Allianz Life Insurance Company of North America filed the Appendix B Rule 945 report in 2005.

<sup>6</sup> American United Life Insurance Company filed the Appendix B Rule 945 report in 2004.

<sup>7</sup> Anthem Health Plans of Maine, Inc. filed preliminary Rule 945 reports for 2004 and 2005, with final reports filed in May 2006.

<sup>8</sup> John Alden Life Insurance Company filed the Appendix B Rule 945 report in 2005.

**Table 1:  
Preliminary Information Compiled from Records on File for Rule 945 Entities**

Insurer	Rule 945 Filings				Ethics Comm'n Filings by Insurer				Parent/Affiliate Filing with Ethics Comm'n	Ethics Comm'n Filings by Parent/Affiliate			
	2004		2005		2004		2005			2004		2005	
	Filed	Lobbying Amt on Record as of 04/14/06	Filed	Lobbying Amt on Record as of 04/14/06	Filed	Lobbying Amt on Record as of 04/14/06	Filed	Lobbying Amt on Record as of 04/14/06		Filed	Lobbying Amt on Record as of 04/14/06	Filed	Lobbying Amt on Record as of 04/14/06
Symetra Life Ins Co	Y	0	N		N		N			N		N	
United Healthcare Ins Co	Y	0	Y	0	N		N			N		N	

The Bureau then reviewed annual statements on file for the companies required by Rule 945 to report, those being the companies identified in the table above. Specifically, the Bureau reviewed information reported for the trade association, legal and legislative matter expense lines in the general interrogatories. For both the 2004 and 2005 reporting years, all of the companies either reported zero or a blank amount for the interrogatories relating to trade association, legal and legislative expenses.

In order to gather more complete information as to the basis for the apparent reporting discrepancies, on April 13, 2006 the Bureau sent a questionnaire to the identified entities. Given the possibility that a company may have included lobbying expenses in any of the three categories identified in the general interrogatories, the Bureau included questions about trade association, legal, and legislative expenses in its inquiry. The questionnaire asked the companies to provide the following information:

- For their 2004 and 2005 annual statements:
  - the amounts reported in the trade association, legal, and legislative matters expense interrogatories;
  - the identity of the entity that paid the expenses; and
  - whether any such payments include lobbying expenses generally and in Maine
  
- For their 2004 and 2005 Rule 945 reports:
  - the amounts reported for lobbying expenses at line 35;
  - the types of expenses included;
  - the types of expenses excluded; and
  - if applicable, why the amounts reported differed from the amounts reported in the annual statement interrogatory for expenses for legislative matters.

For 2004 and 2005 Ethics Commission Reporting:

whether they or any company allocating lobbying expenses to them were registered as an employer with the Ethics Commission in either or both years;  
for each registered employer, the identity of lobbyists employed;  
the amounts reported as lobbying expenses to the Ethics Commissions for 2004 and 2005; and  
generally, whether there were any lobbying expenses incurred for 2004 or 2005 that were not reported either to the Bureau of Insurance or Ethics Commission and, if so, the basis for the non-reporting.

The questionnaire also asked the companies to file within 30 days revised Rule 945 reports for 2004 or 2005 if the amounts that they had reported were incorrect. The form of the questionnaire is in Attachment E to this report.

The responses received substantiated the information gathered by the Bureau from information contained in annual statements and Rule 945 reports on file as set forth in the table above. The responses were also consistent with copies of lobbyist registrations on file with and obtained from the Ethics Commission. A brief analysis of the responses to the questions follows.

*Question 1: Trade Association Payments.* The NAIC Annual Statement instructions state that:

The purpose of this General Interrogatory is to capture information about payments to any trade association, service organization, and statistical or rating bureau. A service organization is defined as every person, partnership, association or corporation that formulates rules, establishes standards, or assists in the marking of rates or standards for the information or benefit of insurers or rating organizations.

See page 161 of the 2005 Health Annual Statement Blank

This interrogatory appears at lines 27.1 and 28.1 respectively of the 2004 and 2005 annual statement interrogatories. With the exception of United Healthcare the responding companies indicated that they do not include lobbying expenses within this category. Although United Healthcare did not report lobbying expenses in response to the Annual Statement interrogatory, it did report the inclusion of lobbying expenses as part of trade association expenses in response to the Bureau's questionnaire. Accordingly, United Healthcare amended its Rule 945 report to reflect the expenses for trade association payments of \$6,150 in 2004 and \$5,280 in 2005. In response to the question of whether the companies made payments to trade associations that were attributable to Maine activities, again, with the exception of United Healthcare, all companies responded in the negative. As support for its method of reporting, some companies cited NAIC accounting practices and annual statement instructions.

Based upon the responses received, it appears that companies do not report lobbying expenses in this category since payments to trade associations are akin to membership fees, part of which are



used for broad lobbying efforts on behalf of the insurance industry but are not attributable to any particular company. An example might be the Maine Association of Health Plans which makes its own filings and disclosures with the Ethics Commission for lobbying on behalf of its membership.

*Question 2: Legal Expense Payments.* The NAIC Annual Statement Instructions state that:

The purpose of this General Interrogatory is to capture information about legal expenses paid during the year. These expenses include all fees or retainers for legal services or expenses including those in connection with matters before administrative legislative bodies. It excludes salaries and expenses of company personnel, legal expenses in connection with investigation, litigation and settlement of policy claims, and legal fees associated with real estate transactions including mortgage loans on real estate. Do not include amounts reported in General Interrogatories Number 28 [trade associations] and Number 30 [legislative expenses].

See page 161 of the 2005 Health Annual Statement Blank.

This interrogatory appears at lines 28.1 and 29.1 respectively of the 2004 and 2005 annual statement interrogatories. None of the companies responding include lobbying expenses in this category. Companies typically cited NAIC guidance in reporting such expenses.

*Question 3: Legislative Matters Expense Payments.* The NAIC Annual Statement instructions state that:

The purpose of this General Interrogatory is to capture information about expenditures in connection with matters before legislative bodies, officers or departments of government paid during the year. These expenses are related to general legislative lobbying and direct lobbying of pending and proposed statutes or regulations before legislative bodies and/or officers or departments of government. Do not include amounts reported in General Interrogatories Number 28 [trade associations] or Number 29 [legal expenses].

See page 161 of the 2005 Health Annual Statement Blank.

The interrogatory appears at lines 29.1 and 30.1 respectively of the 2004 and 2005 annual statement interrogatories. The first request was whether or not the company included lobbying expenses within this general interrogatory. Of the 16 companies, 8 responded in the affirmative; three responded in the negative; and two responded that they had no lobbying expenses to include. One company, MEGA Life and Health, indicated that to the extent there are actual lobbying expenses, the company reports the expenses as part of this interrogatory. Two companies, CIGNA Healthcare of Maine, Inc. and Maine Partners Health Plan, noted that the question of reporting lobbying expenses on the general interrogatory is not applicable to them. Maine Partners Health Plan was merged into Anthem Health Plans of Maine and, therefore, has no further obligation to file NAIC Annual Statements. CIGNA Healthcare of Maine, Inc. stated

that all expenses would have been incurred by a parent company which is not a regulated entity required to report. Thus, CIGNA believed, based upon NAIC accounting guidelines, that the general interrogatory was not applicable to the Maine domestic company.

The next question was whether or not any lobbying expense reported in the annual statement included lobbying expenses for activities in Maine. Of the 8 companies reporting lobbying expenses on their annual statements, 4 indicated that the expenses did include payments for activities in Maine. The remaining 4 stated that none of the reported lobbying expenses were for activities occurring in Maine but, rather, were for other lobbying activities outside of Maine. Five of the 8 companies (Aetna Health Inc., Aetna Life Insurance Co., Anthem Health Plans of Maine, Inc., Harvard Pilgrim Health Care, Inc., and United Healthcare Insurance Co.) realized that they had incorrectly reported expenses in their 2004 and 2005 annual statements once the inconsistencies between reporting documents was brought to their attention and, therefore, provided amended annual statement figures in their responses to the Bureau's inquiry. Finally, the companies were asked to identify what company paid the lobbying expenses which were reported on the annual statement. It is noted that although indicating that there were no lobbying expenses to report, both MEGA and Symetra identified the company that typically would be responsible for paying such expenses.

A summary of the responses to this question appears in Table 2 below:

Table 2: Summary of Insurer Responses to Rule 945 Questionnaire Question 3 - General Interrogatory on Legislative Expenses			
Insurer	Q.3(a) are lobbying expenses included; what accounting guidance	Q.3(b) Maine lobbying expense included	Q.3(c) what entity paid the expenses
Aetna Health Inc Me Corp	Yes; NAIC	Yes	Aetna Inc.
Aetna Life Ins Co	Yes	Yes	Aetna Inc.
Allianz Life Ins Co of North America	Yes, ACLHIC	None	Allianz Life Ins. Co. of N.A.
American United Life Ins Co	Yes, NAIC	None	AULIC
Anthem Health Plans of Me Inc	Yes	Yes	Anthem Ins. Cos., Inc.
Avemco Ins Co	No	None	
CIGNA Healthcare of Me Inc	N/A	N/A	N/A
Connecticut General Life Ins Co	Yes	None	CGLIC
Great-West Life & Annuity Ins Co	Yes	None	G-WL&A
Harvard Pilgrim Health Care Inc	Yes, NAIC	Yes	HPHC
John Alden Life Ins Co	No	None	N/A
Maine Partners Health Plan Inc	N/A	N/A	N/A
MEGA Life & Health Ins Co	Based on actual lobbying expenses	None	MEGA
Standard Security Life Ins Co of NY		None	
Symetra Life Ins Co	No; Lexis, NAIC	None	Symetra
United Healthcare Ins Co	None	None	None

*Question 4: Rule 945 Line 35 Amounts.* Rule 945 requires that “lobbying expenses” be reported on line 35 of the annual statement supplement. Rule 945 does not define lobbying expenses nor does it provide guidance as to whether expenses paid by an entity other than the reporting entity need to be disclosed either in full or as an allocation. The guidance provided by the rule is that the reporting company is to report “... using the definitions and guidance found in the NAIC Annual Statement Instructions and Accounting Practices and Procedures manual or their successor publications.” All but three companies (Allianz Life Insurance Company of North America, Avemco Insurance Company and Connecticut General Life Insurance Company) reported zero at line 35 of their 2004 and 2005 Rule 945 reports. Following receipt of the questionnaire from the Bureau, six companies (Aetna Health Inc., Aetna Life Insurance Company, Anthem Health Plans of Maine, Inc., Avemco Insurance Company, Harvard Pilgrim Health Care, Inc., and United Healthcare Insurance Company) filed revised Rule 945 reports for 2004 and/or 2005. Except for Avemco Insurance Company, these revisions increased the amounts reported as lobbying expenses from zero or no reported figure. Avemco Insurance Company revised its 2004 and 2005 Rule 945 report lobbying expenses respectively from \$5,280 and \$3,215 to zero. This company explained that the 2004 Rule 945 report was the first that it had prepared and that it had “incorrectly allocated a percentage of the other underwriting expenses to the lobbying expense line” in this report.

The Bureau requested each company provide information as to why the figures reported on a company’s annual statements differed from what was reported on its Rule 945 reports. Two companies explained that the amounts that they reported in the general interrogatories represented an allocation of Maine-related lobbying expenses incurred not by the company required to file a 945 report but, rather, by the only affiliates in their group of companies that transact material business in Maine. Most other companies explained that either an affiliate or parent which is not an insurance company had paid such expenses. Because the company incurring the expenses is not required to file NAIC annual statements in Maine, the entity filing the Rule 945 report did not disclose them.

Aetna Health Inc. explained that it had made a mistake in reporting zero lobbying expenses on its Rule 945 reports for 2004 and 2005 but that its records indicated that it had reported “all lobbying expenses incurred in Maine that were allocated” to it. A review of these reports and the re-filed reports shows that the company had included charitable contributions and lobbying expenses in the line for “all other” expenses. Aetna Life Insurance Company had a similar explanation. A review of its reports show that it had included charitable contributions and lobbying expenses in the line for “all other” expenses in its 2005 Rule 945 report. Its 2004 report did not include figures for the lobbying expense and “all other” lines which may have resulted from confusion over how to complete the report. As noted, both companies filed amended 945 reports to accurately reflect lobbying expenses paid. Aetna Health Inc. and Anthem Health Plans of Maine, Inc. also filed amended responses to the General Interrogatories for 2004 and 2005 to account for changes in their respective Rule 945 reports.

Anthem Health Plans of Maine, Inc (“AHPM”) explained that lobbying expenses for Maine activities were not paid directly by AHPM but, rather, by an affiliate. Accordingly, expenses were neither reported on AHPM’s annual statements nor its Rule 945 reports. AHPM did note that the affiliate reported Maine lobbying expenses, which the affiliate had paid, to the Ethics

Commission in 2004 and 2005. AHPM, like other companies, did not understand that expenses paid by parents, affiliates and holding companies were to be reported on the Rule 945 report. As noted, AHPM did amend its reports to include expenses paid by an affiliate on its behalf.

Harvard Pilgrim Health Care, Inc. explained that it had relied on NAIC instructions in reporting zero for the lobbying expense line in its Rule 945 reports, reasoning that such instructions require both expressly identified lobbying expenses as well as indirect lobbying work, as stated above. It reported zero because the annual statement did not require or have a separate figure for Maine related lobbying expenses and because Rule 945 did not offer any guidance on this point. As noted above, Harvard Pilgrim Health Care, Inc. filed revised Rule 945 reports for 2004 and 2005.

*Question 5: Ethics Commission Registration.* The Bureau asked whether the companies had registered with the Ethics Commission and, if so, whether the company reported lobbying expenses as defined by Title 3. Based on the records of the Ethics Commission, the Bureau had identified four companies (Aetna Health Inc., Aetna Life Insurance Company, Anthem Health Plans of Maine, Inc., CIGNA Health Care of Maine, Inc.) as either having registered with the Ethics Commission or being affiliated with a company which had done so. In responding to the Bureau's questionnaire, the same four companies confirmed the Bureau's research, including the amounts reported to the Ethics Commission.

Harvard Pilgrim Health Care of Maine, Inc. explained that it had not registered with the Ethics Commission since 2003 because the activities of its employees that could be viewed as lobbying activities had not met that agency's minimum requirements for registration. As noted above, the applicable statute defines lobbyist as one who engages in lobbying more than eight hours in any calendar month. Mega Life & Health Insurance Company noted that it had a lobbyist, who died in 2004, and that it had reported lobbying expenses of \$30,155 to the Ethics Commission in 2004 and zero in 2005. Because the Ethics Commission had no records of reports from this company, the Bureau asked the company to review this information. After further review, Mega advised the Bureau that it had mistakenly reported information related to its activities in another state.

Last, the Bureau asked whether any of the companies had incurred lobbying expenses in 2004 and/or 2005 which had not been reported to either the Bureau of Insurance or the Ethics Commission. All of the companies responded that no such expenses were paid but not reported.

### **Conclusion and Recommendations**

The reporting entities in this instance followed the legal guidance afforded by Rule 945's reference to the NAIC guidelines for further specifics on the reporting requirements for the annual report supplement. Because the companies followed the written guidance of Rule 945, they can be faulted only for not seeking additional guidance from the Bureau to reconcile any ambiguity and inconsistency between section 423-D, requiring the annual supplement report to provide comprehensible information to the public regarding a company's financial dealings in the State of Maine, and the Rule 945 instruction, requiring that companies file reports consistent with NAIC guidelines. The Superintendent finds that the companies' reliance on the NAIC

standards was reasonable given the explicit instruction to do so. Furthermore it would be inappropriate to pursue enforcement action against the reporting entities as they followed the written legal requirements in submitting their forms. Unfortunately those written standards did not reflect the intent of the Bureau that in-state expenses be reported on the Rule 945 forms. Accordingly, this report recommends that the standards be amended to reflect that intent.

Insurance companies conducting business in the State of Maine potentially have multiple reporting obligations when it comes to lobbying activities. Those obligations vary depending upon the regulatory body, the purpose of the report, the statutory requirements, and even, in the case of the Rule 945 report, the amount of direct written premium. Consequently, the amounts reported may differ from report to report.

The purposes for each of these reporting requirements also differ. Reporting on the NAIC Annual Statement is intended to provide insurance regulators across the country with as complete a financial picture as possible for each insurance company in a uniform manner generally without regard to the delineation of expenses state by state. Reporting by registered employers and lobbyists with the Maine Commission on Governmental Ethics and Election Practices is intended to provide Maine citizens with information as to the extent to which persons and entities are working to influence the Legislative process and the results of that process. The purpose of requiring certain insurance companies to report information required by Rule 945 including lobbying expenses is to aid the public in gaining an understanding of the financial elements that contribute to the in-state operations of reporting companies.

The lobbying registration and disclosure requirements of Maine law do not fall within the jurisdiction of the Bureau of Insurance. Rather, enforcement and oversight of lobbying statutes lies with the Ethics Commission. Accordingly, the Bureau takes no position as to whether the information provided by the companies as to their compliance is consistent with what the Ethics Commission might say is required. The information has been reviewed and is contained in this report for the sole purpose of assisting in identifying potentially inconsistent reporting practices.

As for the requirements for the Rule 945 report it has been the intention of the Bureau to have all lobbying expenses paid by or on behalf of the reporting company in the State of Maine included in line 35. Those expenses were also intended to include any amounts paid by a parent, affiliate or holding company on behalf of multiple entities within a corporate structure, such amount to represent those sums appropriately allocable to the reporting company. That being said, Rule 945 does not specify this level of detail, leaving the reporting entity to rely upon the definitions and guidance found in the NAIC Statement Instructions. Those instructions also do not include such level of detail and, indeed, would not require that level of detail for regular annual statement reporting. It appears that the inconsistencies in reporting the lobbying expense information were the result of ambiguity and the lack of a single definition of lobbying expense upon which the reporting companies could rely. However, compliance with the law is the responsibility of licensees and when questions regarding compliance with potentially ambiguous rules arise, licensees should seek clarification from Bureau staff. Maine law demands that the “annual report supplement must provide the public with general, understandable and comparable financial information relative to the in-state operations and results of authorized insurers and

health maintenance organizations.” 24-A M.R.S.A. § 423-D(1) (emphasis added). This overarching goal should be kept in mind when construing the annual report supplement requirements. It is noted that one company did identify incorrect reporting on its annual statement but it is also noted that the company amended its filings when it became aware of the error.

However, in these specific circumstances, given the lack of clear guidance as to the meaning of line 35 “Lobbying expenses” and the fact that the reporting entities were both responsive to the inquiries of the Bureau and filed amended reports to identify lobbying expenses in a manner consistent with the Bureau’s intent, the Superintendent finds it inappropriate to bring enforcement action against any of the reporting companies for the 2004 and 2005 Rule 945 reports.

All of the companies who participated with the Bureau in this review, however, are now on notice as to what information is required to be reported on line 35. . In addition, the Superintendent will undertake the following steps in order to clarify regulated entities’ responsibilities under Rule 945:

1. Clarify the annual statement instructions sent to carriers in the fall of each year to state that all lobbying expenses paid for the reporting year are to be reported under the legislative expense general interrogatory.
2. Amend Rule 945 to include the following:
  - A definition of lobbying expense consistent with that used in the NAIC Annual Statement Instructions
  - Additional instructions clarifying reportable lobbying expenses include those paid directly by the reporting entity; those paid by another on behalf of the reporting entity; and those paid by a parent, affiliate, or holding company on behalf of multiple entities within the corporate structure in an amount reflective of an appropriate allocation to the reporting entity.
3. Issue an interim advisory bulletin clarifying the Bureau’s intention and interpretation of the Rule 945 requirements as to lobbying expenses which bulletin will be sent to identified reporting entities and interested parties and will be posted to the Bureau’s website.

**TABLE OF ATTACHMENTS**

A.	April 3, 2006 Letter from Consumers for Affordable Health Care Coalition
B.	24-A M.R.S.A. § 423
C.	24-A M.R.S.A. § 423-D
D.	3 M.R.S.A. § 312-A
E.	Bureau Rule Ch. 945
F.	April 13, 2006 Questionnaire

**Attachment A**

**April 3, 2006 Letter from Consumers for Affordable Health Care Coalition**

See following pages.

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**Consumers for  
AFFORDABLE  
Health Care  
COALITION**

*Advocating the right to health care  
for every man, woman and child.*

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April 3, 2006

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34 State House Station  
Augusta, Maine 04333-0034

Re: Health insurers violation of Bureau of Insurance lobbying reporting requirements

Dear Attorney General Rowe and Superintendent Iuppa:

On behalf of Consumers for Affordable Health Care, I request that you conduct a formal investigation, including an adjudicatory hearing or pursuit of a civil action in Superior Court, and pursue appropriate corrective actions, including fines and penalties, against health insurance companies that have broken the law by failing to file accurate annual report supplements regarding their lobbying expenses for the calendar years 2004 and 2005. Each of the major insurance companies doing business in Maine, Anthem, Aetna, Cigna and Harvard-Pilgrim, reported total lobbying expenses of "\$0" (Anthem left the individual reporting cells blank for this item). Each of these companies knows what their lobbying expenses were for each of these calendar years because they are required to file those expenses with the Maine Commission on Governmental Ethics. According to our research, only one of these corporations did not file with the Ethics Commission. By comparison, the failure to report known lobbying expenditures, and moreover, knowingly reporting "\$0" rather than the actual known lobbying expenditures, is similar to a taxpayer reporting \$0 on a tax form when the filer knows that to be false. Just as an individual taxpayer is not above the rule of law, neither are the health insurers involved.

In order to achieve greater transparency in the health insurance industry, the Dirigo Health Act required HMOs and health insurers, with limited exceptions not relevant to the instant matter, to file annual report supplements by March 1<sup>st</sup> of each year. 24-A M.R.S.A. §423-D; Bureau of Insurance Rule Chapter 945, §4 The Act states in relevant part:

The annual report supplements must provide the public with general, understandable and comparable financial information relative to the in-state operations and results of authorized insurers and health maintenance organizations. Such information must include, but is not limited to, medical claims expense, administrative expense and underwriting gain for each

Letter to Attorney General Rowe and Superintendent Iuppa  
April 3, 2006  
Page 2

line segment of the market in this State in which the insurer participates. **The annual report supplements must contain sufficient detail for the public to understand the components of cost incurred by authorized health insurers and health maintenance organizations as well as the cost trends of these carriers.** 24-A M.R.S.A. §423-D (Bold added)

The intent of this portion of the Act was to inform the public about how much insurance companies were spending to lobby lawmakers to protect their practices and profits, often against the interests of the ratepayers, among other items such as net profits. Bureau of Insurance Rule Chapter 945 implements the Act's reporting requirements. It was adopted by the Bureau pursuant to 24-A M.R.S.A. §423-D and became effective on February 13, 2005. It required health insurers and HMOs to file required data for calendar years 2004 and later. Failure to file the supplemental reports, and hence the data required therein, "violates this rule and may be subject to penalties as permitted under 24-A M.R.S.A. §§12-A and 215." Bureau of Insurance Rule Chapter 945, §7 A copy of Rule Chapter 945 and the relevant 2004-2005 filings are attached.

As you know, 24-A M.R.S.A. §12-A gives you the authority to pursue action against companies that violate the statute and rules by action in Superior Court (by the Attorney General) or by adjudicatory hearing (by the Superintendent). Section 12-A gives the Attorney General authority to seek fines of up to \$15,000 per violation against corporations breaking the insurance laws of Maine and the Superintendent can seek fines of up to \$10,000 per violation unless the law provides a different civil penalty. Moreover, 24-A M.R.S.A. §424 (Penalty for late or false statement) makes it a class D crime to submit knowingly false statements; it states:

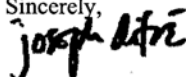
Any director, officer, agent or employee of any insurer who subscribes to, makes or concurs in making or publishing, any annual **or other statement required by law**, knowing the same to contain any material statement that is false, commits a Class D crime. 24-A M.R.S.A. §424, sub-§2 (Bold added)

We believe that intentionally inserting "\$0" in individual report cells and/or leaving these cells blank, as well as reporting "\$0" in the total lobbying expense line item where such expenses **are known and have been reported to another state agency**, constitutes a knowingly false material statement and, as such, a violation of the law subject to its full penalties.

No one is above the law. Ordinary, hardworking citizens can become cynical if they are held to one standard while large, profitable corporations are held to another. This is a serious matter. These insurance companies broke the law and we expect you to prosecute these violations with all due haste and to the full extent of the law.

If you have any questions, please feel free to contact me. Thank you for your attention in this matter.

Sincerely,



Joseph P. Ditré, Esq.  
Executive Director

Enclosures

Pc: Governor John E. Baldacci

Letter to Attorney General Rowe and Superintendent Iuppa

April 3, 2006

Page 3

Linda Pistner, Deputy Attorney General  
Eric Cioppa, Deputy Superintendent of Insurance  
Judith Shaw, Deputy Superintendent of Insurance  
Sen. Beth Edmonds, Senate President  
Rep. John Richardson, House Speaker  
Sen. Nancy Sullivan, Chairwoman, IFS Committee  
Rep. Anne Perry, Chairwoman, IFS Committee  
Members of House and Senate Leadership  
Members of the IFS Committee  
Patricia Riley, Director, GOHPF  
Karynlee Harrington, Director, Dirigo Health Agency

## Attachment B

### **24-A M.R.S.A. § 423. Annual statement**

1. Each authorized insurer shall annually on or before March 1st, or within any reasonable extension of time that the superintendent for good cause may have granted on or before such March 1st, file with the superintendent a full and true statement of its financial condition, transactions and affairs as of December 31st preceding. The statement must be on an annual statement blank of the National Association of Insurance Commissioners, be prepared in accordance with the association's annual statement instructions, and follow practices and procedures prescribed by the association's accounting practices and procedures manual, with any useful or necessary modification or adaptation thereof and as supplemented by additional information required by the superintendent. The statement must be verified by the oath of the insurer's president or vice-president, and secretary or actuary as applicable, or in the absence of the foregoing, by 2 other principal officers; or if a reciprocal insurer, by the oath of the attorney-in-fact or its like officers if a corporation. [1993, c. 313, §16 (amd).]
  2. The statement of an alien insurer shall be verified by its United States manager or other officer duly authorized, and shall relate only to the insurer's transactions and affairs in the United States unless the superintendent requires otherwise. If the superintendent requires a statement as to such an insurer's affairs throughout the world, the insurer shall file such statement with the superintendent as soon as reasonably possible. [1973, c. 585, §12 (amd).]
  3. The superintendent may refuse to continue, or may suspend or revoke, the certificate of authority of any insurer failing to file its annual statement when due. [1973, c. 585, §12 (amd).]
  4. Before August 10th, and at the same time the insurer makes payment for its annual assessment, the insurer shall pay the fee for filing its annual statement as prescribed by section 601 (fee schedule). [1995, c. 544, §5 (amd).]
  5. The superintendent may adopt rules that prescribe accounting standards applicable to statements filed pursuant to this section. These rules may permit or require any class or classes of insurers domiciled or authorized to do business in this State to conform its financial presentations to the standards of preparation prescribed in the accounting practices and procedures manual of the National Association of Insurance Commissioners. [1991, c. 828, §14 (new).]
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## Attachment C

### **24-A M.R.S.A. § 423-D. Annual report supplement**

**1. Annual report supplement required.** Each health insurer and health maintenance organization shall file an annual report supplement on or before March 1st of each year, or within any reasonable extension of time that the superintendent for good cause may have granted on or before March 1st. The superintendent shall adopt rules regarding specifications for the annual report supplement. The annual report supplements must provide the public with general, understandable and comparable financial information relative to the in-state operations and results of authorized insurers and health maintenance organizations. Such information must include, but is not limited to, medical claims expense, administrative expense and underwriting gain for each line segment of the market in this State in which the insurer participates. The annual report supplements must contain sufficient detail for the public to understand the components of cost incurred by authorized health insurers and health maintenance organizations as well as the annual cost trends of these carriers. The superintendent shall develop standardized definitions of each reported measure. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2003, c. 469, Pt. E, §2 (new).]

**2. Exemption.** If an insurer is engaged in the type of health insurance business identified as an exception to the definition of health insurance in section 704, subsection 2 and is not engaged in health insurance in this State as defined in that section, then the insurer is not subject to the requirements of this section for the filing of annual report supplements. [2003, c. 469, Pt. E, §2 (new).]

## Attachment D

### **3 M.R.S.A. § 312-A Definitions**

**9. Lobbying.** "Lobbying" means to communicate directly with any official in the Legislature for the purpose of influencing any legislative action or with the Governor for the purpose of influencing the approval or veto of a legislative action when reimbursement for expenditures or compensation is made for those activities. It includes the time spent to prepare and submit to the Governor, a Legislator or a legislative committee oral and written proposals for, or testimony or analyses concerning, a legislative action. [1993, c. 446, Pt. A, §5 (amd) .]

**10. Lobbyist.** "Lobbyist" means any person who is specifically employed by another person for the purpose of and who engages in lobbying in excess of 8 hours in any calendar month, or any individual who, as a regular employee of another person, expends an amount of time in excess of 8 hours in any calendar month in lobbying. "Lobbyist" does not include a lobbyist associate. [1993, c. 691, §5 (rpr) .]

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## Attachment E

**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**031 BUREAU OF INSURANCE**

**Chapter 945: ANNUAL REPORT SUPPLEMENT FOR HEALTH INSURERS**

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### **Section 1. Purpose**

This rule establishes standards, procedures, and forms that health insurers and health maintenance organizations must use in filing the annual report supplement required by 24-A M.R.S.A. § 423-D.

### **Section 2. Authority**

This rule is promulgated by the Superintendent pursuant to 24-A M.R.S.A. §§ 212 and 423-D.

### **Section 3. Applicability and Scope**

The filing requirements contained in this rule apply to all health insurers and health maintenance organizations except as provided in this section. The requirements apply to companies renewing existing policies, whether or not they currently offer those policies for new issue. The filing requirements do not apply to the types of health insurance identified as an exception to the definition of health insurance in 24-A M.R.S.A. § 704(2). Therefore, insurers engaged in only the following types of insurance or any combination of the following shall not be subject to this rule: accidental injury, specified disease, hospital indemnity, dental, vision, disability income, long-term care, Medicare supplement, or other limited benefit health insurance as defined in Rule 755. The filing requirements do apply to insurers writing employee benefit excess (stop-loss) insurance as defined in 24-A M.R.S.A. § 707(1) (C-1) with respect to health benefit plans.

### **Section 4. Filing Requirements**

Health insurers and health maintenance organizations subject to this rule shall submit the annual report supplement to the Superintendent on or before March 1<sup>st</sup> of each year for the year immediately preceding. The reporting entity may submit a written request for an extension for good cause to the Superintendent prior to March 1<sup>st</sup>. The Superintendent shall evaluate and grant a request for an extension on a timely basis if good cause has been demonstrated.

Health insurers and health maintenance organizations shall use information consistent with that reported in their annual statutory financial statements and reconcile the annual report supplement to the applicable pages of their statements.

The annual report supplement shall be filed in an electronic format prescribed by the Superintendent.

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**Section 5. Annual Report Supplement Contents**

Annually, the Superintendent shall provide the form in which the annual report supplement shall be prepared by health insurers and health maintenance organizations. Appendices A and B provide the forms and instructions for use for the reporting of calendar year 2004 information. The forms and instructions for subsequent years will be substantially similar accounting only for revisions to the National Association of Insurance Commissioners' annual statutory financial statements.

Appendix A provides the forms and instructions for health insurers and health maintenance organizations with direct written health insurance premium in the State of Maine totaling more than \$2,000,000 for the reporting year, excluding the types of health insurance identified in section 3 as being excluded from the filing requirements. Appendix B provides the forms and instructions for all other health insurers and health maintenance organizations subject to this rule. Insurers that had no business of the types subject to this rule in force at any time during the year do not need to file a report.

**Section 6. Public Information**

Filings made pursuant to this rule are "public records" under 1 M.R.S.A. § 402(3) and will be available for public inspection pursuant to 1 M.R.S.A. § 408.

**Section 7. Failure to File**

Any health insurer or health maintenance organization that fails to file the annual report supplement by the later of March 1<sup>st</sup> or a date of extension granted by the Superintendent pursuant to Section 4, violates this rule and may be subject to penalties as permitted under 24-A M.R.S.A. §§ 12-A and 215.

**Section 8. Effective Date**

This rule is effective February 13, 2005, and requires filing of data for calendar years 2004 and later.

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STATUTORY AUTHORITY: 24-A M.R.S.A. §§ 212 AND 423-D

EFFECTIVE DATE:

February 13, 1005 – filing 2005-50

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APPENDIX A

2004 ANNUAL REPORT SUPPLEMENT and INSTRUCTIONS  
HEALTH INSURERS and HEALTH MAINTENANCE ORGANIZATIONS WITH AT LEAST  
\$2,000,000 of DIRECT WRITTEN HEALTH INSURANCE PREMIUM IN MAINE (See Section 5 of  
this Rule.)

1. The reporting entity shall report the information (hereinafter referred to as “line items”) indicated on the attached reporting forms. Statewide data is to be reported on Part 1. One copy of Part 2 of the form must be completed for each region in which the entity has health business. The majority of the line items listed correspond to line items from the Statement of Revenue and Expenses, the Underwriting and Investment Exhibit, Part 3 – Analysis of Expenses and the Exhibit of Premiums, Enrollment and Utilization, which are contained in the health annual statutory financial statements. For insurers completing life and accident and health or property and casualty annual statutory financial statements, a portion of the information required is contained within Schedule H – Accident and Health Exhibit—of those annual statutory financial statements.
  - a. Member and Contract Information. The reporting entity shall report the indicated information on member months and contracts in-force as of December 31.
  - b. Revenue and Expense Information. The reporting entity shall report the indicated information on revenues and expenses and shall use the definitions and guidance found in the National Association of Insurance Commissioner’s Annual Statement Instructions and Accounting Practices and Procedures Manual or their successor publications.
    - i. Total cost containment expenses should be reported in the cost containment expense line item and should be equivalent to information contained in line 20 of the Statement of Revenue and Expenses if the insurer files a health annual statutory financial statement.
    - ii. Other claims adjustment expenses should be reported in total only and should be equivalent to information contained in line 20 of the Statement of Revenue and Expenses if the insurer files a health annual statutory financial statement.
    - iii. All other general and administrative expenses should be reported in the appropriate line items and should, in total, be equivalent to line 21 of the Statement of Revenue and Expenses if the insurer files a health annual statutory financial statement.
    - iv. Investment expenses should not be included in any of the expense line items.
  - c. Utilization Information. The reporting entity shall report the indicated information on utilization and shall use the definitions and guidance found in the National Association of Insurance Commissioner’s Annual Statement Instructions and Accounting Practices and Procedures Manual or their successor publications.
  - d. The following definitions and guidance apply to items not found in the NAIC annual statutory financial statements.
    - Line 2: “Number of contracts 12/31” means the number of individual or group policies in force at the end of the reporting year. A single group policy counts as one contract regardless of the number of certificate holders.
    - Line 3: “Number of subscribers covered as individuals (non-family) under group or individual contracts 12/31” means the number of individual policyholders or group certificate holders who have no covered dependents as of the end of the

reporting year. For stop-loss coverage, this refers to the underlying employee benefit plan.

Line 4: “Number of families covered (individual + spouse, individual + dependent, individual + family) 12/31” means the number of individual policyholders or group certificate holders who have covered dependents as of the end of the reporting year. For stop-loss coverage, this refers to the underlying employee benefit plan.

Line 5: “Number of dependents 12/31” means the number of covered members other than policyholders and certificate holders. The total of lines 3, 4, and 5 must equal the number of covered persons as of the end of the reporting year. For stop-loss coverage, this refers to the underlying employee benefit plan.

Line 12: “Dirigo refunds of savings offset payments” means savings offset payments returned to the carrier by the Board of Directors of Dirigo Health pursuant to 24-A M.R.S.A. § 6913(6).

Line 33: “Dirigo savings offset payments” are payments required by the Board of Directors of Dirigo Health pursuant to 24-A M.R.S.A. § 6913(2).

2. Except as provided in item 3 regarding small cells, the reporting entity shall report the information required in Item 1 by geographic region and category of policyholder within the State of Maine. The five geographic regions are:
- a) Zip codes beginning with 039, 040, and 041
  - b) Zip codes beginning with 042
  - c) Zip codes beginning with 043, 045, 046, 048, and 049
  - d) Zip codes beginning with 044
  - e) Zip codes beginning with 047

The six categories of policyholders are:

- a) Fully insured large groups (in excess of 50 employees) excluding Dirigo groups
- b) Fully insured small groups (1-50 employees) excluding Dirigo groups
- c) Fully insured individuals excluding Dirigo individuals
- d) Dirigo groups
- e) Dirigo individuals
- f) Stop-loss (employee benefit excess insurance as defined in 24-A M.R.S.A. § 707(1)(C-1))

The reporting entity shall report the information according to the geographic region as follows:

- a. Information pertaining to individual policies shall be included in the geographic region in which the individual contract holder resides.
  - b. Information pertaining to employer groups and labor union groups shall be included in the geographic region in which the employer is located unless the employer is not located in Maine. If the employer is not located in Maine, information shall be included in the geographic region in which the majority of the Maine employees work. Information pertaining to coverage of employees working in Maine under group policies issued in another state should be included if it is reported on the Maine state page of the insurer’s annual statutory financial statement.
  - c. For other types of groups, including but not limited to association groups and trustee groups, information shall be reported as follows:
    - i. If coverage relates to employment, for example a policy issued to a multiple
-

employer trust or to an association of employers to cover their employees, then information shall be included in the geographic region in which the employer is located unless the employer is not located in Maine. If the employer is not located in Maine, information shall be included in the geographic region in which the majority of the Maine employees work.

- ii. If coverage does not relate to employment, for example a policy issued to an association of individuals that does not provide coverage to employees of members, then information shall be included in the geographic region in which the certificate holder resides.

3. If the segmentation by category of policy and geographic region required in item 2 would disclose claims data or utilization data relating to a very small number of individuals or employer groups such that confidentiality might be sacrificed, the data must be combined with a larger cell as follows:
    - a. Data for a small cell, as defined below, must be combined with the corresponding cell for the geographic area reflecting experience for the largest number of individuals. The reporting entity shall describe clearly which cells were combined.
    - b. A “cell” means data for one policy category in one geographic region,
    - c. A “small cell” means a cell reflecting the experience of fewer than 25 individuals or fewer than two employer groups.
    - d. If the reporting entity has fewer than 25 individual policies or two group policies in a policy category statewide, data for that category must be combined with a larger category. The reporting entity shall describe clearly which categories were combined.
  4. The reporting entity shall distinguish reported amounts representing actual revenues and expenses from reported amounts representing an allocation of revenues and expenses for each line item on Part 3 of the reporting form. If a revenue or expense line item is a combination of actual amounts and allocated amounts, the reporting entity shall so indicate. The reporting entity shall provide an explanation of the basis used when allocating revenues or expenses. As an example, rent expense may be allocated across all reporting categories. In this case, the reporting entity would indicate that rent expense is allocated along with the method used to allocate the expense. Actual amounts must be reported for lines 6-13, 15-24, 26-28, 30, and 33 to the extent feasible. An exception to this requirement is that allocation by region is acceptable if the insurer has fewer than 1,200 member months in the region. Otherwise, if allocation is used for any of these lines, the reporting entity must provide an explanation of why it is not feasible to report actual amounts.
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MAINE ANNUAL REPORT SUPPLEMENT for Year \_\_\_\_\_

This form is for companies with at least \$2 million of premium – see Rule 945, section 5.

PART 1: Statewide Data

Company \_\_\_\_\_ NAIC Code \_\_\_\_\_

Name of person completing this form \_\_\_\_\_

Telephone Number \_\_\_\_\_ Email \_\_\_\_\_

		Large Groups	Small Groups	Individuals	Dirigo Groups	Dirigo Individuals	Stop-loss	TOTAL
<b><u>Member and Contract Information</u></b>								
1	Member months during year							
2	Number of contracts 12/31							
3	Number of subscribers covered as individuals (non-family) under group or individual contracts 12/31							
4	Number of families covered (individual + spouse, individual + dependent, individual + family) 12/31							
5	Number of dependents 12/31							
<b><u>Revenue Information</u></b>								
6	Direct premiums written							
7	Direct premiums earned							
8	Net premium income							
9	Change in unearned premium reserves and reserve for rate credits							
10	Fee-for-service						XXX	
11	Risk revenue						XXX	
12	Dirigo refunds of savings offset payments							
13	Aggregate write-ins for other health care related revenues							

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		Large Groups	Small Groups	Individuals	Dirigo Groups	Dirigo Individuals	Stop-loss	TOTAL
31	Marketing and advertising							
32	State and local insurance taxes, including premium taxes, regulatory authority licenses and fees, payroll taxes, other taxes, other licenses and fees, excluding Dirigo savings offset payments							
33	Dirigo savings offset payments							
34	Charitable contributions							
35	Lobbying expenses							
36	All other expenses							
37	Total claims adjustment and administrative expenses (lines 27-36)							
38	Net underwriting gain or (loss) (line 14 less line 25 less line 26 less line 37)							

**Utilization Statistics**

39	Hospital days (not including emergency room) - inpatient only						XXX	
40	Physician encounters						XXX	
41	Other professional encounters						XXX	
42	Number of emergency room visits						XXX	

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MAINE ANNUAL REPORT SUPPLEMENT for Year \_\_\_\_\_

This form is for companies with at least \$2 million of premium – see Rule 945, section 5.

PART 2: Regional Data

Company \_\_\_\_\_ NAIC Code \_\_\_\_\_

Name of person completing this form \_\_\_\_\_

Telephone Number \_\_\_\_\_ Email \_\_\_\_\_

This report is for the following zip code areas (Check one):

039, 040, and 041     042     043, 045, 046, 048, and 049     044     047

		Large Groups	Small Groups	Individuals	Dirigo Groups	Dirigo Individuals	Stop-loss	TOTAL
<b><u>Member and Contract Information</u></b>								
1	Member months during year							
2	Number of contracts 12/31							
3	Number of subscribers covered as individuals (non-family) under group or individual contracts 12/31							
4	Number of families covered (individual + spouse, individual + dependent, individual + family) 12/31							
5	Number of dependents 12/31							
<b><u>Revenue Information</u></b>								
6	Direct premiums written							
7	Direct premiums earned							
10	Fee-for-service						XXX	
11	Risk revenue						XXX	
<b><u>Expense Information</u></b>								
15	Hospital benefits (not including emergency room) - inpatient only						XXX	
16	Hospital benefits (not including emergency room) - outpatient only						XXX	

		Large Groups	Small Groups	Individuals	Dirigo Groups	Dirigo Individuals	Stop-loss	TOTAL
17	Medical benefits (excluding hospital inpatient and outpatient above)						XXX	
18	Other professional services						XXX	
19	Outside referrals						XXX	
20	Emergency room and out-of-area						XXX	
21	Prescription drugs						XXX	
<b><u>Utilization Statistics</u></b>								
39	Hospital days (not including emergency room) - inpatient only						XXX	
40	Physician encounters						XXX	
41	Other professional encounters						XXX	
42	Number of emergency room visits						XXX	



MAINE ANNUAL REPORT SUPPLEMENT for Year \_\_\_\_\_

This form is for companies with at least \$2 million of premium – see Rule 945, section 5.

PART 3: Allocation Method

Company \_\_\_\_\_ NAIC Code \_\_\_\_\_

**Check appropriate boxes. Attach explanation regarding line items indicated as “Allocated” or “Combination.”**

		Allocation by Region			Allocation by Category of Policyholder		
		Actual	Allocat-ed	Combin-ation	Actual	Allocat-ed	Combin-ation
<b><u>Revenue Information</u></b>							
6	Direct premiums written						
7	Direct premiums earned						
8	Net premium income	XXX	XXX	XXX			
9	Change in unearned premium reserves and reserve for rate credits	XXX	XXX	XXX			
10	Fee-for-service						
11	Risk revenue						
12	Dirigo refunds of savings offset payments	XXX	XXX	XXX			
13	Aggregate write-ins for other health care related revenues	XXX	XXX	XXX			
<b><u>Expense Information</u></b>							
15	Hospital benefits (not including emergency room) - inpatient only						
16	Hospital benefits (not including emergency room) - outpatient only						
17	Medical benefits (excluding hospital inpatient and outpatient above)						
18	Other professional services						
19	Outside referrals						
20	Emergency room and out-of-area						
21	Prescription drugs						
22	Aggregate write-ins for other medical and hospital	XXX	XXX	XXX			

		Allocation by Region			Allocation by Category of Policyholder		
		Actual	Allocat- ed	Combin- ation	Actual	Allocat- ed	Combin- ation
23	Incentive pool and withhold adjustments and bonus amounts	XXX	XXX	XXX			
24	Net reinsurance recoveries	XXX	XXX	XXX			
26	Increase in reserves	XXX	XXX	XXX			
27	Cost containment expenses	XXX	XXX	XXX			
28	Other claims adjustment expenses	XXX	XXX	XXX			
29	Salaries, wages and other benefits	XXX	XXX	XXX			
30	Commissions	XXX	XXX	XXX			
31	Marketing and advertising	XXX	XXX	XXX			
32	State and local insurance taxes, including premium taxes, regulatory authority licenses and fees, payroll taxes, other taxes, licenses and fees	XXX	XXX	XXX			
33	Dirigo savings offset payments	XXX	XXX	XXX			
34	Charitable contributions	XXX	XXX	XXX			
35	Lobbying expenses	XXX	XXX	XXX			
36	All other expenses	XXX	XXX	XXX			

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APPENDIX B  
2004 ANNUAL REPORT SUPPLEMENT and INSTRUCTIONS  
HEALTH INSURERS and HEALTH MAINTENANCE ORGANIZATIONS WITH LESS THAN  
\$2,000,000 of DIRECT WRITTEN HEALTH INSURANCE PREMIUM IN MAINE (See Section 5 of  
this Rule.)

The reporting entity shall report the information (hereinafter referred to as “line items”) indicated on the attached reporting form on a statewide basis. The reporting entity shall report the indicated information using the definitions and guidance found in the National Association of Insurance Commissioner’s Annual Statement Instructions and Accounting Practices and Procedures Manual or their successor publications.

The six categories of policyholders are:

- a) Fully insured large groups (in excess of 50 employees) excluding Dirigo groups
- b) Fully insured small groups (1-50 employees) excluding Dirigo groups
- c) Fully insured individuals excluding Dirigo individuals
- d) Dirigo groups
- e) Dirigo individuals
- f) Stop-loss (employee benefit excess insurance as defined in 24-A M.R.S.A. § 707(1)(C-1))

MAINE ANNUAL REPORT SUPPLEMENT for Year \_\_\_\_\_

This form is for companies with less than \$2 million of premium – see Rule 945, section 5.

Statewide Data

Company \_\_\_\_\_ NAIC Code \_\_\_\_\_

Name of person completing this form \_\_\_\_\_

Telephone Number \_\_\_\_\_ Email \_\_\_\_\_

		Large Groups	Small Groups	Individ- uals	Dirigo Groups	Dirigo Individ- uals	Stop- loss	TOTAL
1	Net premium income							
2	Total revenues							
3	Total medical and hospital expenses							
4	Total claims adjustment and administrative expenses							
5	Net underwriting gain or (loss) (line 2 less line 3 less line 4)							

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**Attachment F**

**April 13, 2006 Questionnaire**

CERTIFIED MAIL

[Company]  
[ Address]

Re: Lobbying Expenses and Related Items

Dear [Company]:

It has come to our attention that for 2004 and 2005 discrepancies might exist between lobbying expenses reported by some companies in their annual statements required by 24-A M.R.S.A. § 423, Bureau of Insurance Rule 945 reports, and reports to the Maine Commission on Governmental Ethics and Election Practices (“Ethics Commission”). The instructions for the annual report statement define lobbying expenses as being “related to general legislative lobbying and direct lobbying of pending and proposed statutes or regulations before legislative bodies and/or officers or departments of government.” The definition of lobbying for purposes of the Ethics Commission is “to communicate directly with any official in the Legislature for the purpose of influencing any legislative action or with the Governor for the purpose of influencing the approval or veto of a legislative action when reimbursement for expenditures or compensation is made for those activities. It includes the time spent to prepare and submit to the Governor, a Legislator or a legislative committee oral and written proposals for, or testimony or analyses concerning, a legislative action.”<sup>9</sup> The Superintendent has initiated an investigation into the reasons for such discrepancies. Therefore, please respond to the following questions.

1. For the annual statement interrogatory, “Amount of payments to trade associations, service organizations and statistical or rating bureaus, if any (other),” please state the amount that your company reported on line 27.1 in 2004 and on line 28.1 in 2005. Please state:
  - a. whether such payments include lobbying expenses and what accounting or other guidance, if any, was relied upon in reporting these lobbying expenses;
  - b. what portion, if any, reflects lobbying expenses incurred in Maine;
  - c. what entity paid these lobbying expenses;

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<sup>9</sup> 3 M.R.S.A. § 312-A(9).

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- d. whether an agreement exists that provides for allocation of lobbying expenses and, if so, the parties to such agreement, the services covered, and the terms relating to allocation and payment of lobbying expenses.
  2. For the annual statement interrogatory, "Amount of payments for legal expenses, if any (other)," please state the amount that your company reported on line 28.1 in 2004 and on line 29.1 in 2005. Please state:
    - a. whether such payments include lobbying expenses and what accounting or other guidance, if any, was relied upon in reporting these lobbying expenses;
    - b. what portion, if any, reflects lobbying expenses incurred in Maine;
    - c. what entity paid these lobbying expenses.
  3. For the annual statement interrogatory, "Amount of payments for expenditures in connection with matters before legislative bodies, officers or department of government, if any (other)," please state the amount that your company reported on line 29.1 in 2004 and on line 30.1 in 2005. Please state:
    - a. whether such payments include lobbying expenses and what accounting or other guidance, if any, was relied upon in reporting these expenses;
    - b. what portion, if any, reflects lobbying expenses incurred in Maine;
    - c. what entity paid these lobbying expenses.
  4. For line 35 of your company's Rule 945 report, "Lobbying Expenses," please state the amount that your company reported in 2004 and in 2005. Please explain what types of expenses are included or excluded. If these amounts differ from the amounts reported in response to question 3(b) above, please explain why.
  5. Is your company or any company that has allocated to your company lobbying expenses referred to in **any** of the preceding questions registered as an employer under the lobbying reporting requirements of the Ethics Commission? If so, please identify:
    - a. all lobbyists and lobbyist associates employed by any such company; and
    - b. the amounts reported as lobbying expenses in 2004 and 2005. Please send us copies of the annual reports filed by each such company in 2004 and 2005.
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6. Are there any lobbying expenses incurred for 2004 or 2005 that your company has not reported either to the Bureau of Insurance or the Maine Ethics Commission? If so, please identify them and explain why your company did not report them.

If the amounts reported on your company's Rule 945 report for 2004 or 2005 were incorrect, please file a revised report within 30 days.

Please contact me if you have any questions. Pursuant to Title 24-A M.R.S.A. §220(2), your company's response is required within 30 days. Thank you.

Sincerely,

Benjamin Yardley  
Attorney

cc: [Annual Statement Contact]  
[Rule 945 Contact]

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