

Regular Session, 2013

HOUSE BILL NO. 638

BY REPRESENTATIVES STOKES AND TALBOT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE/HEALTH: Provides relative to the Louisiana Health Plan

1 AN ACT

2 To enact R.S. 22:1201(H), 1205(C)(7), and 1215.1, relative to the Louisiana Health Plan;

3 to provide for the cessation of Louisiana Health Plan operations; to provide for a

4 superseding plan of operations; to provide for the cessation of enrollment and plan

5 coverage; to provide for the transition of plan members into the individual market;

6 to provide for notice of termination of coverage; to provide for notice to stakeholders

7 and claimants of deadlines relative to claims filing dates; to provide for the cessation

8 of the service charge to providers and health insurers; to end the assessment of fees

9 on health insurers; to provide for the continuation of board members; to provide for

10 plan reports to the House and Senate insurance committees; to provide for the

11 certification of cessation by the commissioner of insurance; to provide for the return

12 of excess funds; to provide for prescription on causes of actions and appeals; and to

13 provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 22: 1201(H), 1205(C)(7), and 1215.1 are hereby enacted to read as

16 follows:

17 §1201. Legislative findings; purpose; short title

18 * * *

19 H. Louisiana Health Plan was created to provide health care coverage for

20 individuals to whom comprehensive health care coverage is not available in the

1 individual health insurance market because of preexisting health conditions. As of
2 January 1, 2014, federal law provides that health insurance carriers in the individual
3 market cannot reject applicants for health insurance coverage based upon the
4 presence of preexisting health conditions or exclude health care coverage for
5 preexisting conditions.

6 * * *

7 §1205. Plan of operation

8 * * *

9 C. In its plan of operation the board shall:

10 * * *

11 (7) Develop an orderly plan of cessation (dissolution plan).

12 (a) It is the intent of the legislature by the enactment of this Paragraph to
13 provide for the orderly cessation of the Louisiana Health Plan's operation on
14 December 31, 2013.

15 (i) The Louisiana Health Plan shall cease enrollment and coverage under the
16 plan by January 1, 2014, as required by federal law.

17 (ii) No provision contained in this Section shall prohibit the Louisiana Health
18 Plan from ceasing coverage or enrollment in the plan prior to January 1, 2014, if
19 approved by the commissioner, in a superseding plan of operation as provided for in
20 this Section.

21 (b) After paying health insurance claims for plan coverage, meeting all other
22 obligations of the board set forth by this Section, and taking all reasonable steps,
23 including those set forth by this Section, to timely and efficiently assist in the
24 transition of individuals receiving plan coverage to the individual health insurance
25 market, the board shall cease operating the High Risk Pool.

26 (c) The board may take all actions it deems necessary to cease enrollment for
27 plan coverage by undertaking the following actions:

28 (i) Provide at least ninety days notice to current policyholders of plan
29 termination.

1 (ii) Terminate all existing plan coverage at the end of the calendar day on
2 December 31, 2013.

3 (iii) Amend plan policies and provide adequate notice to policyholders,
4 agents of policyholders, and providers that in order for such persons to be
5 reimbursed, a claim for plan services is required to be filed by the earlier of one
6 hundred eighty days after the plan coverage ends on December 31, 2013 or three
7 hundred sixty-five days after the date of service giving rise to the claim.

8 (d) This Section does not require the board to revise plan benefits to comply
9 with federal law or to maintain plan coverage for any individual after December 31,
10 2013.

11 (e) After plan coverage terminates pursuant to this Section, the board shall
12 take reasonable steps to dissolve all significant operation of the plan by December
13 31, 2014.

14 (f) Notwithstanding any other provision of this Subsection, in order to
15 facilitate an efficient cessation of operations, the following provisions shall apply:

16 (i) Until the cessation of Louisiana Health Plan's operations, the board may
17 continue to use existing contractors without the need to issue competitive requests
18 for proposals.

19 (ii) The board shall remain in effect in accordance with the provisions of R.S.
20 22:1204. The term of each board member shall be extended until the date the High
21 Risk Pool concludes all business and the commissioner of insurance has certified the
22 cessation of operations in accordance with Subparagraph (g) of this Paragraph.

23 (g) By August 30, 2013, the board shall submit to the commissioner a plan
24 of operation, to be approved by the commissioner. Such plan of operation shall
25 include a dissolution plan and shall supersede the current plan of operation in order
26 to implement with the action required by this Paragraph. The new plan of operation
27 shall go into effect upon signature by the commissioner.

28 (h) Billing of service charges pursuant to R.S. 22:1209 shall cease for claims
29 incurred before January 1, 2014. Final service charge fees and reports shall be due

1 and payable on January 31, 2014. Collection of all service charges legally due shall
2 continue until cessation of operations. Nothing herein shall prohibit the auditing of
3 any and all eligible providers, employers, insurance arrangements, or insurers.

4 (i) Effective December 31, 2013, fees assessed to participating health insurers
5 and insurance arrangements under R.S. 22:1210 shall cease. Billing of the
6 assessment based on participating health insurer premiums from calendar year 2013
7 shall be made no later than February 10, 2014. Payment of the assessment shall be
8 made by the participating health insurers no later than March 31, 2014. Any
9 participating health insurer that has not paid the assessment for calendar year 2013
10 by the March 31, 2014, deadline shall be reported to the commissioner for sanctions.
11 Sanctions shall include financial penalties and other sanctions, including license
12 revocation.

13 (j) The commissioner shall certify the cessation of operations of each pool
14 under the Louisiana Health Plan. The High Risk Pool and HIPAA Plan may be
15 certified as having completed the cessation of operations separately or together, at
16 the commissioner's discretion. The board may also submit the completed dissolution
17 plan at different times based upon the finality of claim submissions or other factors.

18 (i) If the board has excess HIPAA funds after the commissioner certifies the
19 cessation of operations of the HIPAA Plan in accordance with the provisions of this
20 Subsection, the excess funds shall be returned to the participating insurer on the same
21 basis upon which each participating insurer was assessed in accordance with the
22 provisions of R.S. 22:1210 during calendar years 2013 and 2014.

23 (ii) If the board has excess High Risk Pool funds after the commissioner
24 certifies the cessation of operations of the High Risk Pool in accordance with the
25 provisions of this Subparagraph, the High Risk Pool funds shall be returned to the
26 state general fund.

27 (k)(i) By March 1, 2016, the board shall file a report with both the Louisiana
28 House Committee on Insurance and the Louisiana Senate Committee on Insurance
29 and the commissioner. Such report shall signify completion of the requirements of

1 this Subsection and shall include an independent auditor's report on the financial
2 statements of the pool. Such report shall be submitted in lieu of the written report of
3 operation of the plan required by Subsection F of R.S. 22:1204. The board may
4 amend such report at a later date if necessary to complete the cessation of operations
5 of the High Risk Pool.

6 (ii) Upon a satisfactory review of the board's compliance with the cessation
7 of operations provisions of this Subsection, the commissioner shall certify that the
8 business of the High Risk Pool has concluded in accordance with state law and shall
9 publish the certification on the Department of Insurance website.

10 (l) Upon certification in accordance with Subparagraph (j) of this Paragraph,
11 the operations of the High Risk Pool are terminated.

12 (i)The commissioner may address any matters relative to the High Risk Pool
13 which may arise after the certification provided by the provisions of this Paragraph.

14 (ii) The state attorney general shall defend any legal action which may arise
15 against the plan, the board, or the employees of the plan which is filed after the
16 commissioner's certification of cessation of operations. This defense shall include,
17 when appropriate, a request for dismissal of any such action.

18 §1215.1. Prescription

19 Dissolution of the operations of the Louisiana Health Plan requires the
20 expeditious determination of its outstanding liabilities. As such, the following
21 provisions shall apply:

22 A. Any action against the plan, the board, the employees of the plan, or any
23 combination thereof, shall be commenced by the earlier of one year after the cause
24 of action or December 31, 2014. In no event shall a cause of action commence after
25 December 31, 2014.

26 B. All appeals by policyholders or providers must be made within the
27 guidelines of the policy. In no event shall any appeal by a policyholder or provider
28 be commenced after September 30, 2014.

1 C. Notwithstanding the provisions of this Section, nothing herein shall limit
2 the immunity from liability provided by Subsection D of R.S. 22:1203.

3 Section 2. The Louisiana State Law Institute is hereby authorized and directed to
4 repeal the provisions of R.S. 22:1209 and 1210, effective December 31, 2014.

5 Section 3. This Act shall become effective upon signature by the governor or, if not
6 signed by the governor, upon expiration of the time for bills to become law without signature
7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
9 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Stokes

HB No. 638

Abstract: Provides for the cessation of the Louisiana Health Plan.

Present law provides for the Louisiana Health Plan ("the plan") for the purpose of establishing a mechanism to insure the availability of health and accident insurance coverage to citizens of this state who, because of preexisting health conditions, cannot secure such coverage in the individual market.

Proposed law, in consideration of federal legislation which will prohibit health insurance providers in the individual market from denying applicants based on preexisting health conditions, seeks to provide for the cessation of operation of the Louisiana Health Plan.

Proposed law requires the plan to cease enrollment and coverage under the plan by January 1, 2014.

Present law provides for the plan to have a board of directors, which includes the commissioner of insurance as an ex officio member, and 12 voting members.

Proposed law retains present law.

Proposed law requires the plan's board of directors to take reasonable steps to assist individuals currently covered by the plan as they transition into the individual health insurance market.

Proposed law authorizes the board to take all actions it deems necessary to cease enrollment for plan coverage and to terminate all existing plan coverage by December 31, 2013.

Proposed law requires the board to provide at least 90 days notice to current policyholders before the plan's termination.

Proposed law requires the board to notify current policyholders and their agents, as well as providers, that claims for payment or reimbursement must be filed by the earlier of 180 days

after plan coverage ends on December 31, 2013 or by 365 days after the date of service giving rise to the claim.

Proposed law requires the board to take all necessary steps to end all significant operations of the plan following the termination of the plan; proposed law requires the board to have this complete by December 31, 2014.

Proposed law allows the board to use existing contractors until the cessation of the plan's operations.

Proposed law provides that the board shall remain in existence in accordance with present law and that each board member's term shall be extended until such time as the High Risk Pool concludes all business and the commissioner certifies the cessation of operations as required by proposed law.

Proposed law requires the board to submit a plan of operation to the commissioner by August 30, 2013. Such plan shall supersede the current plan of operation and shall include a dissolution plan.

Present law provides for hospitals treating plan members to include service charges in the plan member's bills and to remit those service charges to the plan.

Proposed law provides that the billing of service charges for claims incurred before January 14, 2014, shall cease on January 31, 2014. Further provides that the plan may continue the collection of service charges which are due until the cessation of the plan.

Present law authorizes the plan to assess fees to participating insurers in accordance with the provisions of present law. Present law defines "participating insurers" as all insurers issuing health insurance to citizens of this state.

Proposed law provides for the cessation of fee assessment by December 31, 2013. Further provides that the billing of any fees assessed during the 2013 calendar year to be made no later than February 10, 2014.

Proposed law requires participating health insurers to pay any assessments due from the 2013 calendar year by March 31, 2014.

Proposed law provides that any participating health insurer who has failed to pay the 2013 assessment by March 31, 2014 shall be reported to the commissioner for sanctions.

Proposed law requires the commissioner to certify the cessation of operations of each pool under the Louisiana Health Plan. Further allows the commissioner to certify the cessation of the HIPAA Plan and the High Risk Pool separately, or together, at the commissioner's discretion.

Proposed law permits the board to submit the dissolution plans for the HIPAA Plan and the High Risk Pool separately.

Proposed law provides that if the board has excess HIPAA funds after the commissioner certifies the cessation of the HIPAA Plan, such funds shall be returned to the participating insurers on the same basis upon which such insurers were assessed in accordance with present law.

Proposed law provides that if the board has excess High Risk Pool funds after the commissioner certifies the cessation of the High Risk Pool, those funds shall be returned to the state general fund.

Proposed law requires the board to file a report with the insurance committees of the Louisiana House of Representatives and Louisiana Senate, respectively, and the commissioner by March 1, 2016. Such report shall signify the completion of the requirements of proposed law.

Proposed law requires the commissioner to publish the certification of cessation on the Department of Insurance website after such time as the commissioner has satisfactorily reviewed the report which proposed law requires the board to submit to the commissioner and insurance committees of the House and Senate.

Present law provides for immunity from liability for the plan, its board members, agents and employees, and the commissioner for any cause of action arising out of any action taken by the aforementioned parties in the performance of their duties.

Proposed law retains present law.

Proposed law authorizes the commissioner to address any matters which may arise after he has issued the certification in accordance with proposed law.

Proposed law requires the state attorney general to defend any legal action against the plan, board, or its employees which are filed after the certification.

Proposed law states that causes of action against the plan, board, or its employees shall have a prescriptive period of the earlier of one year after the cause of action or December 31, 2014.

Proposed law directs the Louisiana State Law Institute to repeal provisions of present law which presently allow the plan to charge service charges and assess fees against participating insurers. The repeal will be effective December 31, 2014, subsequent to the certification of the plan's cessation.

(Adds R.S. 22:1201(H), 1205(C)(7), and 1215.1)