

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 and to repeal R.S. 22:1209 and 1210,  
3 relative to the Louisiana Health Plan; to provide for the cessation of Louisiana  
4 Health Plan operations; to provide for a superseding plan of operations; to provide  
5 for the cessation of enrollment and plan coverage; to provide for the transition of  
6 plan members into the individual market; to provide for notice of termination of  
7 coverage; to provide for notice to stakeholders and claimants of deadlines relative  
8 to claims filing dates; to provide for the cessation of the service charge to providers  
9 and health insurers; to end the assessment of fees on health insurers; to provide for  
10 the continuation of board members; to provide for plan reports to the House and  
11 Senate insurance committees; to provide for the certification of cessation by the  
12 commissioner of insurance; to provide for the return of excess funds; to provide for  
13 peremption on causes of actions and appeals; to provide for effective dates; and to  
14 provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

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

18 §1201. Legislative findings; purpose; short title

19 \* \* \*

1           H. Louisiana Health Plan was created to provide health care coverage for  
 2           individuals to whom comprehensive health care coverage is not available in the  
 3           individual health insurance market because of preexisting health conditions. As of  
 4           January 1, 2014, federal law provides that health insurance carriers in the individual  
 5           market cannot reject applicants for health insurance coverage based upon the  
 6           presence of preexisting health conditions or exclude health care coverage for  
 7           preexisting conditions.

8   \*       \*       \*

9           §1205. Plan of operation

10   \*       \*       \*

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

12   \*       \*       \*

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

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

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

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

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

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

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

3           (ii) Terminate all existing plan coverage at the end of the calendar day on  
4           December 31, 2013, provided that there is a minimum of one individual health  
5           insurance company authorized to provide individual health insurance coverage in the  
6           state as of January 1, 2014. In the absence of any other individual health insurance  
7           company authorized to provide individual health insurance coverage in this state, the  
8           Louisiana Health Plan shall continue to provide such coverage until there is a  
9           minimum of one individual health insurance company authorized to provide  
10           individual health insurance coverage in this state on or after January 1, 2014.

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

16           (d) This Section does not require the board to revise plan benefits to comply  
17           with federal law or to maintain plan coverage for any individual after December 31,  
18           2013.

19           (e) After plan coverage terminates pursuant to this Section, the board shall  
20           take reasonable steps to dissolve all significant operation of the plan by December  
21           31, 2015.

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

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

27           (ii) The board shall remain in effect in accordance with the provisions of  
28           R.S. 22:1204. The term of each board member shall be extended until the date the  
29           High Risk Pool concludes all business and the commissioner of insurance has

1 certified the cessation of operations in accordance with Subparagraph (g) of this  
2 Paragraph.

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

8 (h) Billing of service charges pursuant to R.S. 22:1209 shall cease for claims  
9 incurred before January 1, 2014. Final service charge fees and reports shall be due  
10 and payable on January 31, 2014. Collection of all service charges legally due shall  
11 continue until cessation of operations. Nothing herein shall prohibit the auditing of  
12 any and all eligible providers, employers, insurance arrangements, or insurers.

13 (i) Effective December 31, 2013, fees assessed to participating health  
14 insurers and insurance arrangements under R.S. 22:1210 shall cease. Billing of the  
15 assessment based on participating health insurer premiums from calendar year 2013  
16 shall be made no later than February 10, 2014. Payment of the assessment shall be  
17 made by the participating health insurers no later than March 31, 2014. Any  
18 participating health insurer that has not paid the assessment for calendar year 2013  
19 by the March 31, 2014, deadline shall be reported to the commissioner for sanctions.  
20 Sanctions for refusal to timely pay a required assessment shall include the sanctions  
21 enumerated in R.S. 22:13 or 16, at the discretion of the commissioner.

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

27 (i) If the board has excess HIPAA funds after the commissioner certifies the  
28 cessation of operations of the HIPAA Plan in accordance with the provisions of this  
29 Subsection, the excess funds shall be returned to the participating insurer on the same

1 basis upon which each participating insurer was assessed in accordance with the  
2 provisions of R.S. 22:1210 during calendar years 2013 and 2014.

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

7 (k)(i) By March 1, 2016, the board or liquidator shall file a report with both  
8 the Louisiana House Committee on Insurance and the Louisiana Senate Committee  
9 on Insurance and the commissioner. Such report shall signify completion of the  
10 requirements of this Subsection and shall include an independent auditor's report on  
11 the financial statements of the pool. Such report shall be submitted in lieu of the  
12 written report of operation of the plan required by Subsection F of R.S. 22:1204. The  
13 board or liquidator may amend such report at a later date if necessary to complete the  
14 cessation of operations of the High Risk Pool.

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

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

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

25 §1215.1. Prescription

26 Dissolution of the operations of the Louisiana Health Plan requires the  
27 expeditious determination of its outstanding liabilities. As such, the following  
28 provisions shall apply:

1           A. Any action against the plan, the board, the employees of the plan, or any  
2           combination thereof, shall be subject to a peremptive period ending on December 31,  
3           2014, at which time the right to assert a cause of action shall be extinguished.

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

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

9           Section 2. R.S. 22:1209 and 1210 are hereby repealed in their entirety.

10          Section 3. Section 2 of this Act shall become effective on December 31, 2014.

11          Section 4. This Act shall become effective upon signature by the governor or, if not  
12 signed by the governor, upon expiration of the time for bills to become law without signature  
13 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
14 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
15 effective on the day following such approval.

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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)]

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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 Jan. 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 Dec. 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 Dec. 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 Dec. 31, 2015.

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 Aug. 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 Jan. 14, 2014, shall cease on Jan. 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 Dec. 31, 2013. Further provides that the billing of any fees assessed during the 2013 calendar year to be made no later than Feb. 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 Dept. 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 preemptive period of the earlier of one year after the cause of action or Dec. 31, 2014.

Present law allows the plan to charge service charges and assess fees against participating insurers.

Proposed law repeals present law.

(Adds R.S. 22:1201(H), 1205(C)(7), and 1215.1; Repeals R.S. 22:1209 and 1210)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Insurance to the engrossed bill.

1. Clarified that the time period for instituting a cause of action is preemptive, as opposed to prescriptive.
2. Provided that the Louisiana Health Plan will continue to provide individual health insurance coverage past Jan. 1, 2014, if the absence of other plans offering such coverage necessitates the plan's continuation.
3. Changed date by which the board must dissolve its operations from Dec. 31, 2014 to Dec. 31, 2015.



4. Clarified that sanctions imposed upon participating health issuers which fail to timely pay required assessments shall be pursuant to provisions of present law.
5. Clarified that a liquidator, in addition to the plan's board of directors, may undertake cessation operations.
6. Made technical changes to the repealer clause which provides for the repeal of sections of present law applicable to the Louisiana Health Plan, upon cessation of the plan's operations.