

Regular Session, 2013

# ACT No. 325

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.

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AN ACT

To enact R.S. 22:1201(H), 1205(C)(7), and 1215.1 and to repeal R.S. 22:976, 981, 988, 1209, and 1210, relative to the Louisiana Health Plan; to provide for the cessation of Louisiana Health Plan operations; to provide for a superseding plan of operations; to provide for the cessation of enrollment and plan coverage; to provide for the transition of plan members into the individual market; to provide for notice of termination of coverage; to provide for notice to stakeholders and claimants of deadlines relative to claims filing dates; to provide for the cessation of the service charge to providers and health insurers; to end the assessment of fees on health insurers; to provide for the continuation of board members; to provide for plan reports to the House and Senate insurance committees; to provide for the certification of cessation by the commissioner of insurance; to provide for the return of excess funds; to provide for peremption on causes of actions and appeals; to provide for effective dates; to repeal provision relative to insurers' consideration of an insured's obligations to charges assessed by the Louisiana Health Plan; to repeal provisions requiring insurers' obligation to educate rejected applicants about the Louisiana Health Plan; to repeal provisions with respect to the Louisiana Health Plan's exemption to policy conversion requirements; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

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

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 §1201. Legislative findings; purpose; short title

2 \* \* \*

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

10 \* \* \*

11 §1205. Plan of operation

12 \* \* \*

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

14 \* \* \*

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

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

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

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

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

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

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

5           (ii) Terminate all existing plan coverage at the end of the calendar day on  
6           December 31, 2013, provided that there is a minimum of one individual health  
7           insurance company authorized to provide individual health insurance coverage in the  
8           state at a rate not to exceed the usual and customary rate as of January 1, 2014. In  
9           the absence of any other individual health insurance company authorized to provide  
10           individual health insurance coverage in this state, the Louisiana Health Plan shall  
11           continue to provide such coverage until there is a minimum of one individual health  
12           insurance company authorized to provide individual health insurance coverage in this  
13           state on or after January 1, 2014.

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

19           (d) This Section does not require the board to revise plan benefits to comply  
20           with federal law or to maintain plan coverage for any individual after December 31,  
21           2013.

22           (e) After plan coverage terminates pursuant to this Section, the board shall  
23           take reasonable steps to dissolve all significant operation of the plan by December  
24           31, 2015.

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

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

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

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

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

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

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

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

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

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

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

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

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

28 \* \* \*

1           §1215.1. Peremption

2                   Dissolution of the operations of the Louisiana Health Plan requires the  
3           expeditious determination of its outstanding liabilities. As such, each of the  
4           following provisions shall apply:

5                   A. Any action against the plan, the board, the employees of the plan, or any  
6           combination thereof shall be subject to a preemptive period ending on December 31,  
7           2014, at which time the right to assert a cause of action shall be extinguished.

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

11                  C. Notwithstanding the provisions of this Section, nothing herein shall limit  
12          the immunity from liability provided by R.S. 22:1203(D).

13           Section 2. R.S. 22:976, 981, 988, 1209, and 1210 are hereby repealed in their  
14          entirety.

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

16           Section 4. Sections 1, 3, and 4 of this Act shall become effective upon signature by  
17          the governor or, if not signed by the governor, upon expiration of the time for bills to  
18          become law without signature by the governor, as provided by Article III, Section 18 of the  
19          Constitution of Louisiana. If vetoed by the governor and subsequently approved by the  
20          legislature, this Act shall become effective on the day following such approval.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_