

COMMISSIONER OF INSURANCE FOR THE STATE OF LOUISIANA

IN RE: LOUISIANA HEALTH SERVICE & INDEMNITY COMPANY D/B/A
BLUE CROSS AND BLUE SHIELD OF LOUISIANA

PLAN OF REORGANIZATION REGARDING THE CONVERSION FROM A MUTUAL
INSURANCE COMPANY TO A STOCK INSURANCE COMPANY

OBJECTION TO MOTION FOR LEAVE TO FILE PETITION AND AMENDED
PETITION FOR INTERVENTION FILED BY
HENRY W. KINNEY, KINNEY ELLINGHAUSEN & DeSHAZO, LEVINGSTON
GROUP, L.L.C., HR SOLUTIONS, SHERRY MOCKLER, LEE CREDEUR,
DONNIE NICOSIA, ROBERT E. BIRTEL, ACCOUNTING PLUS SOLUTIONS, L.L.C.,
MARTHA C. FOY, WILLIAM T. FOY, JR., TRAVIS M. FOY,
DAVID GILES AND TERESA GILES

NOW COMES Louisiana Health Service & Indemnity Company D/B/A Blue Cross and Blue Shield of Louisiana (“BCBSLA”), who respectfully files this Objection to the Motion for Leave to File Petition and Amended Petition for Intervention (“Motion for Leave”) filed by Henry W. Kinney, Kinney Ellinghausen & DeShazo, Levingston Group, L.L.C., HR Solutions, Sherry Mockler, Lee Credeur, Donnie Nicosia, Robert E. Birtel, Accounting Plus Solutions, L.L.C., Martha C. Foy, William T. Foy, Jr., Travis M. Foy, David Giles and Teresa Giles (collectively the “Petitioners”). Accounting Plus Solutions, L.L.C., Martha C. Foy, William T. Foy, Jr., Travis M. Foy, David Giles and Teresa Giles did not file a motion to intervene with their Amended Petition for Intervention. Regardless of that procedural defect, BCBSLA hereby responds to their request for leave to file the Amended Petition for Intervention.

BCBSLA requests that Madam Hearing Officer deny the Motion for Leave for the following reasons:

First, BCBSLA has no record of current policyholders named Sherry Mockler, Lee Credeur or Donnie Nicosia. These petitioners are not recognized as current BCBSLA policyholders. As such, the Motion for Leave of Sherry Mockler, Lee Credeur and Donnie Nicosia should, in addition to all of the reasons stated below, be denied.

Second, the Motion for Leave with regard to Henry W. Kinney, Kinney & Ellinghausen & DeShazo and Robert E. Birtel, is their second motion to intervene in this matter. Their first motion to intervene in this matter was denied by your Honor. The pending Motion for Leave presents no legal arguments, statements or facts that were not already heard by Madam Hearing Officer pursuant to their original motion to intervene in this matter.

Third, the Petitioners filed the Motion for Leave pursuant to Section 1115 of Rule 1. The Motion for Leave fails to fully satisfy the requirements of Section 1115 of Rule 1 by failing to:

(a) set forth the address of each Petitioner other than the address of Accounting Plus Solutions, L.L.C.,

(b) contain a clear and concise statement of the direct and immediate interest the Petitioners have in the Plan of Reorganization other than those interests the Petitioners have that every other member of BCBSLA possesses,

(c) state the manner in which the Petitioners will be affected by the Plan of Reorganization, other than in the manner in which every other member of BCBSLA will be affected,

(d) outline the manner and the things relied upon by the Petitioners as a basis for their request to intervene in the matter other than the manner and things that are already before your Honor, and

(e) contain a clear and concise statement of the relief the Petitioners seek and the basis for it.

As stated above, Madam Hearing Officer previously ruled on a prior Motion for Leave to File a Petition for Intervention filed by Robert E. Birtel, Henry W. Kinney and Kinney & Ellinghausen. Your Honor denied their prior motion by Order dated August 15, 2023 (the “Order”). The pending Motion for Leave filed by the Petitioners should similarly be denied because as stated in your Honor’s Order, the interest asserted by the Petitioners:

“ . . . is the interest of any member of Louisiana Health Services Indemnity Company d/b/a Blue Cross Blue Shield of Louisiana and the purpose of the review by the Department of Insurance is to protect those interest. To allow the Intervention of these petitioners would open the door for every member of Blue Cross/Blue Shield to become a party to these proceeding. The Department of Insurance as part of its review will determine if the compensation and the valuation of that compensation is fair and equitable . . . ”

Fourth, Petitioners allege that the Louisiana Department of Insurance cannot fully protect the interests of the Petitioners in this proceeding because “the Commissioner and the Louisiana Department of Insurance are charged by the law to approve the plan of reorganization” (paragraph II of the Petitioners’ Petition for Intervention). Petitioners misstate the duties of the Commissioner. LSA R.S. 22:236.4(B)(1) provides that the Commissioner shall approve a plan of reorganization **if** the plan of reorganization is approved by vote of the voting members of the reorganizing mutual insurer and after the closing of the administrative record **if** the Commissioner is “. . . satisfied that each of the following conditions are met:

- (a) The interests of the policyholders as such and as members are properly protected.
- (b) The plan of reorganization serves the best interests of policyholders and members.
- (c) The plan of reorganization is fair and equitable to policyholders and members.”

Petitioners' characterization of the duties and obligations of the Commissioner and the Department of Insurance is misstated and incorrect.

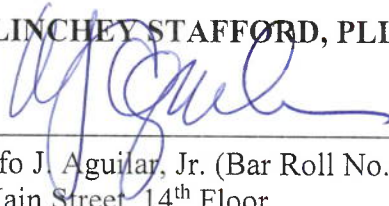
Fifth, Petitioners also allege that the Board of Directors of BCBSLA has conflicts of interest in supporting the Plan of Reorganization. Your Honor previously ruled and made clear in the Order that:

“[b]ecause of the Department's role in reviewing . . . conflicts of interest and other issues raised . . . the protection of the rights of the mutual insurance members' interest does not require petitioners to be named as parties to these proceedings.”

For the above stated reasons, BCBSLA respectfully requests that Madam Hearing Officer deny the Motion for Leave to file Petition and Amended Petition for Intervention filed by Henry W. Kinney, Kinney Ellinghausen & DeShazo, Levingston Group, L.L.C., HR Solutions, Sherry Mockler, Lee Credeur, Donnie Nicosia, Robert E. Birtel, Accounting Plus Solutions, L.L.C., Martha C. Foy, William T. Foy, Jr., Travis M. Foy, David Giles and Teresa Giles.

Respectfully submitted this 19th day of September, 2023.

McGLINCHEY STAFFORD, PLLC



Rodolfo J. Aguilar, Jr. (Bar Roll No. 1192)
301 Main Street, 14th Floor
Baton Rouge, LA 70801
Telephone: (225) 382-3625
Facsimile: (225) 343-3076
rudyaguilar@mcglinchey.com

Ronnie L. Johnson (Bar Roll No. 20238)
301 Main Street, 14th Floor
Baton Rouge, LA 70801
Telephone: (225) 383-3620
Facsimile: (225) 612-7065
rjohnson@mcglinchey.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of September, 2023, a copy of the above and foregoing has been sent via electronic mail to the following:

James David Caldwell
Claire Lemoine
Louisiana Department of Insurance
1702 N. 3rd Street
Baton Rouge, LA 70802
david.caldwell@ldi.la.gov
Claire.lemoine@ldi.la.gov

David S. Rubin
Josh McDiarmid
George Holmes
Butler Snow LLP
445 North Boulevard, Suite 300
Baton Rouge, LA 70802
David.Rubin@butlersnow.com
Josh.McDiarmid@butlersnow.com
George.Holmes@butlersnow.com

Attorneys for Louisiana Department of Insurance

Eric P. Morvant
Jones Walker LLP
445 North Boulevard, Suite 800
Baton Rouge, LA 70802
emorvant@joneswalker.com

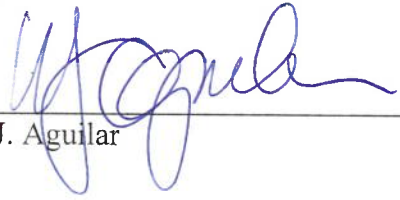
Robert B. House
Jones Walker, LLP
190 E. Capitol Street, Suite 800
Jackson, MS 39201
rhouse@joneswalker.com

Jared R. Danilson
Emily Z. Campbell
Faegre, Drinker Biddle & Reath LLP
300 North Meridian Street, Suite 2500
Indianapolis, Indiana 46204
jared.danilson@faegredrinker.com
emily.campbell@faegredrinker.com

Counsel to Elevance Health, Inc. and ATH Holding Company, LLC

Henry W. Kinney
Kinney, Ellinghausen & DeShazo
1250 Poydras Street, Suite 2450
New Orleans, LA 70113
hkinney@kinneylaw.com

Attorney for Petitioners



Rodolfo J. Aguilar