



August 4, 2023

David Caldwell
Executive Counsel
Louisiana Department of Insurance
P.O. Box 94214
Baton Rouge, LA 70804-9214

Dear Mr. Caldwell:

The Louisiana Budget Project analyzes and reports on state fiscal policy issues to promote economic prosperity, a rising standard of living, and the opportunity for all citizens to reach their highest potential. As part of that mission, we advocate for policies that ensure every Louisianan, regardless of income, race or zip code, has access to high quality, affordable health care in their community.

We have reviewed the proposed reorganization of Blue Cross and Blue Shield of Louisiana (BCBSLA) from a nonprofit mutual insurance company into a for-profit conglomerate, and we believe it falls short on two critical fronts: First, we are concerned that the Foundation being established as part of the reorganization would not operate according to best philanthropic practices; second, we fear that consumers could face higher costs as a result of BCBSLA being converted from a nonprofit to a for-profit corporation. These concerns are detailed below:

Accelerate Louisiana

In reviewing this plan, the Commissioner must consider the interest of all Louisianans, not just the members and policyholders of BCBSLA. The company's articles of incorporation note that its purpose is to "promote the welfare of the members of the Corporation *and the general public.*" On its website and in press releases, BCBSLA states that its mission is "*to improve the health and lives of Louisianans.*"

BCBSLA recognizes this public purpose by proposing to use most of its current assets to establish a foundation - the *Accelerate Louisiana Initiative*. With assets estimated at up to \$4 billion, this new foundation would become one of the largest of its kind in the country. This carries the potential to make historic investments in public health that are desperately needed in a state that has [long ranked at or near the bottom](#)¹ of national rankings on population-level health.

The Plan provides no assurance that those assets would be used to benefit the public, and that the new foundation would operate according to best philanthropic practices. Under the [Plan of Reorganization](#), the Accelerate Louisiana Initiative would be formed as a Delaware-based corporation under section

¹ United Health Foundation, [America's Health Rankings. 2022](#)



501(c)4 of the internal revenue code. The Plan gives no explanation for why the foundation was organized in Delaware, and not Louisiana, or why this section of the tax code is being used.

As the Alliance for Justice notes², “social welfare” organizations organized under 501c4 operate under very different rules than public charities that exist under 501c3 of the federal tax code:

(G)roups characterized as 501(c)(4)s operate under different rules permitting much more extensive policy and overtly political work, although unlike charities, donations to them are not tax-deductible. The law says eligible groups must be “operated exclusively for the promotion of social welfare.” Over time, the meaning of this term came to include nonprofits “operated primarily for the purpose of bringing about civic betterments and social improvements.” More importantly, those groups—which are not required to reveal the identities of their donors—have long been permitted to take part in an unlimited amount of lobbying and political campaign activities as long as such activities are not the organization’s primary activity.

By organizing under the relaxed rules that govern social welfare organizations, there would be little to stop Accelerate Louisiana from functioning as a powerful lobbying arm of the for-profit health insurance industry, endorsing and promoting political candidates who favor the industry’s positions (which may not reflect the public interest).

Moreover, according to Exhibit G in the Plan of Reorganization, the four directors of this new foundation would come directly from the current BCBSLA Board of Directors. All of the directors are white men, who collectively do not reflect Louisiana’s diverse population, nor do they appear to have any experience in overseeing a large foundation.

At a minimum, the Commissioner should demand that BCBSLA organize *Accelerate Louisiana* in Louisiana as a 501c3 public charity, with written safeguards that guarantee it will serve a true public purpose, and promote policies and programs that enhance public health for all Louisianans. Additionally, the new foundation should be governed by a Board that reflects, to the greatest extent possible, Louisiana’s geographic, racial, economic and gender diversity, and where fewer than 50% of the Board has direct ties to the health insurance industry.

Potential cost increases

The United States spends more on health care, on a per-capita basis and as a percentage of its economy, than any other country in the world³, yet has poor health outcomes to show for this spending. Louisiana

² Alliance for Justice, [Primer on Social Welfare Organizations](#)

³ Commonwealth Fund, [U.S. Health Care from a Global Perspective, 2022: Accelerating Spending, Worsening Outcomes](#).



fares worse than most states, as premiums and deductibles consume a higher percentage of median income than in most other states while health outcomes are dismal.⁴

For many years BCBSLA has been the dominant player in Louisiana’s private health insurance market for individual, large group and small-group coverage. Converting BCBSLA from a nonprofit into a for-profit presents substantial risk that policyholders and health insurance consumers generally would face higher prices and increased out-of-pocket costs. The Plan of Reorganization ignores this risk. Common sense, meanwhile, dictates that a for-profit corporation with a dominant market share will seek to maximize revenue, and that one way to do so is to raise prices on policyholders.

Simply put, a nonprofit corporation exists to provide a benefit to its members and policyholders without the expectation of financial gain. A for-profit corporation exists to make a profit for its shareholders.

Michael Johnson of the Nonprofit Accountability Project points to a 2019 study by Harvard Business School Professor Leemore Dafny examined the effects on health insurance prices of 11 conversions of previously nonprofit Blue Cross and Blue Shield insurers.⁵ She found that such conversions resulted in average price increases of 13% percent in markets where the BCBS plan’s pre-conversion market share was greater than 20%. As Dafny concludes, “The results suggest for-profit insurers are likelier than not-for-profit insurers to exercise market power when they possess it.” Given that BCBSLA’s market shares far exceed 20%, the risk of significant price increases is real.

Building on that research, the Commissioner should commission an independent analysis to determine the risk of higher costs to policyholders - in premiums, deductibles and copays, as a result of the reorganization. Only with a true cost-benefit analysis can the public be assured that its interests are being protected as Louisiana’s healthcare landscape undergoes such a profound change.

We appreciate the opportunity to comment, and wish you well in your deliberations.

Sincerely,

Jan Moller
Executive Director

⁴ [Commonwealth Fund.](#)

⁵ Article is [here.](#)