

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 VIDEO RECORDED DEPOSITIONS AND MOTION FOR
PROTECTIVE ORDER**

NOW COMES Louisiana Health Service & Indemnity Company D/B/A Blue Cross and Blue Shield of Louisiana (“BCBSLA”), which respectfully files this Objection and Motion for Protective Order. BCBSLA requests that Your Honor issue an order prohibiting any party from video recording the depositions of Dr. I Steven Udyarhelyi or Tim Barfield. Alternatively, should the hearing officer allow the depositions and allow them to be video recorded, BCBSLA requests an order prohibiting the dissemination of the video recording to anyone other than enrolled counsel, and prohibiting the use of any such recording outside of the public hearing.

The video recording of the depositions is wholly unnecessary, and could be used for public dissemination of selectively edited content to deceive the public and harass and intimidate hearing witnesses.

I. Brief Background

Henry W. Kinney has attempted to intervene in this matter on behalf of himself, individually, and as counsel for his law firm and twenty other purported “members or

policyholders.”¹ Most of the potential intervenors are not actually members or policyholders of BCBSLA. At best the potential intervenors represent 8 out of over 90,000 BCBSLA member/policyholders, or .008% of BCBSLA member/policyholders. This is Mr. Kinney’s second attempt to intervene in the BCBSLA reorganization proceedings. In connection with the BCBSLA Plan of Reorganization originally filed and withdrawn, Mr. Kinney’s intervention was rightfully denied by the hearing officer, in part because it is the role of the Department of Insurance to protect the policyholder intervenors’ interest, and to allow Kinney to intervene as a purported member of BCBSLA “would open the door for every member of Blue Cross/Blue Shield to become a party to these proceeding” BCBSLA has objected to Mr. Kinney’s latest attempt to intervene in this matter. The hearing officer has not yet ruled on the intervention, and BCBSLA maintains its objection. To the extent Mr. Kinney’s intervention is denied, for a second time, this objection and motion becomes moot.

On January 12, 2024, a scheduling order was issued which provides that “Oral discovery, if necessary, will be conducted on February 7, 2024.” Mr. Kinney has since requested the depositions of Dr. Udyarhelyi, BCBSLA President and CEO, and Mr. Barfield, a member of the BCBSLA Board of Directors. Mr. Kinney also advises that he intends to video record the depositions of Dr. Udyarhelyi and Mr. Barfield. BCBSLA files this objection and motion to prevent the video recordation of the depositions and/or use of any recorded deposition testimony in any wrongful or illicit manner.

II. Video recording the depositions should be prohibited.

Mr. Kinney, counsel for proposed intervenors including himself and his law firm, has already engaged in a very public campaign against the BCBSLA reorganization. He has taken out

¹ Kinney’s intervention was filed on January 16, 2024.

newspaper ads, formed a corporation, Stop the Sale, Inc., dedicated to preventing the reorganization, and operates a website through that corporation, www.stopthesaleofblue.com, which publishes propaganda against the BCBSLA Plan of Reorganization. Mr. Kinney should not be provided the opportunity to obtain video testimony that can be manipulated, edited, and disseminated through his website, advertisements, or otherwise.

Hours of deposition footage can be edited to soundbites taken out of context to present misleading testimony or present a witness in an embarrassing or compromising light. The dissemination of such potential video footage not only unnecessarily threatens the integrity of the deponents with embarrassment or harassment, but could compromise the integrity of the public hearing by prejudicing the public or suppressing the testimony of the deponents or other witnesses.

There is no compelling need for video recording the depositions. This is a public hearing. Both Dr. Udyarhelyi and Mr. Barfield will testify live at the public hearing on this matter. The public should hear the full unedited testimony of the witnesses at the hearing. The only potential use for deposition testimony at the hearing would be to impeach a witness. That can be accomplished by written transcript as is routinely done in courthouses across the country, without any of the undue risks associated with hours of video recorded deposition testimony taken outside the public view.

Accordingly, all video recording of the depositions should be prohibited.

III. Alternatively, a protective order should be issued to prevent any use of recordings outside of the public hearing.

Alternatively, to the extent the hearing officer determines that the depositions should be conducted and should be video recorded, BCBSLA requests an order be issued prohibiting the

dissemination of the video recording to anyone other than enrolled counsel, and prohibiting any use of the video recording outside of the public hearing.

For the above stated reasons, BCBSLA respectfully requests that Your Honor issue an order prohibiting any party from video recording the depositions of Dr. I Steven Udyarhelyi, Tim Barfield, or any other witness who will testify live at the public hearing. Alternatively, should the hearing officer allow the depositions to be video recorded, BCBSLA requests an order prohibiting the dissemination of the video recording to anyone other than enrolled counsel, and prohibiting any use of any such recording outside of the public hearing.

Respectfully submitted this 25th day of January, 2024.

McGLINCHEY STAFFORD, PLLC

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of January, 2024, a copy of the above and foregoing has been sent via electronic mail to the following:

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