

**NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS
AND
WORKSHOP AGENDA**

The State of Nevada, Department of Business and Industry, Division of Insurance (“Division”) is proposing the adoption, amendment or repeal of regulations pertaining to chapter(s) 689B, 689C and 695B of the Nevada Administrative Code (“NAC”). A workshop has been set for **9:30 a.m. on March 4, 2019**, at the following location:

**1st Floor Hearing Room
Nevada Division of Insurance
1818 E. College Parkway, Suite 103
Carson City, Nevada 89706**

Interested persons may also participate through a simultaneous videoconference conducted at:

**4th Floor Nevada Room
Nevada State Business Center
Nevada Division of Insurance
3300 W. Sahara Avenue, Suite 275
Las Vegas, Nevada 89102**

The purpose of the workshop is to solicit comments from interested persons on the following general topic(s) that may be addressed in the proposed regulation(s); and to assist in determining whether the proposed regulation(s) is likely to impose a direct and significant burden upon a small business or directly restricts the formation, operation or expansion of a small business. Please submit any written comments no later than **February 25, 2019**.

LCB File No. R127-18. Stop-Loss Insurance.

A regulation relating to stop-loss insurance; requiring certain policies for stop-loss insurance relating to group health plans to satisfy certain standards and include certain provisions and information; and providing other matters properly relating thereto.

A copy of all materials relating to the proposal(s) may be obtained at the workshop or by visiting the Division’s Internet Web site at <http://doi.nv.gov/> or by contacting the Division, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, (775) 687-0700. A reasonable fee for copying may be charged. Members of the public who would like additional information about a proposed regulation may contact Susan Bell, Legal Secretary, at (775) 687-0704, or via e-mail to suebell@doi.nv.gov.

Notice of the workshop was provided via electronic means to all persons on the agency’s e-mail list for noticing of administrative regulations. This *Notice of Workshop to Solicit Comments on Proposed Regulations* was posted to the agency’s Internet Web site at <http://doi.nv.gov/>, the Nevada Legislature’s Internet Web site at <http://www.leg.state.nv.us>, and at the following locations:

Nevada Division of Insurance
1818 East College Parkway, Suite 103
Carson City, Nevada 89706

Legislative Building
401 South Carson Street
Carson City, Nevada 89701

Blasdel Building
209 East Musser Street
Carson City, Nevada 89701

Capitol Building Main Floor
101 North Carson Street
Carson City, Nevada 89701

Nevada State Library & Archives
100 North Stewart Street
Carson City, Nevada 89701

Churchill County Library
553 South Main Street
Fallon, Nevada 89406

Elko County Library
720 Court Street
Elko, Nevada 89801

Eureka Branch Library
80 S. Monroe Street
P.O. Box 293
Eureka, Nevada 89316-0293

Lander County Library
625 S. Broad Street
P.O. Box 141
Battle Mountain, Nevada 89820

Lincoln County Library
63 Main Street
P.O. Box 330
Pioche, Nevada 89043-0330

Nevada Division of Insurance
3300 West Sahara Avenue, Suite 275
Las Vegas, Nevada 89102

Nevada State Business Center
3300 West Sahara Avenue
Las Vegas, Nevada 89102

Grant Sawyer Building
555 East Washington Avenue
Las Vegas, Nevada 89101

Nevada Department of Employment,
Training and Rehabilitation
2800 E. Saint Louis Avenue
Las Vegas, NV 89104

Carson City Library
900 North Roop Street
Carson City, Nevada 89701

Douglas County Public Library
1625 Library Lane
P.O. Box 337
Minden, Nevada 89423-0337

Goldfield Public Library/Esmeralda County
Corner of Crook Ave. and Fourth St.
P.O. Box 430
Goldfield, Nevada 89013

Humboldt County Library
85 East 5th Street
Winnemucca, Nevada 89445

Las Vegas-Clark County Library District
7060 W. Windmill Lane
Las Vegas, NV 89113

Lyon County Library
20 Nevin Way
Yerington, Nevada 89447

Mineral County Public Library
110 1st Street
P.O. Box 1390
Hawthorne, Nevada 89415

Pershing County Library
1125 Central Avenue
P.O. Box 781
Lovelock, Nevada 89419

Storey County Clerk
26 S. B Street
P.O. Drawer D
Virginia City, Nevada 89440


Tonopah Public Library
167 S. Central Street
P.O. Box 449
Tonopah, Nevada 89049

Downtown Reno Library/Washoe County
301 S. Center Street
P.O. Box 2151
Reno, Nevada 89505-2151

White Pine County Library
950 Campton Street
Ely, Nevada 89301

Members of the public who are disabled and require special accommodations or assistance at the workshop are requested to notify the Commissioner's secretary, in writing, no later than five (5) working days before the workshop: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or suebell@doi.nv.gov.

DATED this 6th day of February, 2019.


BARBARA D. RICHARDSON
Commissioner of Insurance

WORKSHOP AGENDA

The State of Nevada, Department of Business and Industry, Division of Insurance

March 4, 2019 • 9:30 a.m.

Location of Workshop:

Nevada Division of Insurance
1818 E. College Pkwy., 1st Floor Hearing Room
Carson City, NV 89706
(Division Offices located in Suite 103)

Available via Videoconference at:

Nevada Division of Insurance
3300 W. Sahara Ave., 4th Floor Nevada Room
Las Vegas, NV 89102
(Division Offices located in Suite 275)

1. Open Workshop: R127-18.
2. Presentation and Discussion of Proposed Regulation. (For Possible Action)

LCB File No. R127-18. Stop-Loss Insurance.

A regulation relating to stop-loss insurance; requiring certain policies for stop-loss insurance relating to group health plans to satisfy certain standards and include

certain provisions and information; and providing other matters properly relating thereto.

3. Public Comment.
4. Close Workshop: R127-18.
5. Adjourn.

Supporting public material for this workshop may be requested from Susan Bell, Legal Secretary, Nevada Division of Insurance, 1818 E. College Parkway, Carson City, Nevada 89706, (775) 687-0704, or suebell@doi.nv.gov.

Note: Any agenda item may be taken out of order; items may be combined for consideration by the public body; items may be pulled or removed from the agenda at any time; and, discussion relating to an item may be delayed or continued at any time. The Hearing Officer, within his/her discretion, may allow for public comment on individual agenda items. Public comment may be limited to three minutes per speaker.

Members of the public are encouraged to submit written comments for the record.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify the Commissioner's secretary, in writing, no later than five (5) working days before the workshop: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or suebell@doi.nv.gov.

NOTICES FOR THIS WORKSHOP HAVE BEEN POSTED IN ACCORDANCE WITH NRS 241 AT THE FOLLOWING LOCATIONS:

Nevada Division of Insurance, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706
Nevada Division of Insurance, 3300 W. Sahara Avenue, Suite 275, Las Vegas, Nevada 89102
Nevada State Business Center, 3300 W. Sahara Avenue, Las Vegas, Nevada 89102
Nevada State Legislative Building, 401 S. Carson Street, Carson City, Nevada 89701
Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas, Nevada 89101
Blasdel State Office Building, 209 E. Musser Street, Carson City, Nevada 89701
Nevada State Capitol, 101 N. Carson Street, Carson City, Nevada 89701
Nevada Dept. of Employment, Training and Rehabilitation, 2800 E. Saint Louis Avenue, Las Vegas, Nevada 89104
The State of Nevada Website (www.nv.gov)
The Nevada State Legislature Website (www.leg.state.nv.us)
The Nevada Division of Insurance Website (www.doi.nv.gov)

**REVISED PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R127-18

January 10, 2019

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, NRS 679B.130; §2, NRS 679B.130 and 695B.280; §3, NRS 679B.130, 689C.155 and 689C.940.

A REGULATION relating to stop-loss insurance; requiring certain policies for stop-loss insurance relating to group health plans to satisfy certain standards and include certain provisions and information; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Commissioner of Insurance to adopt reasonable regulations for the administration of the Nevada Insurance Code. (NRS 679B.130)

Existing regulations prohibit an insurer from issuing a policy for stop-loss insurance for a group health plan if the policy for stop-loss insurance: (1) fails to meet certain standards for attachment points for individuals and groups; or (2) provides direct coverage of health care expenses of an individual. Existing regulations further provide that if a policy for stop-loss insurance for a group health plan fails to meet such standards or provides such direct coverage, the policy will be deemed to be a health benefit plan. (NAC 689B.350) **Section 1** of this regulation requires a policy for stop-loss insurance to: (1) not be issued for a small employer group that offers a group health plan to fewer than 15 employees; (2) not provide direct coverage of the health care expenses of an individual; and (3) have certain standard attachment points for individuals and groups. **Section 1** requires a policy for stop-loss insurance for a group health plan that is delivered to, issued for delivery to or entered into with a small employer to: (1) include certain provisions and information; and (2) not include any provision which allows lasing or allows claims to be paid directly to certain individuals. **Section 1** requires an insurer that issues a policy for stop-loss insurance to: (1) submit to the Commissioner a summary document that includes certain information; and (2) annually provide certain information to the Commissioner. **Section 1** also provides that certain policies of stop-loss insurance are not required to include guaranteed issue and guaranteed renewability provisions.

Existing law authorizes the Commissioner to adopt such reasonable regulations relating to the substance, form and issuance of any contract covering the furnishing of hospital or medical or dental services. (NRS 695B.280) Existing regulations prohibit a nonprofit insurer from issuing

a policy of stop-loss insurance for a hospital, medical or dental service plan if the policy for stop-loss insurance: (1) fails to meet certain standards for attachment points for individuals and groups; or (2) provides direct coverage of health care expenses of an individual. Existing regulations further provide that if a policy of stop-loss insurance for a hospital, medical or dental service plan fails to meet such standards or provides such direct coverage, the policy will be deemed to be a health benefit plan. (NAC 695B.250) **Section 2** of this regulation requires a policy for stop-loss insurance to: (1) not be issued for a small employer group that offers a group health plan to fewer than 15 employees; (2) not provide direct coverage of the health care expenses of an individual; and (3) have certain standard attachment points for individuals and groups. **Section 2** requires a policy for stop-loss insurance for a group health plan that is delivered to, issued for delivery to or entered into with a small employer to: (1) include certain provisions and information; and (2) not include any provision which allows laserling or allows claims to be paid directly to certain individuals. **Section 2** requires a nonprofit insurer that issues a policy for stop-loss insurance to: (1) submit to the Commissioner a summary document that includes certain information; and (2) annually provide certain information to the Commissioner. **Section 2** also provides that certain policies of stop-loss insurance are not required to include guaranteed issue and guaranteed renewability provisions.

Existing law relating to health insurance for small employers authorizes the Commissioner to adopt regulations to: (1) carry out the provisions relating to health benefit plans; and (2) prescribe standards for determining whether a policy issued as a stop-loss policy is a health benefit plan. (NRS 689C.155, 689C.940) Existing regulations prohibit an insurer from issuing a policy of stop-loss insurance that fails to meet certain standards for attachment points for individuals and groups. Existing regulations further provide that if a policy of stop-loss insurance fails to meet such standards, the policy will be deemed to be a health benefit plan. (NAC 689C.250) **Section 3** of this regulation repeals the existing regulation which specifically applies to policies relating to small employers, as such standards have been modified and incorporated into **section 2**.

Section 1. NAC 689B.350 is hereby amended to read as follows:

689B.350 1. ~~{An insurer shall not issue a}~~ A policy for stop-loss insurance ~~{for a group health plan subject to the provisions of this chapter and chapter 689B of NRS if the policy for stop-loss insurance:}~~ *must:*

(a) ~~{Has}~~ *Not be issued for a small employer group that offers a group health plan to fewer than 15 employees who are covered by the group health plan;*

(b) *Not provide direct coverage of the health care expenses of an individual;*

(c) *Have* an annual *specific* attachment point for claims incurred per individual that is ~~lower than \$10,000;~~

~~(b) Has~~ *not less than \$20,000; and*

~~(d) Have~~ an annual aggregate attachment point for : ~~{groups of not more than 50 persons that is lower than the greater of:}~~

(1) ~~{The number of group members times \$4,000;~~

~~—(2)}~~ *Small employer groups that is at least the greater of:*

(I) One hundred and twenty percent of expected claims; or

~~{(3) Ten}~~

(II) Twenty thousand dollars;

~~{(e) Has an annual aggregate attachment point for} or~~

~~(2) All other~~ groups ~~{of more than 50 persons}~~ that is ~~{lower than}~~ *at least* 110 percent of expected claims . ~~{; or~~

~~—(d) Provides direct coverage of health care expenses of an individual.}~~

2. For the purposes of this section, an insurer shall determine the number of *natural* persons , *including, without limitation, employees and nonemployees of the small employer,* in a group *health plan* on a consistent basis at least annually.

3. ~~{If a}~~ *A* policy for stop-loss insurance for a group health plan ~~{does not meet the criteria set forth in this section, the policy will be deemed to be a health benefit plan for the purposes of this chapter and chapter 689B of NRS.}~~ *that is delivered to, issued for delivery to or entered into with a small employer must include, without limitation, the following provisions:*

(a) A provision in the policy for stop-loss insurance that guarantees the rates of the policy for stop-loss insurance for at least 12 months, without adjustment, unless there is a change in the benefits provided under the group health plan provided by the small employer that occurs during the term of the policy for stop-loss insurance;

(b) Both a specific attachment point and an aggregate attachment point;

(c) Limitations on benefits and exclusions to coverage that align with the limitations on benefits and exclusions to coverage of the group health plan which is provided by the small employer, including, without limitation, any annual or lifetime limits provided in the group health plan provided by the small employer; and

(d) A requirement that the policy for stop-loss insurance must pay any claim incurred by a natural person, including, without limitation, an employee or nonemployee of the small employer, covered by the policy of stop-loss insurance if the claim which is payable under a group health plan is incurred during the term of the policy for stop-loss insurance and such a claim is:

(1) Paid within 6 months after the date the policy of stop-loss insurance contractually ends; or

(2) Unpaid as of the termination date, if any, of the policy of stop-loss insurance.

4. A policy for stop-loss insurance for a group health plan that is delivered to, issued for delivery to or entered into with a small employer must not include any provision which allows:

(a) Lasering; or

(b) Claims to be paid directly to an individual employee, member or participant.

5. An insurer that issues a policy for stop-loss insurance shall submit to the Commissioner a summary document which includes, without limitation, the following information:

(a) The total premium or other consideration for the policy of stop-loss insurance;

(b) The effective date of the policy for stop-loss insurance, the date the policy of stop-loss insurance contractually ends and any renewability provisions;

(c) Both the specific attachment point and the aggregate attachment point;

(d) Any limitations on coverage that are included in the policy for stop-loss insurance;

(e) An explanation of the monthly accommodation and the disclosure of any features of the monthly accommodation that are included in the policy of stop-loss insurance;

(f) A description of terminal liability funding, including, without limitation, the cost of processing claims before and after the termination date, if any, of the policy of stop-loss insurance; and

(g) The maximum liability of the small employer for claims arising under the policy for stop-loss insurance.

6. An insurer that issues a policy for stop-loss insurance shall annually submit to the Commissioner:

(a) If applicable, the experience the small employer had in Nevada with the policy for stop-loss insurance for the previous calendar year, including, without limitation:

(1) The size of the small employer, including, without limitation, the number of:

(I) Natural persons, including, without limitation, employees and nonemployees of the small employer, covered by the policy for stop-loss insurance; and

(II) Employees employed by the small employer as of the beginning of the policy for stop-loss insurance;

(2) The number of exposure years for:

(I) All natural persons, including, without limitation, employees and nonemployees of the small employer, covered by the policy for stop-loss insurance; and

(II) Employees employed by the small employer and covered by the policy for stop-loss insurance for the previous calendar year;

(3) The specific attachment point;

(4) Expected claims in the absence of a policy for stop-loss insurance;

(5) Expected claims under the specific attachment point;

(6) The aggregate attachment point;

(7) The earned premium; and

(8) Any claims paid by the policy of stop-loss insurance, including, without limitation:

(I) Specific losses resulting from claims incurred by a natural person, including, without limitation, an employee or nonemployee of the small employer, who is a member of the insured group; and

(II) Aggregate losses incurred by the insured group; and

(b) A certificate of compliance with the requirements of this section.

7. The information required under subsections 5 and 6 must be provided in a format prescribed by the Commissioner or in a substantially similar format approved by the Commissioner.

8. Guaranteed issue and guaranteed renewability do not apply to a policy of stop-loss insurance governed by this section.

9. As used in this section:

(a) "Actively-at-work exclusion" means the exclusion of a natural person, including, without limitation, an employee or nonemployee of the small employer, who is a member of the group health plan offered by a small employer from coverage because the natural person is:

(1) An employee of the small employer; and

(2) Is not actively at work as a result of the use of earned leave.

(b) “Attachment point” means the amount of claims incurred by an insured group beyond which an insurer incurs a liability for payment.

~~[(b)]~~ *(c)* “Expected claims” means the amount of claims that, in the absence of a *policy for stop-loss ~~policy~~ insurance* or other insurance, are projected to be incurred by an insured group through its *group* health plan.

~~[(c)]~~ “~~Stop-loss~~”

(d) “Group health plan” has the meaning ascribed to it in NRS 689B.390.

(e) “Health care expenses” means the expenses of a group health plan associated with the delivery of services for health care that are analogous to the incurred losses of an insurer.

(f) “Lasing” means:

(1) Assigning a different attachment point for a natural person, including, without limitation, an employee or nonemployee of a small employer, based on his or her expected claims or diagnosis;

(2) Assigning a deductible to a natural person, including, without limitation, an employee or nonemployee of a small employer, that must be met before coverage under a policy of stop-loss insurance applies;

(3) Denying coverage under a policy of stop-loss insurance to a natural person, including, without limitation, an employee or nonemployee of a small employer, who is otherwise covered by the group health plan provided by the small employer; or

(4) Applying an actively-at-work exclusion to a policy of stop-loss insurance.

(g) *“Policy for stop-loss insurance”* means insurance purchased by ~~an~~ *a small* employer to limit exposure to claim expenses under a *group* health ~~benefit~~ plan provided by the *small* employer.

(h) *“Small employer”* has the meaning ascribed to it in NRS 689C.095.

(i) *“Specific attachment point”* means the amount of claims incurred per natural person, including, without limitation, an employee or nonemployee of a small employer, who is a member of the insured group beyond which an insurer incurs a liability for payment.

(j) *“Termination date”* means a date upon which a policy for stop-loss insurance is terminated before the end date contractually provided in the policy for stop-loss insurance.

Sec. 2. NAC 695B.250 is hereby amended to read as follows:

695B.250 1. ~~{An insurer shall not issue a}~~ A policy for stop-loss insurance ~~{for a hospital, medical or dental service plan subject to the provisions of this chapter and chapter 695B of NRS if the policy for stop-loss insurance:}~~ *must:*

(a) ~~{Has}~~ *Not be issued for a small employer group that offers a group health plan to fewer than 15 employees who are covered by the group health plan;*

(b) *Not provide direct coverage of the health care expenses of an individual;*

(c) *Have* an annual *specific* attachment point for claims incurred per individual that is ~~lower~~ *than \$10,000;*

~~(b) Has~~ *not less than \$20,000; and*

(d) *Have* an annual aggregate attachment point for : ~~{groups of not more than 50 persons that is lower than the greater of:}~~

(1) ~~{The number of group members times \$4,000;~~

~~(2)}~~ *Small employer groups that is at least the greater of:*

(I) One hundred and twenty percent of expected claims; or

~~{(3) Ten}~~

(II) *Twenty* thousand dollars;

~~{(e) Has an annual aggregate attachment point for} or~~

(2) *All other* groups ~~{of more than 50 persons}~~ that is ~~{lower than}~~ *at least* 110 percent of expected claims. ~~{; or~~

~~—(d) Provides direct coverage of health care expenses of an individual.}~~

2. For the purposes of this section, an insurer shall determine the number of *natural* persons, *including, without limitation, employees and nonemployees of the small employer*, in a group *health plan* on a consistent basis at least annually.

3. ~~{If a}~~ A policy for stop-loss insurance for a ~~{hospital, medical or dental service plan does not meet the criteria set forth in this section, the policy will be deemed to be a health benefit plan for the purposes of this chapter and chapter 695B of NRS.}~~ *group health plan that is delivered to, issued for delivery to or entered into with a small employer must include, without limitation, the following provisions:*

(a) A provision in the policy for stop-loss insurance that guarantees the rates of the policy for stop-loss insurance for at least 12 months, without adjustment, unless there is a change in the benefits provided under the group health plan provided by the small employer that occurs during the term of the policy for stop-loss insurance;

(b) Both a specific attachment point and an aggregate attachment point;

(c) Limitations on benefits and exclusions to coverage that align with the limitations on benefits and exclusions to coverage of the group health plan which is provided by the small

employer, including, without limitation, any annual or lifetime limits provided in the group health plan provided by the small employer; and

(d) A requirement that the policy for stop-loss insurance must pay any claim incurred by a natural person, including, without limitation, an employee or nonemployee of the small employer, covered by the policy of stop-loss insurance if the claim which is payable under a group health plan is incurred during the term of the policy for stop-loss insurance and such a claim is:

(1) Paid within 6 months after the date the policy of stop-loss insurance contractually ends; or

(2) Unpaid as of the termination date, if any, of the policy of stop-loss insurance.

4. A policy for stop-loss insurance for a group health plan that is delivered to, issued for delivery to or entered into with a small employer must not include any provision which allows:

(a) Lasering; or

(b) Claims to be paid directly to an individual employee, member or participant.

5. An insurer that issues a policy for stop-loss insurance shall submit to the Commissioner a summary document which includes, without limitation, the following information:

(a) The total premium or other consideration for the policy of stop-loss insurance;

(b) The effective date of the policy for stop-loss insurance, the date the policy of stop-loss insurance contractually ends and any renewability provisions;

(c) Both the specific attachment point and the aggregate attachment point;

(d) Any limitations on coverage that are included in the policy for stop-loss insurance;

(e) An explanation of the monthly accommodation and the disclosure of any features of the monthly accommodation that are included in the policy of stop-loss insurance;

(f) A description of terminal liability funding, including, without limitation, the cost of processing claims before and after the termination date, if any, of the policy of stop-loss insurance; and

(g) The maximum liability of the small employer for claims arising under the policy for stop-loss insurance.

6. An insurer that issues a policy for stop-loss insurance shall annually submit to the Commissioner:

(a) If applicable, the experience the small employer had in Nevada with the policy for stop-loss insurance for the previous calendar year, including, without limitation:

(1) The size of the small employer, including, without limitation, the number of:

(I) Natural persons, including, without limitation, employees and nonemployees of the small employer, covered by the policy for stop-loss insurance; and

(II) Employees employed by the small employer as of the beginning of the policy for stop-loss insurance;

(2) The number of exposure years for:

(I) All natural persons, including, without limitation, employees and nonemployees of the small employer, covered by the policy for stop-loss insurance; and

(II) Employees employed by the small employer and covered by the policy for stop-loss insurance for the previous calendar year;

(3) The specific attachment point;

(4) Expected claims in the absence of a policy for stop-loss insurance;

(5) Expected claims under the specific attachment point;

(6) The aggregate attachment point;

(7) The earned premium; and

(8) Any claims paid by the policy of stop-loss insurance, including, without limitation:

(I) Specific losses resulting from claims incurred by a natural person, including, without limitation, an employee or nonemployee of the small employer, who is a member of the insured group; and

(II) Aggregate losses incurred by the insured group; and

(b) A certificate of compliance with the requirements of this section.

7. The information required under subsections 5 and 6 must be provided in a format prescribed by the Commissioner or in a substantially similar format approved by the Commissioner.

8. Guaranteed issue and guaranteed renewability do not apply to a policy of stop-loss insurance governed by this section.

9. As used in this section:

(a) “Actively-at-work exclusion” means the exclusion of a natural person, including, without limitation, an employee or nonemployee of the small employer, who is a member of the group health plan offered by a small employer from coverage because the natural person is:

(1) An employee of the small employer; and

(2) Is not actively at work as a result of the use of earned leave.

(b) “Attachment point” means the amount of claims incurred by an insured group beyond which an insurer incurs a liability for payment.

~~{(b)}~~ (c) “Expected claims” means the amount of claims that, in the absence of a *policy for stop-loss ~~{policy}~~ insurance* or other insurance, are projected to be incurred by an insured group through its *group* health plan.

~~{(e)}~~ “~~Stop-loss~~”

(d) “*Group health plan*” has the meaning ascribed to it in NRS 689B.390.

(e) “*Health care expenses*” means the expenses of a group health plan associated with the delivery of services for health care that are analogous to the incurred losses of an insurer.

(f) “*Lasering*” means:

(1) *Assigning a different attachment point for a natural person, including, without limitation, an employee or nonemployee of a small employer, based on his or her expected claims or diagnosis;*

(2) *Assigning a deductible to a natural person, including, without limitation, an employee or nonemployee of a small employer, that must be met before coverage under a policy of stop-loss insurance applies;*

(3) *Denying coverage under a policy of stop-loss insurance to a natural person, including, without limitation, an employee or nonemployee of a small employer, who is otherwise covered by the group health plan provided by the small employer; or*

(4) *Applying an actively-at-work exclusion to a policy of stop-loss insurance.*

(g) “*Policy for stop-loss insurance*” means insurance purchased by ~~{an}~~ *a small* employer to limit exposure to claim expenses under a *group* health ~~{benefit}~~ plan provided by the *small* employer.

(h) “*Small employer*” has the meaning ascribed to it in NRS 689C.095.

(i) “Specific attachment point” means the amount of claims incurred per natural person, including, without limitation, an employee or nonemployee of a small employer, who is a member of the insured group beyond which an insurer incurs a liability for payment.

(j) “Termination date” means a date upon which a policy for stop-loss insurance is terminated before the end date contractually provided in the policy for stop-loss insurance.

Sec. 3. NAC 689C.250 is hereby repealed.

TEXT OF REPEALED SECTION

689C.250 Policies for stop-loss insurance. (NRS 679B.130, 689C.155, 689C.940)

1. An insurer shall not issue a policy for stop-loss insurance that:

(a) Has an annual attachment point for claims incurred per individual that is lower than \$10,000;

(b) Has an annual aggregate attachment point for groups of not more than 50 persons that is lower than the greater of:

(1) The number of group members times \$4,000;

(2) One hundred and twenty percent of expected claims; or

(3) Ten thousand dollars.

2. For the purposes of this section, an insurer shall determine the number of persons in a group on a consistent basis at least annually.

3. If a policy for stop-loss insurance does not meet the criteria set forth in this section, the policy will be deemed to be a health benefit plan for the purposes of this chapter and chapter 689C of NRS.

4. As used in this section:

(a) “Attachment point” means the amount of claims incurred by an insured group beyond which an insurer incurs a liability for payment.

(b) “Expected claims” means the amount of claims that, in the absence of stop-loss insurance or other insurance, are projected to be incurred by an insured group through its health plan.

(c) “Stop-loss insurance” means insurance purchased by an employer to limit exposure to claim expenses under a health benefit plan provided by the employer.

**STATE OF NEVADA
DEPARTMENT OF BUSINESS & INDUSTRY
DIVISION OF INSURANCE**

**REVISED
Determination of Necessity of Small Business Impact Statement
NRS 233B.0608(1)**

STOP-LOSS INSURANCE

This proposed regulation amends NAC 689B.350, which sets out the requirements for stop-loss insurance.

**EFFECTIVE DATE OF REGULATION:
Upon filing with the Nevada Secretary of State**

1. BACKGROUND.

In 2001 the Nevada Division of Insurance ("Division") adopted a regulation that created requirements on stop-loss insurance covering small and large group self-funded health plans in Nevada. Since 2001 there have been many changes in Nevada's health insurance market, including dramatic changes made through the Affordable Care Act. This proposed regulation modernizes the stop-loss requirements by requiring additional transparency and protections for small employers. Small employer is defined pursuant to NRS 689C.095 and 42 U.S.C. § 18024(b)(2) as an employer who employed an average of at least 1 but not more than 50 employees on business days during the preceding calendar year and who employs at least 1 employee on the first day of the plan year.

The language for this proposed regulation was developed through the joint efforts of Division staff and a committee, appointed by the Commissioner of Insurance, which was comprised of representatives from health insurance carriers and Nevada resident producers. The proposed regulation combines the two existing stop-loss sections in NAC 689B into one. Currently, NAC 689C.250, Health Insurance for Small Employers, and NAC 689B.350, Group and Blanket Health Insurance, both address stop-loss insurance for employer groups. The combining of these two sections will help reduce confusion in the stop-loss market. NAC 689B.350 is the surviving regulation; NAC 689C.250 is thereby being repealed.

Additionally, the proposed regulation amends NAC 689B.350 and NAC 695B.250 by updating the stop-loss requirements to include the following:

- instituting a minimum size of employer groups that would be able to purchase stop-loss insurance,
- prohibiting a stop-loss policy from providing first dollar health coverage,
- increasing the minimum annual attachment point for claims incurred per individual,
- increasing the annual attachment point for aggregate claims for small employer groups,
- prohibiting stop-loss carriers from laserling (excluding or limiting coverage of high cost employees),
- creating a uniform disclosure form, and
- requiring an insurer to provide the Commissioner with certain information on an annual basis.

2. DESCRIPTION OF SOLICITATION SHOWING A CONCERTED EFFORT. NRS 233B.0608(1).

The Division sent a survey to 110 interested parties, including insurance companies, brokers, and small businesses, which include small employers, in Nevada to determine the effect of the regulation on all of the participants in the stop-loss market.

The Division also sent a survey to 11 Chambers of Commerce across Nevada to ask if they or their members perceive any adverse economic impact as a result of the proposed regulation.

The Division received 45 responses to the survey. These responses included 165 comments on the regulation. Many of these comments addressed the potential economic impact on the small employers that currently utilize stop-loss insurance for health care expenses.

3. DOES THE PROPOSED REGULATION IMPOSE A DIRECT AND SIGNIFICANT ECONOMIC BURDEN UPON A SMALL BUSINESS OR DIRECTLY RESTRICT THE FORMATION, OPERATION OR EXPANSION OF A SMALL BUSINESS? NRS 233B.0608(1).

NO YES

4. HOW WAS THAT CONCLUSION REACHED? NRS 233B.0608(3).

According to the Henry J. Kaiser Family Foundation 2016 Employer Health Benefits Survey, nationally, the percentage of employees with work provided health insurance coverage through self-funded plans is 82% for firms with 200 or more employees and 13% for firms with fewer than 200 employees. Since the threshold of this regulation will be small employers with at least 15 eligible employees, the proposed regulation will impact a very small percentage of Nevada small businesses.

The exact economic impact on those self-funded small employers with fewer than 15 eligible employees is extremely difficult to quantify, as the impact will be dependent on each groups' actual loss results, which will vary year to year. For healthy groups with very low medical expenses, the employer costs with self-funded plans are estimated to save 15% to 25% compared to premiums for fully-insured plans during those years. However, the same 2016 Kaiser survey shows that for group sizes under 200, the average per-employee claims cost at which stop-loss insurance begins to pay is \$80,000. In years where members of the group experience high health care costs, the actual cost to the employer could far exceed the premiums paid under a fully-insured plan. Removing the ability for the smallest firms to self-fund their health insurance could provide important financial protection for those employers.

Because a very small percentage of employers with fewer than 15 employees currently self-insure their employee health benefit plan coverage, it is our conclusion that the changes proposed in this regulation will not create a direct and significant economic burden on the small businesses of Nevada.

I, BARBARA D. RICHARDSON, Commissioner of Insurance for the State of Nevada, hereby certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this statement is accurate. (NRS 233B.0608(3))

2/6/19
(DATE)



BARBARA D. RICHARDSON
Commissioner of Insurance

REVISED
Small Business Impact Statement
NRS 233B.0608(2)-(4) and 233B.0609

STOP-LOSS INSURANCE

1. SUMMARY OF COMMENTS RECEIVED FROM SMALL BUSINESSES. NRS 233B.0609(1)(a).

The Division received a total of 45 responses; 10 of the responders met the definition of a small employer¹ under Nevada law, two (2) met the definition of a large business, nine (9) responders were insurance companies, and 23 responders were brokers. Of these responses, seven (7) insurance companies, 12 brokers, and 12 of the businesses have participated in the stop-loss market in the last year. Comments received from insurance brokers and companies tended to mirror the business markets they specialize in.

In reviewing and compiling the results of the survey, Division staff noticed that several of the written responses were identical. Therefore, Division staff determined that the responses were not independent and could not be fully relied upon as a reflection of the mindset of individual interested parties but may reflect the opinions of the particular business segment in which the individuals specialized.

Responses from those who participate in the self-insured "stop-loss" market supported loosening of rules to allow more small businesses to enter the self-insured market. Those insurers and brokers that primarily participate in the fully-insured market opposed making any changes that would loosen stop-loss rules. Their primary argument is, since stop-loss policies can underwrite based upon health status, this market would attract healthier groups, thus creating deterioration in Nevada's fully-insured small-group insurance pool.

Employers that are currently self-funding their health care expenses have generally experienced positive results and feel that it provides the opportunity for significant savings over a fully-insured market. Small employers surveyed highlighted two changes from this proposed regulation that they feel would have the greatest financial effect on them. The first is the addition of a requirement to impose a minimum group size limit on employers eligible for stop-loss insurance. There is no current limit in Nevada, although many other states include minimum group size in their laws.

The proposed change receiving the second largest number of comments was increasing the minimum individual attachment point from \$10,000 to \$20,000. Based on unique responses, interested parties were split on the individual attachment point; with several responders supported increasing the limit to \$20,000, some suggested a limit of \$10,000 or less and a few suggested a limit of \$40,000 or higher would be appropriate.

¹ "Small business", pursuant to NRS 233B.0382, means a business conducted for profit which employs fewer than 150 full-time or part-time employees. "Small employer" is a type of small business defined pursuant to NRS 689C.095 to be an employer who employed an average of at least 1 but not more than 50 employees on business days during the preceding calendar year and who employs at least 1 employee on the first day of the plan year.

Other interested parties may receive a copy of this summary by contacting Susan Bell, Legal Secretary, Nevada Division of Insurance, at (775) 687-0704 or suebell@doi.nv.gov.

2. HOW WAS THE ANALYSIS CONDUCTED? NRS 233B.0609(1)(b).

The Division sent a small-business impact survey to the 110 interested parties in Nevada to determine the effect of proposed changes to NAC 689B.350. Responses were received from January 8, 2018 through January 30, 2018.

The Division also sent a small-business impact survey to 11 Chambers of Commerce across Nevada to ask the membership to provide their input and perception as to the impact of the proposed regulation.

3. ESTIMATED ECONOMIC EFFECT ON SMALL BUSINESSES THE REGULATION IS TO REGULATE. NRS 233B.0609(1)(c).

The estimated impact of the proposed regulation is very hard to quantify, however it is expected to impact a very small number of Nevada businesses. The changes to group size only impact self-insured groups with fewer than 15 employees. The actual number of those groups in Nevada is not exactly known, but based upon national surveys, the number is estimated to be an extremely small percentage of the small employer health insurance market. Further, it is difficult to compare the cost of providing health benefits to self-funded employers with fewer than 15 eligible employees versus the cost of participating in a fully insured market. While the fully insured market cannot underwrite or base rates on the health condition of the individuals in the groups, stop-loss policies can. The economic impact will differ based on the health status of the individuals in the employer group, and it is subject to change any time the health of the group changes.

Overall it is estimated that this proposed regulation will have a very minimal economic impact on the small businesses in Nevada.

4. METHODS CONSIDERED TO REDUCE IMPACT ON SMALL BUSINESSES. NRS 233B.0609(1)(d).

This regulation was analyzed and drafted by the Division of Insurance staff, along with a committee comprised of company representatives and producers from the Nevada health insurance market. The regulation was drafted to provide a needed balance between availability and consumer protection for self-funded plans, and the impact to small businesses was considered in the recommended rules that are included in this proposed regulation.

5. ESTIMATED COST OF ENFORCEMENT. NRS 233B.0609(1)(e).

There will be an increase in staff time, as this proposed regulation provides the Commissioner with the authority to require additional filing of annual experience by small employers who utilize stop-loss insurance. The Division is confident that it can absorb this possible increase in workload through its existing staffing.

6. FEE CHANGES. NRS 233B.0609(1)(f).

This regulation does not add any new fees, nor does it increase existing fees.

7. DUPLICATIVE PROVISIONS. NRS 233B.0609(1)(g).

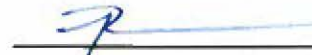
The regulation does not duplicate any existing federal, state or local standards, and it is not more stringent than any existing federal, state or local standards.

8. REASONS FOR CONCLUSIONS. NRS 233B.0609(1)(h).

The Division of Insurance received 45 responses to the survey. The responses to the survey were tabulated and analyzed by the Division. The Division's Life and Health Section, along with members of a temporary stop-loss committee, appointed by the Commissioner of Insurance, studied the costs of the fully-insured market versus the potential costs and risks contained in the self-insured market, and concluded that the changes proposed in this regulation will not create a significant economic impact on the small businesses in the state of Nevada.

I, BARBARA D. RICHARDSON, Commissioner of Insurance for the State of Nevada, hereby certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was prepared properly and the information contained herein is accurate. (NRS 233B.0609(2))

2/6/19
(DATE)



BARBARA D. RICHARDSON
Commissioner of Insurance