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DEPARTMENT OF BUSINESS AND INDUSTRY

DIVISION OF INSURANCE

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**NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS
LCB File No. R151-20
AND WORKSHOP AGENDA**

The Nevada Division of Insurance (“Division”) is hosting a workshop to propose the adoption, amendment, or repeal of regulations pertaining to Nevada Administrative Code (“NAC”) chapters 689B, 689C, and 695B.

Date: October 28, 2021
Time: 9:00 a.m.
Location: This workshop will be held virtually via Webex, which allows participation by video or telephone.*

To join by Webex, click on the URL and enter the meeting number and password when prompted.

URL: <https://doinv.webex.com/doinv/j.php?MTID=m07513435e39574b709bfe55c419f6254>

Meeting Number: 2634 235 6135

Password: b83HpjEQJx5

To join by telephone, call the toll-free number and enter the access code when prompted.

Phone-in Access: 1-844-621-3956 United States Toll Free

Access Code: 2634 235 6135

If you need help using Webex, visit <https://help.webex.com>.

Live public comment and written public comment will be taken as designated in the Workshop Agenda.

* There is no physical location designated for this workshop. Accordingly, any person planning to participate must participate by using the Webex link for video access or by calling the phone-in access for telephone access. Meeting materials are available on the Division’s website at:

<https://doi.nv.gov/News-Notices/Regulations/>.

The purpose of the workshop is to solicit comments from interested persons on the general topic(s) that may be addressed in the proposed regulation; and to assist in determining whether the proposed regulation 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.

WORKSHOP AGENDA

1. Open Workshop: R151-20.
2. Presentation of Proposed Regulation.

[LCB File No. R151-20. 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 the proposed regulation prepared by the Legislative Counsel is available by clicking on the following link: <https://www.leg.state.nv.us/Register/2020Register/R151-20P.pdf>

3. Public Comment.

The meeting presenter will indicate when live public comment will be taken. Public comment may be limited to three minutes per speaker.

4. Close Workshop: R151-20.

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 meeting presenter, within his/her discretion, may allow for public comment on individual agenda items.

A copy of all materials relating to the proposal may be obtained by visiting the Division's internet website at <https://doi.nv.gov/News-Notices/Regulations/> or by contacting the Division (regs@doi.nv.gov or 775-687-0700). Members of the public who would like additional information about a proposed regulation may contact the Division by email to regs@doi.nv.gov. Members of the public are encouraged to submit written comments for the record no later than **October 21, 2021**. Written comments may be emailed to regs@doi.nv.gov or mailed to 1818 E. College Parkway, Suite 103, Carson City, NV 89706.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify the Division of your request for reasonable accommodation in writing no later than five (5) working days before the workshop via email to regs@doi.nv.gov.

Notice of the workshop has been provided as follows:

By email to all persons on the Division's e-mail list for noticing of administrative regulations.
By email for posting by the Nevada State Library, Archives and Public Records Administrator.
By email for posting by the Nevada Legislature.

Published to the Nevada Legislature website: <https://leg.state.nv.us/>.

Published to the Division of Insurance website: <https://doi.nv.gov/>.

Published to the State of Nevada Public Notice website: <https://notice.nv.gov/>.

DATED this 4th day of October 2021.



BARBARA D. RICHARDSON
Commissioner of Insurance

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

**SECOND 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 two existing stop-loss regulations from NAC 689B and 689C 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 regulations 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))

2/8/19 9/29/21
(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))

2/8/19 9/29/21
(DATE)



BARBARA D. RICHARDSON
Commissioner of Insurance