



# SENATE BILL 86: Small Business Health Care Act.

2019-2020 General Assembly

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<b>Committee:</b>		<b>Date:</b>	December 6, 2019
<b>Introduced by:</b>		<b>Prepared by:</b>	Jason Moran-Bates Staff Attorney
<b>Analysis of:</b>	S.L. 2019-202		

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**OVERVIEW:** *S.L. 2019-202 establishes standards for association health plans (AHPs) and fully-insured Path 2 MEWAs.*

*The study portion of this act becomes effective only when a final judicial order striking down the Department of Labor rule permitting Path 2 MEWAs is issued. The remainder of this act became effective October 1, 2019, and applies to contracts entered into, amended, or renewed on or after January 1, 2020.*

**CURRENT LAW:** Currently, Multiple Employment Welfare Arrangements (MEWAs) are regulated by Article 49 of Chapter 58. Under current law, an association of employers that share the same trade or line of business and that exists for a purpose other than obtaining insurance, as well as meeting other criteria, can qualify as a MEWA and offer its member employers insurance products that are regulated as group health insurance. These associations can also self-insure. Sole proprietorships cannot qualify as employers to obtain an AHP or self-insure through a MEWA. Under current law, insurers may not provide stop-loss insurance to an employer with fewer than 26 employees.

**BILL ANALYSIS:** S.L. 2019-202 creates a new Article 50A in Chapter 58 (Insurance) to regulate AHPs and MEWAs.

## Standards for Path 2 MEWAs

- G.S. 58-50A-1 creates definitions for "employer member," "employee welfare benefit plan," "Multiple Employer Welfare Arrangement (MEWA)," "Path 2 MEWA," and "sponsoring association."
  - Path 2 MEWAs are required to be formed by sponsoring associations that have certain corporate governance standards and have individual employer members who share a commonality of interest based on either trade or geography.
  - Sponsoring associations are deemed to be large employers.
- G.S. 58-50A-5 requires sponsoring associations to comply with Chapter 58, regardless of where they are domiciled.
- G.S. 58-50A-10 prohibits insurers from issuing group health plans to a sponsoring association unless the sponsoring association qualified as a Path 2 MEWA.
- G.S. 58-50A-15 prohibits health plans offered by a sponsoring association from providing coverage to anyone other than employees, as defined under state or federal law, or spouses and

Karen Cochrane-Brown  
Director



Legislative Analysis  
Division  
919-733-2578

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dependents of employees. Sole proprietors count as employees eligible for coverage under this section.

- G.S. 58-50A-20 requires group health plans offered by a sponsoring association to be:
  - Not offered or advertised to the public.
  - Provide a level of coverage equal to or greater than 60% of the actuarial value of allowed costs for covered benefits.
  - Provide coverage for hospital and physician services.
  - Comply with the provisions of G.S. 58-3-150.
- G.S. 58-50A-25 requires sponsoring associations to meet certain solvency requirements:
  - Being established and maintained for at least one year.
  - Have at least 500 individuals eligible for coverage.
  - Require employer members to provide group health coverage to all individuals eligible for coverage for a period of at least one year.
  - Maintain a minimum net worth equal to at least one month's premium.
  - Maintain an adequate plan for protection against insolvency.
- G.S. 58-50A-30 prohibits insurers and sponsoring associations from making rating distinctions based on health status, preexisting conditions, claims experience, receipt of health care, genetic information, and evidence of insurability.
- G.S. 58-50A-35 requires all individuals receiving coverage through an AHP to pay the same premium, unless a reduction is offered for adherence to programs of health promotion and disease prevention.
- G.S. 58-50A-40 clarifies that sponsoring associations can contact licensed brokers for assistance in obtaining an AHP.

## **Recodification**

The existing MEWA statutes are recodified into Article 50A.

## **Application of Recodified Laws**

Self-insured MEWAs can be Path 2 MEWAs. The regulations that currently apply to existing self-insured MEWAs also apply to Path 2 MEWAs.

## **Conforming changes**

Several changes are made to existing statutes to conform them to the new laws regulating Path 2 MEWAs.

## **Stop Loss Insurance**

Insurers may provide stop-loss insurance to employers who have 20 or more employees.

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## **Rule-Making Authority**

The Department of Insurance has temporary rule-making authority to implement the provisions of this bill.

## **Study**

The Department of Insurance must study the feasibility of seeking a waiver under the Affordable Care Act if the federal Department of Labor rule permitting Path 2 MEWAs is struck down.

## **Recodification Authority**

The Revisor of Statutes may update the General Statutes to reflect the recodification of existing MEWA statutes.

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