

**STATE OF NEW MEXICO**  
**OFFICE OF SUPERINTENDENT OF INSURANCE**

Mailing Address: P.O. Box 1689, Santa Fe, NM 87504-1689  
Physical Address: 1120 Paseo de Peralta, Room 428, Santa Fe, NM 87501  
Main Phone: 505-827-4601; Main Fax 505-827-4734; Toll Free: 1-855-427-5674  
[www.osi.state.nm.us](http://www.osi.state.nm.us)

**SUPERINTENDENT OF INSURANCE**  
John G. Franchini - 505-827-4299



**ACTING DEPUTY SUPERINTENDENT**  
Alan Seeley - 505-827-4307

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**Bulletin 2015-015**  
**April 1, 2015**

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**TO: ALL LIMITED BENEFIT PLANS EXCEPT DISABILITY INCOME**

**RE: EXCEPTED BENEFIT PLANS DISCLOSURE [Repeals and Replaces Insurance Bulletin No. 2014-003]**

**THE FOLLOWING AMENDED BULLETIN** is issued pursuant to Insurance Bulletin Rules, 13 NMAC 1.2.1 to 1.2.10. This Bulletin repeals and replaces the New Mexico Office of Superintendent of Insurance (OSI), Bulletin No. 2014-003.

The purpose of this Amended Bulletin is to notify all involved parties of the mandatory disclosure required.

It is possible that some individuals are not aware that limited benefit plans (excepted benefit plans) are exempt from the "essential health benefits" requirement in the Patient Protection and Affordable Care Act of 2010 (ACA), and therefore, do not provide an individual with "minimum essential coverage" as required by the ACA. In addition, those individuals may not be aware that they may be subject to federal tax penalties under the ACA and the Internal Revenue Code, if they do not obtain health insurance that meets the minimum essential average requirements.

To reduce confusion during and after the transition period, and to protect consumers from inadvertently incurring federal tax penalties, OSI requires that issuers of group and individual excepted hospital plans, (except disability plans), notify every individual insured under such plans that the coverage does not satisfy the "minimum essential coverage" requirement of the ACA with the following disclosure:

**“This type of plan is NOT considered “minimum essential coverage” under the Affordable Care Act and therefore does NOT satisfy the individual mandate that you have health insurance coverage. If you do not have other health insurance coverage, you may be subject to a federal tax penalty. Please consult your tax advisor.”**

This notice must be provided with all such policies issued or renewed on or after January 1, 2014 in at least 10 point font on the cover page of the policy/certificate.

OSI and the Centers for Medicare or Medicaid Services will not proceed with enforcement action against an issuer of fixed indemnity insurance for failure to meet the January 1, 2015 deadline if all of the following conditions are met:

1. Prior approval of any amendments to fixed indemnity policy application materials is received from OSI.
2. The fixed indemnity issuer submits to OSI any revised application materials for approval that are consistent with attestation and notice requirements under the regulations, and the issuer takes all required steps to obtain approval.
3. The issuer complies with all other applicable requirements for the fixed indemnity insurance to be considered and excepted benefit.

This policy will apply until the earlier of May 01, 2015, or the date upon which the issuer receives approval from OSI to use the application materials containing the required language.

If you have additional questions regarding this Bulletin, please contact the Life and Health Rate & Form Filing Bureau at 1-505-827-4561.

**ISSUED** at Santa Fe, New Mexico on April 1, 2015.

  
**JOHN G. FRANCHINI**  
Superintendent of Insurance