

Appeals Panel for Industrial Insurance

Nevada Revised Statutes (NRS) 616B.760 through 616B.790:

Panel members (NRS 616B.760): The Appeals Panel for Industrial Insurance, Division of Insurance (DOI), Department of Business and Industry (DBI), consists of seven members, appointed by the Governor in consultation with the Commissioner of Insurance, as follows:

- An employee of the DOI, DBI;
- A licensed agent, qualified pursuant to regulations adopted by the Commissioner of Insurance, who is a member of a nationally recognized association for professional insurance agents;
- Two representatives of the general public, pursuant to statute;
- Two representatives of private carriers; and
- A representative of the advisory organization who administers appeals panels for grievances of employers in other states.

NRS 616B.760 provides that the advisory organization shall compile and submit lists of persons who would be appropriate members of the Appeals Panel as the agent, the representatives of the general public, and the representatives of private carriers.

NRS 616A.045 defines “advisory organization” as the organization designated and licensed by the Commissioner to file the classifications of risks for private carriers pursuant to Chapters 616A (“Industrial Insurance: Administration”) to 616D (“Industrial Insurance: Prohibited Acts; Penalties; Prosecution”), inclusive, and Chapter 686B (“Rates and Essential Insurance”) of NRS.

Organization of the Panel (NRS 616B.762 through 616B.770):

- The members shall elect a Chair, whose term of office is one year;
- The Chair shall schedule the meetings and ensure they are conducted in an efficient manner;
- Four members constitute a quorum and may conduct business; and
- Expenses of the members of the Appeals Panel must be paid from assessments payable by each insurer pursuant to the formula approved by the Commissioner.

EXHIBIT N - SUNSET

Document consists of 27 pages.

Due to size limitations, pages 1-13 provided.

A copy of the complete document is available through the Research Library (775/684-6827 or e-mail library@lcb.state.nv.us)

Meeting Date: 03-15-16

Grievances (NRS 616B.772 through 616B.790):

- An employer, other than a self-insured employer, who determines that circumstances specific to his or her case require a review may file a grievance with the Appeals Panel;
- The Appeals Panel shall not hear complaints concerning the effect of classifications of risk or rules that apply to all similarly classified businesses;
- Hearings must be open to the public, pursuant to statute, unless the Appeals Panel will consider proprietary information;
- If a member of the Appeals Panel has a conflict of interest, the Chair shall appoint a substitute member for that hearing. A conflict may be waived if, after full disclosure, all parties to the appeal agree; and
- A party to the hearing may appeal the decision of the Appeals Panel to the Commissioner.

Background:

Legislation: Senate Bill 417 (Chapter 620, *Statutes of Nevada 1999*), sponsored by Senator Ann O'Connell, established the Appeals Panel. According to testimony from the Commissioner of Insurance at that time, on July 1, 1999, the workers' compensation system would convert to a competitive environment. Employers would be able to purchase their industrial insurance from private carriers. In addition, the regulatory authority of the State system would cease on that date.

The Commissioner testified that the DOI had been told to expect thousands of appeals from employers whose classifications of rates had been affected by the change. The Commissioner testified that under existing law the Commissioner did not have authority to delegate the responsibility for hearing appeals to another entity. The Appeals Panel, created by S.B. 417, would permit the Commissioner to do so, while preserving due process right for employers to appeal to the Commissioner.

Legislative history: A legislative history has been compiled and is available here: <http://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/1999/SB417,1999.pdf>.

Members: The members are listed on the review form.

Reports to the Legislature: No reports from the Appeals Panel to the Legislature are required pursuant to Chapter 616B ("Industrial Insurance: Insurers; Liability for Provision of Coverage") of NRS.

Records:

- Research Library holdings: none
- State Library holdings: none
- State Archives holdings: none

Contact: Jim Werbeckes, Chair

Website: There is no website, although notices of meetings are posted on the DOI's website.

W161232

APPEALS PANEL FOR INDUSTRIAL INSURANCE**ADMINISTRATIVE REGULATIONS.**

Appeals panel for industrial insurance, NAC 616B.990-616B.994

NRS 616B.760 Creation; membership; terms; vacancies.

1. The Appeals Panel for Industrial Insurance is hereby created. The Appeals Panel consists of seven members who are appointed by the Governor, in consultation with the Commissioner. From the appropriate list of persons, if any, provided by the advisory organization pursuant to subsection 2, the Governor, in consultation with the Commissioner, shall appoint:

(a) An employee of the Division of Insurance of the Department of Business and Industry;

(b) An agent who is:

(1) Licensed pursuant to chapter 683A of NRS and qualified pursuant to regulations adopted by the Commissioner to take an application for, procure or place on behalf of others, industrial insurance; and

(2) A member of a nationally recognized association for the profession of insurance agents;

(c) Two representatives of the general public:

(1) One of which must be employed by, or the proprietor of, a business which is a member of:

(I) A local chamber of commerce; or

(II) Another organization representing the general business interests of a group of businesses located in this State;

(2) Neither of which may be an independent contractor to, or an employee or representative of, an insurance company, insurance broker, insurance agent or insurance solicitor, a law firm, actuary or a representative of a trade association that represents or supports the interests specific to the trade of any such persons; and

(3) Both of which must be knowledgeable in the field and business of industrial insurance in this State;

(d) Two representatives of private carriers; and

(e) A representative of the advisory organization who administers appeals panels for grievances of employers in other states.

2. On or before June 1 of a year in which the Governor is to appoint a member to the Appeals Panel, the advisory organization shall compile lists of nominees for appointment pursuant to subsection 1 and provide such lists to the Governor and the Commissioner. The advisory organization shall compile three lists, each containing the names of at least five persons who, in the opinion of the advisory organization, would be appropriate members of the Appeals Panel as:

(a) The agent appointed pursuant to paragraph (b) of subsection 1;

(b) The two representatives of the general public appointed pursuant to paragraph (c) of subsection 1; and

(c) The two representatives of private carriers appointed pursuant to paragraph (d) of subsection 1.

3. Within 30 days after such appointments have been made, the Governor shall notify the advisory organization of the names of each new member.

4. After the initial terms, members shall serve terms of 2 years, except when appointed to fill unexpired terms.

5. A vacancy in the membership of the Appeals Panel must be filled by the Governor, in consultation with the Commissioner, in accordance with the provisions of subsections 1 and 2 for the remainder of the unexpired term. The newly appointed member must have the same qualifications as the vacating member, as specified in paragraph (a), (b), (c), (d) or (e) of subsection 1, as appropriate.

(Added to NRS by 1999, 3376; A 2001, 2256)

NRS 616B.762 Annual first meeting: Date; election of Chair.

1. At its first meeting of each year, the Appeals Panel shall elect a Chair from among its members.

2. The Chair shall hold office for 1 year.

3. If a vacancy occurs in the office of the Chair, the members of the Panel shall elect a Chair from among its members for the remainder of the unexpired term of the Chair.

4. Unless the members agree unanimously to a different date, the first meeting of each year must be as soon as practicable after July 1.

(Added to NRS by 1999, 3378; A 2001, 2256)

NRS 616B.765 Duties and powers of Chair.

1. The Chair of the Appeals Panel shall:

- (a) Schedule the time and place of the meetings and hearings of the Appeals Panel;
- (b) Establish the agenda for each meeting and hearing of the Appeals Panel; and
- (c) Ensure that the meetings of the Appeals Panel are conducted in an efficient manner.

2. The Chair of the Appeals Panel may appoint from the membership of the Appeals Panel a secretary to whom the Chair may delegate his or her administrative functions.

(Added to NRS by 1999, 3378; A 2001, 2256)

NRS 616B.767 Meetings; quorum.

1. The Appeals Panel shall meet at the times and places specified by a call of the Chair.

2. Four members of the Appeals Panel constitute a quorum to transact all business, and a majority of those present must concur on any decision.

(Added to NRS by 1999, 3378; A 2001, 2256)

NRS 616B.770 Compensation of members.

1. Each member of the Appeals Panel is entitled to receive, for the member's attendance at the meetings of the Appeals Panel, the per diem allowance and travel expenses provided for state officers and employees generally.

2. Expenses of the members of the Appeals Panel must be paid from assessments payable by each insurer pursuant to the formula filed with and approved by the Commissioner pursuant to NRS 686B.17645.

3. As used in this section, "insurer" has the meaning ascribed to it in NRS 686B.1759.

(Added to NRS by 1999, 3378; A 2001, 2256)

NRS 616B.772 Filing of grievance; parties to hearing; authority to appeal decision on hearing.

1. An employer, other than a self-insured employer, who determines that circumstances specific to his or her case require a review of the:

- (a) Establishment of the employer's modification of premium based on experience;
- (b) Classification of risk assigned for the employer's business; or
- (c) Application of the supplementary rate information to the employer,

→ may file a written grievance with the Appeals Panel.

2. The insurer of that employer and the advisory organization may participate in a hearing on the grievance by appearing and providing testimony or other evidence. If an insurer or the advisory organization participates in the hearing, the insurer or the advisory organization is a party to the hearing and may appeal, pursuant to the provisions of NRS 616B.787, the decision made by the Appeals Panel.

3. As used in this section "supplementary rate information" has the meaning ascribed to it in NRS 686B.020.

(Added to NRS by 1999, 3378; A 2001, 2256)

NRS 616B.775 Jurisdiction.

1. The Appeals Panel shall hear a grievance of an employer filed pursuant to NRS 616B.772.

2. The Appeals Panel shall not hear:

(a) Complaints concerning the effect of the classifications of risks or rules that are applied by all insurers to all similarly classified businesses within this State.

(b) Grievances concerning contested cases for compensation pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

(Added to NRS by 1999, 3379; A 2001, 2256)

NRS 616B.777 Timing: Notification of hearing; issuance of decision.

1. Within 30 days after receipt of a written grievance from an employer pursuant to NRS 616B.772 and not less than 10 days before the hearing on such grievance, the Appeals Panel shall provide written notice to the employer, the employer's insurer and the advisory organization of the date and place of the hearing.

2. A decision on a grievance must be issued pursuant to NRS 616B.785 within 30 days after the hearing.

(Added to NRS by 1999, 3379; A 2001, 2256)

NRS 616B.780 Hearings open to public; exception. A hearing held pursuant to NRS 616B.775 must be open to the public, unless the Appeals Panel will be considering proprietary information of the employer or the insurer. As used in this section, the term "proprietary information" means any information which, if disclosed to the general public, may result in a competitive disadvantage to an insurer or employer, including, without limitation:

1. Rules, criteria and standards for underwriting policies that are applied by an insurer.

2. Plans or other documents concerning the marketing or strategic planning of an insurer or employer.

3. Data, studies and reports concerning the development of new products or services.

4. Data that identify the share of the market of an insurer within each class of risk.

(Added to NRS by 1999, 3379; A 2001, 2256)

NRS 616B.782 Conflict of interest: Appointment of substitute member; waiver; determination.

1. If a member of the Appeals Panel determines that he or she has a personal interest or a conflict of interest, directly or indirectly, with a party to a hearing or the subject matter of the hearing, the Chair of the Appeals Panel shall appoint a substitute member for that hearing who has the same qualifications, as specified in paragraph (a), (b), (c), (d) or (e) of subsection 1 of NRS 616B.760 as the member who has the conflict of interest. If the Chair is the member with the conflict of interest, another member of the Appeals Panel shall appoint the substitute.

2. A conflict of interest may be waived if, after full written disclosure of the facts raising such a conflict, all parties to the appeal agree in writing to the hearing of the appeal by the member. Such waiver must be filed with the Chair of the Appeals Panel before the hearing. If the Chair is the member with the conflict of interest, the waiver must be filed with the Commissioner.

3. The member of the Appeals Panel who represents the advisory organization shall be deemed not to have a conflict of interest with respect to the advisory organization if it is a party to a hearing.

(Added to NRS by 1999, 3379; A 2001, 2256)

NRS 616B.785 Issuance and delivery of decision; notification of right to appeal.

1. Within 30 days after each hearing, the Chair or a member of the Appeals Panel designated by the Chair shall prepare and deliver personally or by mail to each party to the hearing and to the Commissioner a written memorandum stating:

(a) The reasons for the decision of the Appeals Panel concerning those parties; and

(b) The rights of any party to the hearing to appeal pursuant to NRS 616B.787 and a brief description of the procedure for making such an appeal.

→ The votes of each member of the Appeals Panel must not be recorded on this memorandum.

2. Each month, copies of all decisions made by the Appeals Panel during the prior month must be delivered personally or by mail to the advisory organization.

(Added to NRS by 1999, 3380; A 2001, 2256)

NRS 616B.787 Appeal of decision to Commissioner.

1. A party to the hearing who wishes to appeal a decision of the Appeals Panel must do so pursuant to the provisions of NRS 679B.310. Such a hearing must be conducted by the Commissioner pursuant to the provisions of NRS 679B.310 to 679B.370, inclusive, and the regulations adopted pursuant thereto.

2. The Commissioner shall not hold a hearing on the request of an employer concerning the establishment of the employer's modification of premium based on experience, the classification of risk assigned for the employer's business, or application of the insurer's supplementary rate information to the employer unless the employer has:

(a) Filed a written grievance with the Appeals Panel pursuant to NRS 616B.772; and

(b) Received a written decision from the Appeals Panel.

(Added to NRS by 1999, 3380; A 2001, 2256)

NRS 616B.790 Regulations. The Commissioner may adopt regulations to carry out the provisions of NRS 616B.760 to 616B.790, inclusive.

(Added to NRS by 1999, 3380; A 2001, 2256)

BRIAN SANDOVAL
Governor

STATE OF NEVADA

BRUCE H. BRESLOW
Director

AMY L. PARKS
Acting Commissioner



DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

1818 East College Pkwy., Suite 103
Carson City, Nevada 89706
(775) 687-0700 • Fax (775) 687-0787
Website: doi.nv.gov
E-mail: insinfo@doi.nv.gov

January 12, 2016

Senator James A. Settelmeyer
Legislative Building
401 S. Carson Street
Carson City, NV 89701-4747

RE: Sunset Subcommittee of the Legislative Commission
Appeals Panel for Industrial Insurance

Dear Senator Settelmeyer:

This letter is in response to your correspondence dated December 23, 2015 concerning the Sunset Subcommittee of the Legislative Commission. Specifically, the Appeals Panel for Industrial Insurance ("Panel") has been selected for review in 2016 and information has been requested of the Panel to initiate that review process.

Subsequent to the original correspondence received by the Division of Insurance ("Division"), we have learned that a Chairman and Vice-Chairman have been elected to serve the Panel for 2016. The Chairman and Vice-Chairman are listed below:

Jim Werbeckes (Chairman)
V.P. Government and Regulatory Affairs
Employers
10375 Professional Circle
Reno NV 89521
(775) 327-2458

Senator James Settelmeyer
RE: Appeals Panel for Industrial Insurance
January 12, 2016
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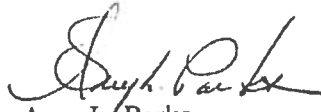
Terri Chambers (Vice Chairman)
Chief Insurance Examiner – Self-Insured Workers' Compensation
Nevada Division of Insurance
1818 E. College Parkway, Suite 103
Carson City, NV 89706
(775) 687-0777

Your staff may contact Mr. Werbeckes directly if additional information is required or to schedule the Panel's appearance before the Subcommittee.

Enclosed please find the completed questionnaire as retrieved from the Subcommittee's website. Please note, formatting issues prevented our completion of the form online. Therefore, the attached word version was prepared. If your staff would like to receive the questionnaire in another format, they may contact the Vice Chairman, Terri Chambers.

We are happy to share with you any other information you require. In the meantime, please do not hesitate to contact either Mr. Werbeckes or Ms. Chambers for information pertaining to the Panel.

Sincerely,



Amy L. Parks

ACTING COMMISSIONER OF INSURANCE

cc Carol Stonefield – Chief Principal Research Analyst
Jim Werbeckes – V.P. Government & Regulatory Affairs, Employers
Terri Chambers – Chief Insurance Examiner, Division of Insurance
Tim Hughes – Underwriting Dispute Consultant, NCCI
Bruce Breslow – Director, Business & Industry

Information Concerning Board or Commission
Subject to Review by the
Sunset Subcommittee of the Legislative Commission
as required by *Nevada Revised Statutes 232B.230*

Board or commission name:	Appeals Panel for Industrial Insurance
Members' names with expiration date of term, and indicate the number of vacancies:	Michelle Balady – Expiration June 30, 2017 (insurance carrier representative) Jim Werbeckes – Expiration June 30, 2017 (insurance carrier representative) Scott Kerestesi – Expiration June 30, 2017 (producer of insurance) Maureen Martinez – Expiration June 30, 2017 (general public) Barry Winter – Expiration June 30, 2017 (general public) Terri Chambers – Expiration June 30, 2017 (employee Division of Insurance) Tim Hughes – Expiration June 30, 2017 (employee of advisory organization) No vacancies
Physical Address:	The Appeals Panel does not have a physical address and convenes only when there are grievances to be heard. All grievances are to be mailed to the Division of Insurance at 1818 E. College Parkway, Suite 103, Carson City, NV 89706 or by electronic mail to insinfo@doi.state.nv.us or by fax at (775) 687-0700.
Mailing Address:	All grievances are to be mailed to the Division of Insurance at 1818 E. College Parkway, Suite 103, Carson City, NV 89706 or by electronic mail to insinfo@doi.state.nv.us or by fax at (775) 687-0700.
Web Site Address (if any):	Not Applicable
Web site developer (if not EITS, please indicate if EITS approved the web site):	Not Applicable
Executive director's name and contact information:	The Appeals Panel does not have an Executive Director. The current chairperson of the panel is Jim Werbeckes, V.P. Government & Regulatory Affairs, Employers. Tim Hughes at the NCCI acts as the Panel's secretary.
Staff members' names including Titles and status as full-time or part-time (attach additional pages as necessary):	The Appeals Panel does not employ staff of any kind.
Days and hours of operation:	Not Applicable
Created by what authority:	Nevada Revised Statutes ("NRS") 616B.760
Authority to adopt regulations (NRS) and citation to regulations (NAC), if applicable:	Authority of the Commissioner of Insurance to adopt regulations is found in NRS 616B.790 Regulations are found in NAC 616B.990 through NAC 616B.994. The Appeals Panel has no independent authority to adopt regulations.

List by LCB File NO. and date of adoption the five regulations most recently adopted by the board or commission, with any applicable deadline for the adoption of any such regulation:

One LCB File number is applicable to all existing regulations.
R006-03 – Adopted by the Commissioner of Insurance 12/16/2003

List any required regulations that have not been adopted, with any applicable deadline for the adoption of any such regulation. Please identify each such regulation by LCB File No., if available, or by reference to the provisions of NRS or Statutes of Nevada requiring adoption of the regulation.

No other regulations identified.

Governing structure of the board or commission pursuant to statute:

NRS 616B.760. Appeals Panel consists of seven members who are appointed by the Governor in consultation with the Commissioner of Insurance. After initial term, members serve two year terms. The composition of the panel is prescribed in statute, as follows:

- 1 employee from the Division of Insurance
- 1 insurance agent licensed pursuant to NRS 683A
- 1 representative of the (industrial insurance) advisory organization - NCCI
- 2 representatives of the general public
- 2 representatives of private carriers

Duties of the board or commission:

NRS 616B.775 addresses jurisdiction, i.e., Appeals Panel has the duty to hear grievances of an employer. NRS 616B.772 describes the types of grievances that may be heard by the panel as follows:
Employer's modification of premium based on experience;
Classification of risk assigned for the employer business; or
Application of the supplementary rate information to the employer.

Statement of the objectives and programs of the board or commission:

The objective of the Appeals Panel is to comply with all statutes and regulations that govern the Appeals Panel, thereby providing a means by which employers can have their grievances heard and decided in a fair and expeditious manner.

Itemized list of services offered by the board or commission:

Not Applicable

Dates of the immediately preceding six meetings:	October 3, 2013 March 19, 2013 August 22, 2012 January 24, 2012 August 20, 2010 December 22, 2009
Statutory tax exemptions, abatements, or money set aside for the board or commission:	Not Applicable
Description of the manner in which the board or commission is funded, including all funding sources:	The Appeals Panel has no funding from the State. All expenses of the Panel are paid by the National Council on Compensation Insurance (NCCI) from assessments it receives from insurers pursuant to NRS 686B.17645.
Please identify any forms required by the board or commission to be used by members of the public which are not available for downloading from the web site of the board or commission:	Employers are not required to use a specific form when submitting a grievance to the Appeals Panel. NAC 616B.9916 states that a request must be submitted in writing and can be submitted by U.S. mail, electronic mail, or by fax.
Does the board or commission have any recommendations for consolidation with another board or commission? If so, which one(s) could be revised to include the charge to the board or commission that is the subject of this review?	No recommendations.
Does the board or commission believe that its objectives and programs have been effective in accomplishing the purpose for which the board or commission was created? Please explain the response with any information the board or commission believes is relevant:	Nine employer appeals were heard in the last six meetings of the Appeals Panel. An additional 26 grievances were received by the NCCI on behalf of the Appeals Panel during this same period of time. These 26 grievances were resolved by the NCCI without the need for a Panel hearing. The Panel has been successful in providing aggrieved employers a means to resolve disputes with insurers or the advisory organization concerning their workers' compensation classification, experience modification or other rating components.
Any recommendation for statutory changes which are necessary for the board or commission to carry out its objectives and programs:	None.

Please include with this form:

1. The operating budget of the board or commission.
The Appeals Panel does not have an operating budget. All expenses are paid by the NCCI pursuant to NRS 686B.17645.
2. A statement setting forth the income and expenses of the board or commission for at least 3 years immediately preceding the date on which the board or commission submits this form, including the balances of any fund or account maintained by or on behalf of the board or commission.
The Appeals Panel does not have an income and all expenses are paid by the NCCI pursuant to NRS 686B.17645.
3. The most current legislative audit or other audit of the board or commission, and any efficiency studies or constituent or staff surveys conducted in the past 3 years.
The Appeals Panel has not been the subject of a legislative audit or any other kind of audit since it was established in 1999.
4. Any reports required to be filed with the Legislative or Executive Branch over the past 3 years. Please indicate if any reports were filed late or have not been filed.
No reports have been required to be filed with the Legislative or Executive Branch over the past three years.
5. Copies of the minutes of the immediately preceding six meeting of the board or commission.
Please see attached.
6. A copy of the organizational chart showing the governing structure of the board or commission and its staff.
The Appeals Panel does not have a governing structure. However, a chairman and vice-chairman are elected from amongst the Panel members to serve for one year. The Chairman facilitates and moderates Panel meetings. The NCCI representative acts as secretary by receiving appeals from employers, reviewing appeals for possible resolution without a full panel hearing, scheduling panel hearings, and documenting the outcome of Panel hearings.
7. A copy of the most recent strategic plan of the board or commission.
The Appeals Panel does not operate with a strategic plan.