

**PROPOSED REGULATION OF THE ADMINISTRATOR  
OF THE DIVISION OF INDUSTRIAL RELATIONS OF  
THE DEPARTMENT OF BUSINESS AND INDUSTRY**

**LCB File No. R112-08**

December 8, 2009

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

AUTHORITY: §§1-3, 6, 8, 9, 13-15, 20, 24, 33 and 41, NRS 616A.400; §§4, 18, 25 and 31, NRS 616A.400 and 616A.490; §5, NRS 616A.400 and 616A.417; §7, NRS 616A.400 and 616B.021; §10, NRS 232.680 and 616A.400; §11, NRS 616A.400, 616B.584, 616B.587 and 616B.590; §12, NRS 616A.400, 616B.584 and 616B.587; §16, NRS 616A.400 and 616C.453; §17, NRS 616A.400 and 616C.245; §19, NRS 616A.400, 616C.135 and 616C.260; §21, NRS 616A.400 and 616D.330; §22, NRS 616A.400 and 616C.065; §23, NRS 616A.400, 616C.065, 616C.235 and 616C.390; §26, NRS 616A.400 and 616C.250; §27, NRS 616A.400, 616C.245, 616C.250 and 616C.260; §§28-30, NRS 616A.400 and 616C.260; §32, NRS 616A.400, 616C.130 and 616C.260; §34, NRS 616A.400 and 616C.220; §35, NRS 616A.400, 616C.453 and 616D.120; §36, NRS 616A.400 and 616C.550; §§37, 39 and 40, NRS 616A.400 and 616D.120; §38, NRS 616A.400 and 616D.050.

A REGULATION relating to industrial insurance; revising outdated definitions, references to nonexistent offices and contact information for required publications; establishing procedures for transfers of claim files between insurers; revising provisions relating to the submission of correspondence and other documents to insurers; revising provisions relating to the submission of claims against the Subsequent Injury Account for Private Carriers; extending the period of time in which the Administrator of the Division of Industrial Relations of the Department of Business and Industry will make a determination concerning a claim against the Subsequent Injury Account for Private Carriers; revising provisions relating to information to be provided by a principal contractor for the purpose of determining premium and disability compensation; establishing provisions relating to the submission of a written request for a determination by an insurer; establishing procedures and requirements for the purchase of a modified motor vehicle as an accident benefit; revising the requirements for the qualification for designation by a physician or chiropractor; revising provisions relating to recordkeeping and the maintenance of claim files; revising provisions relating to the determination and notification of claim acceptance or denial by an insurer; establishing deadlines for a physician's or chiropractor's report on the status of an injured employee; revising provisions relating to the contents and maintenance of a rating

evaluation performed by a physician or chiropractor; revising provisions relating to vocational rehabilitation; providing for administrative fines; revising provisions relating to the factors to be considered in calculating and imposing a benefit penalty; and providing other matters properly relating thereto.

**Section 1.** Chapter 616A of NAC is hereby amended by adding thereto a new section to read as follows:

*“Workers’ Compensation Section” means the Workers’ Compensation Section of the Division of Industrial Relations of the Department of Business and Industry.*

**Sec. 2.** NAC 616A.010 is hereby amended to read as follows:

616A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in:

1. NRS 616A.030 to 616A.360, inclusive; and
2. NAC 616A.015 to 616A.270, inclusive, *and section 1 of this regulation,*

↪ have the meanings ascribed to them in those sections.

**Sec. 3.** NAC 616A.050 is hereby amended to read as follows:

616A.050 “Chief” means the Chief Administrative Officer of the ~~Industrial Insurance Regulation~~ *Workers’ Compensation* Section.

**Sec. 4.** NAC 616A.460 is hereby amended to read as follows:

616A.460 1. Each employer governed by the provisions of chapters 616A to 617, inclusive, of NRS shall prominently display at his *or her* place of business a poster with the language and in the format specified in Form D-1.

2. The title of the poster must be printed in not less than 20-point bold type. The required statement concerning questions and problems relating to claims must be printed in not less than

12-point bold type. The text appearing on the remainder of the poster must be printed in not less than 10-point type. The poster must be at least 11 inches by 17 inches in size.

3. Each employer shall:

(a) Display the poster as required by this section; and

(b) Advise his *or her* employees of the name, business address and telephone number of ~~his~~ *the employer's* insurer's or third-party administrator's adjuster in this State that is located nearest to the employer's place of business for their claims for workers' compensation.

4. The poster must be displayed in such a manner as to be readily visible by all employees.

A poster must not be displayed unless it has been issued or approved by the ~~Industrial Insurance Regulation~~ *Workers' Compensation* Section.

**Sec. 5.** NAC 616A.480 is hereby amended to read as follows:

616A.480 1. The following posters and forms or data must be used by an insurer, employer, injured employee, provider of health care, organization for managed care or third-party administrator in the administration of claims for workers' compensation:

(a) D-1, Informational Poster - Displayed by Employer. The informational poster must include the language contained in Form D-2, and the name, business address, telephone number and contact person of:

(1) The insurer;

(2) The third-party administrator, if applicable;

(3) The organization for managed care or providers of health care with whom the insurer has contracted to provide medical and health care services, if applicable; and

(4) The name, business address and telephone number of the insurer's or third-party administrator's adjuster in this State that is located nearest to the employer's place of business.

(b) D-2, Brief Description of ~~[Your]~~ Rights and Benefits . ~~[if You Are Injured on the Job.]~~

(c) C-1, Notice of Injury or Occupational Disease (Incident Report). One copy of the form must be delivered to the injured employee, and one copy of the form must be retained by the employer. The language contained in Form D-2 must be printed on the reverse side of the employee's copy of the form, or provided to the employee as a separate document with an affirmative statement acknowledging receipt.

(d) C-3, Employer's Report of Industrial Injury or Occupational Disease. A copy of the form must be delivered to or the form must be filed by electronic transmission with the insurer or third-party administrator. The form signed by the employer must be retained by the employer. A copy of the form must be delivered to the injured employee. If the employer files the form by electronic transmission, the employer must:

(1) Transmit all fields of the form that are required to be completed, as prescribed by the Administrator.

(2) Sign the form with an electronic symbol representing the signature of the employer that is:

(I) Unique to the employer;

(II) Capable of verification; and

(III) Linked to data in such a manner that the signature is invalidated if the data is altered.

(3) Acknowledge on the form that ~~[he]~~ *the employer* will maintain the original report of industrial injury or occupational disease for 3 years.

➡ If the employer moves from or ceases operation in this State, the employer shall deliver the original form to the insurer for inclusion in the insurer's file on the injured employee within 30 days after the move or cessation of operation.

(e) C-4, Employee's Claim for Compensation/Report of Initial Treatment. A copy of the form must be delivered to the insurer or third-party administrator. A copy of the form must be delivered to or the form must be filed by electronic transmission with the employer. A copy of the form must be delivered to the injured employee. The language contained in Form D-2 must be printed on the reverse side of the injured employee's copy of the form or provided to the injured employee as a separate document with an affirmative statement acknowledging receipt. The original form signed by the injured employee and the physician or chiropractor who conducted the initial examination of the injured employee must be retained by that physician or chiropractor. If the physician or chiropractor who conducted the initial examination files the form by electronic transmission, the physician or chiropractor must:

(1) Transmit all fields of the form that are required to be completed, as prescribed by the Administrator.

(2) Sign the form with an electronic symbol representing the signature of the physician or chiropractor that is:

(I) Unique to the physician or chiropractor;

(II) Capable of verification; and

(III) Linked to data in such a manner that the signature is invalidated if the data is altered.

(3) Acknowledge on the form that ~~he~~ *the physician or chiropractor* will maintain the original form for the claim for compensation for 3 years.

➡ If the physician or chiropractor who conducted the initial examination moves from or ceases treating patients in this State, the physician or chiropractor shall deliver the original form to the insurer for inclusion in the insurer's file on the injured employee within 30 days after the move or cessation of treatment of patients.

(f) D-5, Wage Calculation Form for Claims Agent's Use.

(g) D-6, Injured Employee's Request for Compensation.

(h) D-7, Explanation of Wage Calculation.

(i) D-8, Employer's Wage Verification Form.

(j) ~~D-9(a),~~ **D-9a**, Permanent Partial Disability Award Calculation ~~[Worksheet]~~ **Work Sheet**.

(k) ~~D-9(b),~~ **D-9b**, Permanent Partial Disability Award Calculation ~~[Worksheet]~~ **Work Sheet**

for Disability Over 25 % ~~[Percent]~~ Body Basis.

(l) ~~D-10(a),~~ **D-10a**, Election of Method of Payment of Compensation.

(m) ~~D-10(b),~~ **D-10b**, Election of Method of Payment of Compensation for Disability

Greater than 25 % ~~[Percent]~~

(n) D-11, ~~[Reaffirmation]~~ **Reaffirmation/Retraction** of Lump Sum Request.

(o) ~~D-12(a),~~ **D-12a**, Request for Hearing - Contested Claim.

(p) ~~D-12(b),~~ **D-12b**, Request for Hearing - Uninsured Employer.

(q) D-13, Injured Employee's Right to Reopen a Claim Which Has Been Closed.

(r) D-14, Permanent Total Disability Report of Employment.

(s) D-15, Election for Nevada Workers' Compensation Coverage for Out-of-State Injury.

(t) D-16, Notice of Election for Compensation Benefits Under the Uninsured Employer Statutes.

(u) D-17, Employee's Claim for Compensation - Uninsured Employer.

- (v) D-18, Assignment ~~[of Claim]~~ *to Division* for Workers' ~~[Compensation—Uninsured Employer.]~~ *Compensation Benefits*.
- (w) D-21, Fatality Report.
- (x) D-22, Notice to Employees - Tip Information.
- (y) D-23, Employee's Declaration of Election to Report Tips.
- (z) D-24, Request for Reimbursement of Expenses for Travel and Lost Wages.
- (aa) D-25, Affirmation of Compliance with Mandatory Industrial Insurance Requirements.
- (bb) D-26, Application for Reimbursement of ~~[Claim-Related]~~ *Claim Related* Travel Expenses.
- (cc) D-27, Interest Calculation for Compensation Due.
- (dd) D-28, Rehabilitation Lump Sum Request.
- (ee) D-29, Lump Sum Rehabilitation Agreement.
- (ff) ~~[D-30, Notice of Claim Acceptance.~~
- ~~—(gg) D-31, Notice of Intention to Close Claim.~~
- ~~—(hh)]~~ D-32, Authorization Request for Additional Chiropractic Treatment.
- ~~[(ii)]~~ *(gg)* D-33, Authorization Request for Additional Physical Therapy Treatment.
- ~~[(jj)]~~ *(hh)* D-34, CMS 1500 Billing Form.
- ~~[(kk)]~~ *(ii)* D-35, ~~[Request/Agreement]~~ *Request* for a *Rotating Rating* Physician or Chiropractor.
- ~~[(H)]~~ *(jj)* D-36, Request for Additional Medical Information and Medical Release.
- ~~[(mm)]~~ *(kk)* D-37, Insurer's Subsequent Injury Checklist.
- ~~[(nn)]~~ *(ll)* D-38, ~~[Injured Worker]~~ Index ~~[System Claims Registration]~~ *of Claims System - Claim Registration/Update/Request* Document.

~~[(oo)]~~ (mm) D-39, Physician's *and Chiropractor's* Progress Report - Certification of Disability.

(nn) *D-40cc, Non-Compliance Premium (Carson City).*

(oo) *D-40lv, Non-Compliance Premium (Las Vegas).*

(pp) D-41, ~~International Association of Industrial Accident Boards and Commissions POC~~  
~~1.]~~ *Workers' Compensation Proof of Coverage.*

(qq) *D-42, Intent to Cancel, Renew or Change to New Carrier Form.*

(rr) D-43, Employee's Election to Reject Coverage ; and Election to Waive the Rejection of Coverage for Excluded Persons.

~~[(rr)]~~ (ss) D-44, Election of Coverage by Employer; Employer Withdrawal of Election of Coverage.

~~[(ss)]~~ (tt) D-45, Sole Proprietor Coverage.

~~[(tt)]~~ (uu) D-46, Temporary Partial Disability Calculation Worksheet.

~~[(uu)]~~ (vv) *D-47, Non-Compliance Notice.*

(ww) D-48, Proof of Coverage Notice.

~~[(vv)]~~ (xx) D-49, Information Page.

~~[(ww)]~~ (yy) D-50, Policy ~~Termination, Cancellation and Reinstatement~~  
*Termination/Cancellation/Reinstatement* Notice.

~~[(xx)]~~ (zz) D-52, ~~CMS (UB-92).~~

~~—(yy)—D-53,]~~ Alternative Choice of Physician or Chiropractor and Referral to a Specialist.

(aaa) *D-53, CMS 1450, UB-04 Uniform Billing.*

2. In addition to the forms specified in subsection 1, the following forms must be used by each insurer in the administration of a claim for an occupational disease:



- (a) OD-1, ~~[Firemen]~~ *Firefighter's* and Police ~~[Officers']~~ *Officer's* Medical History Form.
- (b) OD-2, ~~[Firemen]~~ *Firefighter's* and Police ~~[Officers']~~ *Officer's* Lung Examination Form.
- (c) OD-3, ~~[Firemen]~~ *Firefighter's* and Police ~~[Officers']~~ *Officer's* Extensive Heart

Examination Form.

- (d) OD-4, ~~[Firemen]~~ *Firefighter's* and Police ~~[Officers']~~ *Officer's* Limited Heart

Examination Form.

- (e) OD-5, ~~[Firemen]~~ *Firefighter's* and Police ~~[Officers']~~ *Officer's* Hearing Examination Form.

- (f) OD-6, ~~[Firemen]~~ *Firefighter's* and Police ~~[Officers']~~ *Officer's* Sample Letter.

- (g) OD-7, ~~[Firemen]~~ *Firefighter's* and Police ~~[Officers']~~ *Officer's* Physical Examination Information.

- (h) OD-8, Occupational Disease Claim ~~[Reporting.]~~ *Report.*

3. The forms listed in this section must be accurately completed, including, without limitation, a signature and a date if required by the form. An insurer or employer may designate a third-party administrator as an agent to sign any form listed in this section.

4. An insurer, employer, injured employee, provider of health care, organization for managed care or third-party administrator may not use a different form or change a form without the prior written approval of the Administrator.

5. ~~[The Industrial Insurance Regulation Section will be responsible for printing and distributing the following forms:]~~

~~—(a) C-4, Employee's Claim for Compensation/Report of Initial Treatment;~~

~~—(b) D-12(b), Request for Hearing—Uninsured Employer;~~

~~—(c) D-16, Notice of Election for Compensation Benefits Under the Uninsured Employer Statutes;~~

~~—(d) D-17, Employee's Claim for Compensation—Uninsured Employer; and~~

~~—(e) D-18, Assignment of Claim for Workers' Compensation—Uninsured Employer.~~

~~—6. Each~~ *Except as otherwise provided in subsection 2 of NAC 616A.510, each* insurer or third-party administrator is responsible for printing and distributing all ~~[other]~~ forms listed in this section. The provisions of this subsection do not prohibit an insurer, employer, provider of health care, organization for managed care or third-party administrator from providing any form listed in this section.

~~[7.]~~ **6.** Upon the request of the Administrator, an insurer, employer, provider of health care, organization for managed care or third-party administrator shall submit to the Administrator a copy of any form used in this State by the insurer, employer, provider of health care, organization for managed care or third-party administrator in the administration of claims for workers' compensation.

**Sec. 6.** NAC 616A.510 is hereby amended to read as follows:

616A.510 1. An affidavit required pursuant to NRS 244.33505 or 268.0955 must substantively conform to Form D-25 ~~[of the Industrial Insurance Regulation Section.]~~,

*Affirmation of Compliance with Mandatory Industrial Insurance Requirements.*

2. Form D-25 is available from any office of the ~~[Industrial Insurance Regulation]~~ *Workers' Compensation* Section at no cost.

**Sec. 7.** Chapter 616B of NAC is hereby amended by adding thereto a new section to read as follows:

*1. If an insurer or third-party administrator transfers the file of a claim to another insurer or third-party administrator, the insurer or third-party administrator transferring the file shall:*

*(a) Provide the insurer or third-party administrator receiving the file with the information necessary to administer the claim.*

*(b) Provide the insurer or third-party administrator receiving the file with the information necessary to comply with all state reporting requirements and requests.*

*(c) Provide the information set forth in paragraphs (a) and (b) in a format usable by the insurer or third-party administrator receiving the file.*

*(d) Provide the insurer or third-party administrator receiving the file with a printed report of all claims which are open as of the date of the transfer for the file being transferred. The insurer or third-party administrator providing the report and the insurer or third-party administrator receiving the report must retain a copy of the report as long as necessary for the purpose of assigning responsibility for any failure to pay compensation, but in no event less than 2 years after the date of transfer. The report:*

*(I) Must include, without limitation, for each claim:*

*(I) The current status of the claim;*

*(II) For any compensation which may be due within 90 days after the transfer, the dates upon which compensation is due and the anticipated period of time for which compensation is due;*

*(III) Any pending issues and determinations;*

*(IV) A brief summary of the history and projected outcome of the claim; and*

*(V) Sufficient information to enable the insurer or third-party administrator receiving the file to make timely payment of compensation and to continue administering the claims.*

*(2) Must be delivered to the insurer or third-party administrator receiving the file on or before the date of transfer.*

*(e) Mail a notice of the transfer to:*

- (1) The injured employee whose claim is being transferred;*
- (2) The attorney or other authorized representative of the injured employee whose claim is being transferred;*
- (3) Any provider of health care to the injured employee;*
- (4) Any person performing a rating evaluation of the injured employee; and*
- (5) Any person administering the claim being transferred.*

*(f) Within 3 days after receiving a notice or other legal documentation relating to a contested claim before a hearing officer, appeals officer or court of competent jurisdiction:*

*(1) Notify, in writing, the sender of the notice or legal documentation of the name, address and telephone number of the insurer or third-party administrator receiving the file; and*

*(2) Forward that notice or legal documentation to the insurer or third-party administrator receiving the file.*

*2. An insurer or third-party administrator receiving a file of a claim shall:*

*(a) Review any open claim therein within 30 days after the date of transfer and determine the action to be taken for the claim.*

*(b) Pay in a timely manner all compensation set forth in the report described in paragraph (d) of subsection 1 unless that insurer or third-party administrator issues a determination, in writing, setting forth the right to appeal by the injured employee, that such compensation is not due.*

*(c) Take any other action set forth in the report described in paragraph (d) of subsection 1 and other actions necessary to ensure the timely and efficient administration of claims and payment of compensation and other benefits.*

**Sec. 8.** NAC 616B.010 is hereby amended to read as follows:

616B.010 1. Except as otherwise provided in NAC 616B.013, copies of all claim files maintained by an insurer, third-party administrator or organization for managed care pursuant to chapters 616A to 617, inclusive, of NRS or regulations adopted pursuant thereto must be maintained in one of its offices located in this State.

2. All correspondence and other documents submitted to an insurer, third-party administrator or organization for managed care that concern a claim for compensation that is being administered pursuant to chapters 616A to 617, inclusive, of NRS or regulations adopted pursuant thereto must be addressed to the insurer, third-party administrator or organization for managed care at one of its offices located in this State. ~~[The correspondence and documents shall be deemed to be officially received only if they have been so addressed.]~~

**Sec. 9.** NAC 616B.121 is hereby amended to read as follows:

616B.121 The Administrator hereby adopts by reference the following publications:

1. ~~[IAIABC]~~ EDI Implementation ~~[Guide for Proof of Coverage,]~~ Guide: POC, which is published by the International Association of Industrial Accident Boards and Commissions. A copy of the publication may be obtained from the International Association of Industrial

Accident Boards and Commissions, 5610 Medical Circle, Suite ~~[14,]~~ 24, Madison, Wisconsin 53719, *or at the Internet address <http://www.iaiaabc.org>, free of charge as an online download for members and* for the price of ~~[\$50 for members and]~~ \$95 for nonmembers.

2. *Workers Compensation Policy Data Reporting Manual*, which is published by the National Council on Compensation Insurance. A copy of the publication may be obtained from ~~[the National Council on Compensation Insurance, Products and Services Department,]~~ *NCCI Holdings, Inc., Customer Service Center*, 901 Peninsula Corporate Circle, Boca Raton, Florida 33487, *or at the Internet address <http://www.ncci.com>*, for the price of \$120 for affiliates and \$155 for nonaffiliates.

3. *Basic Manual for Workers Compensation and Employers Liability Insurance*, which is published by the National Council on Compensation Insurance. A copy of the publication may be obtained from ~~[the National Council on Compensation Insurance, Products and Services Department,]~~ *NCCI Holdings, Inc., Customer Service Center*, 901 Peninsula Corporate Circle, Boca Raton, Florida 33487, *or at the Internet address <http://www.ncci.com>*, for the price of \$108 for affiliates and \$149 for nonaffiliates.

4. *Forms Manual of Workers Compensation and Employers Liability Insurance*, which is published by the National Council on Compensation Insurance. A copy of the publication may be obtained from ~~[the National Council on Compensation Insurance, Products and Services Department,]~~ *NCCI Holdings, Inc., Customer Service Center*, 901 Peninsula Corporate Circle, Boca Raton, Florida 33487, *or at the Internet address <http://www.ncci.com>*, for the price of \$135 for affiliates and \$271 for nonaffiliates.

5. *Electronic Transmission User's Guide*, which is published by the National Council on Compensation Insurance. A copy of the publication may be obtained, free of charge ~~[]~~ *as an*

*Internet-based manual*, from ~~[the National Council on Compensation Insurance, Products and Services Department,]~~ *NCCI Holdings, Inc., Customer Service Center*, 901 Peninsula Corporate Circle, Boca Raton, Florida 33487 ~~[ ]~~, *or at the Internet address <http://www.ncci.com>*.

6. *WCIO Workers Compensation Data Specifications Manual*, which is published by the National Council on Compensation Insurance. A copy of the publication may be obtained from ~~[the National Council on Compensation Insurance, Products and Services Department,]~~ *NCCI Holdings, Inc., Customer Service Center*, 901 Peninsula Corporate Circle, Boca Raton, Florida 33487, *or at the Internet address <http://www.ncci.com>*, for the price of \$78 ~~[ ]~~ *for a hard copy or free of charge as an Internet-based manual*.

**Sec. 10.** NAC 616B.722 is hereby amended to read as follows:

616B.722 1. The amount of the estimated annual assessment made against each insurer to be used to defray:

(a) The administrative costs of the office of the Administrator, office of Legal Counsel, Administrative Services Unit and ~~[Industrial Insurance Regulation]~~ *Workers' Compensation* Section will be calculated by multiplying the insurer's percentage of expenditures by the amount approved in the state budget for those administrative costs.

(b) The administrative costs of the offices of the Hearings Division of the Department of Administration and the Nevada Attorney for Injured Workers for the time spent concerning claims for workers' compensation will be calculated by multiplying the insurer's percentage of expenditures by the amount approved in the state budget for these administrative costs.

(c) The administrative costs of the Occupational Safety and Health ~~[Enforcement]~~ *Administration* Section and the Safety Consultation and Training Section will be calculated by

multiplying the insurer's percentage of expenditures by the amount approved in the state budget for those offices.

(d) The administrative costs of the Mine Safety and Training Section will be calculated by multiplying the insurer's percentage of expenditures by the amount approved in the state budget for the Mine Safety and Training Section.

(e) The costs of the Commissioner for administering the program of self-insurance will be calculated by multiplying the percentage of expenditures of each self-insured employer and the percentage of expenditures of each association of self-insured public or private employers by the amount approved in the state budget for those costs.

(f) That portion of the cost of the Office for Consumer Health Assistance that is related to providing assistance to injured employees concerning workers' compensation will be calculated by multiplying the insurer's percentage of expenditures by the amount approved in the state budget for that cost.

(g) The administrative costs of the administration of claims against uninsured employers arising from compliance with NRS 616C.220 will be calculated by multiplying the insurer's percentage of expenditures by the amount derived by multiplying:

(1) The expected annual disbursements to be made from the Uninsured Employers' Claim Account; and

(2) The charge for the administration of claims.

(h) The administrative costs of having premium rates reviewed by the Commissioner will be calculated by multiplying the insurer's percentage of expenditures by the amount approved in the state budget for those administrative costs.



(i) The amount of disbursements from the Uninsured Employers' Claim Account will be calculated by multiplying the insurer's percentage of expenditures by the sum of expected annual disbursements to be made from the Account.

(j) The amount of disbursements from the Subsequent Injury Accounts for Self-Insured Employers and Private Carriers will be calculated by multiplying the insurer's percentage of expenditures by the sum of expected annual disbursements to be made from the Subsequent Injury Accounts for Self-Insured Employers and Private Carriers.

2. For the purposes of this section, "percentage of expenditures" means the proportion of an insurer's expected annual expenditures for claims relative to the amount of the expected annual expenditures for claims of all insurers responsible for the cost shown in a particular category of the state budget.

**Sec. 11.** NAC 616B.760 is hereby amended to read as follows:

616B.760 1. A claim against the Subsequent Injury Account for Private Carriers pursuant to NRS 616B.587 or 616B.590 must be submitted, in writing, to the Administrator.

2. A private carrier who submits a claim pursuant to subsection 1 shall include with the claim:

(a) All documents contained in the file of the claim and any other supporting documents that the private carrier relies upon or deems important for the determination of a claim; and

(b) A completed copy of the form entitled D-37, Insurer's Subsequent Injury Checklist, which is prescribed by the Administrator. A copy of the form may be obtained from the Administrator at no cost.

3. A claim submitted to the Administrator pursuant to subsection 1 must be organized in the manner prescribed in Form D-37, Insurer's Subsequent Injury Checklist.

*4. A private carrier who submits a claim pursuant to subsection 1 shall, upon the request of the Administrator:*

*(a) Allow the Administrator to inspect the records maintained by the private carrier concerning the claim; or*

*(b) Provide copies of those records to the Administrator.*

*5. A claim is incomplete if the claim:*

*(a) Does not include all documents referenced in paragraph (a) of subsection 2;*

*(b) Does not include a completed copy of Form D-37, Insurer's Subsequent Injury Checklist; or*

*(c) Is not organized in the manner prescribed in Form D-37, Insurer's Subsequent Injury Checklist, or contains one or more pages that are not numbered sequentially with all the other pages in the claim.*

*6. If a claim is incomplete, the Administrator may, not later than 15 days after the date that the claim is submitted to the Administrator pursuant to subsection 1, serve written notice to the person who submitted the claim that the claim is incomplete. Such notice must include a statement that sets forth the deficiencies in the claim. If the Administrator serves notice that the claim is incomplete, the Administrator may retain the claim or return the claim to the person who submitted the claim.*

*7. If the Administrator serves notice to the person who submitted a claim that the claim is incomplete pursuant to subsection 6, the claim shall not be deemed to be complete until the Administrator determines that the person who submitted the claim has corrected the deficiencies in the claim. If the person who submitted the claim fails to correct the deficiencies*

*in the claim and the claim has not been returned to the person who submitted the claim, the Administrator may retain the claim or return the claim to the person who submitted the claim.*

*8. The provisions of this section do not affect the authority of the Administrator to obtain additional information related to the claim from the employer of the injured employee or any other source after the claim is deemed to be completed.*

**Sec. 12.** NAC 616B.766 is hereby amended to read as follows:

616B.766 1. The Administrator will examine a claim against the Subsequent Injury Account for Private Carriers and not later than ~~90~~ 120 days after his *or her* receipt of the claim will:

- (a) Notify the private carrier that a determination on the claim cannot be made and the reasons therefor; or
- (b) Notify the private carrier of the acceptance or denial of the claim; and
- (c) If the claim is accepted, notify the private carrier of the verified amount of reimbursement and that the claim will be processed for payment by the State Controller.

2. An appeal from a determination of the Administrator concerning a claim against the Subsequent Injury Account for Private Carriers must be made in writing and sent directly to the appeals officer within 30 days after the date of the Administrator's determination.

**Sec. 13.** Chapter 616C of NAC is hereby amended by adding thereto the provisions set forth as sections 14 to 17, inclusive, of this regulation.

**Sec. 14.** *As used in NRS 616C.065:*

*1. "Insurer" includes a third-party administrator.*

2. *“Receipt” means a written acknowledgment from the United States Postal Service of its acceptance for mailing a written determination by an insurer or third-party administrator denying a claim in whole or in part.*

**Sec. 15.** *1. If an insurer fails to respond to a written request for a determination within 30 days after the date on which the unanswered written request was received by the insurer, the person who made the request may resubmit the written request for a determination of the insurer.*

*2. Failure to file a request for a hearing within the period specified in subsection 3 of NRS 616C.315 does not preclude a person from submitting a written request for a determination of the insurer.*

**Sec. 16.** *If an insurer or third-party administrator receives a written notice from an employee or a dependent of an employee pursuant to subsection 1 of NRS 616C.409, the insurer or third-party administrator shall, within 30 days after receiving the written notice, establish direct deposit of the compensation to be paid by the insurer or third-party administrator into the account specified by the employee or dependent in the written notice.*

**Sec. 17.** *1. Within 30 days after receiving medical documentation satisfying the requirements of subsection 2 of NRS 616C.245 from a treating physician, the insurer or employer providing accident benefits shall purchase and modify a motor vehicle for the injured employee.*

*2. The insurer or employer providing accident benefits shall determine the make and model of the motor vehicle based on the medical requirements and physical restrictions of the injured employee. The insurer or employer shall modify the motor vehicle to meet the physical restrictions of the injured employee.*

*3. The insurer or employer providing accident benefits shall purchase and modify a motor vehicle for the injured employee as needed every 8 years or 100,000 miles, whichever comes first.*

*4. If an injured employee requests that a motor vehicle be purchased and modified as a replacement for another motor vehicle that is inoperable or damaged as a result of an accident, mechanical malfunction or other circumstance not the fault of the injured employee, the insurer or employer providing accident benefits shall purchase and modify a motor vehicle for the injured employee if the injured employee demonstrates that:*

*(a) The injured employee will drive the replacement vehicle; and*

*(b) The vehicle to be replaced is inoperable or damaged and cannot be repaired.*

*5. The maximum benefit to be paid pursuant to the provisions of subsections 1 to 4, inclusive, of this section and NRS 616C.245 is \$250,000, unless good cause is shown.*

*6. If an injured employee is not entitled to receive a motor vehicle pursuant to the provisions of this section and NRS 616C.245, the insurer or employer providing accident benefits shall:*

*(a) Reimburse the injured employee pursuant to the provisions of NAC 616C.150; or*

*(b) Provide transportation for the injured employee in the form of, without limitation, a monthly bus pass, public transportation or other means of transportation as determined by the insurer or employer, taking into consideration the medical requirements and physical restrictions of the injured employee.*

**Sec. 18.** NAC 616C.021 is hereby amended to read as follows:

616C.021 1. The designation of a rating physician or chiropractor pursuant to NRS 616C.490 must be in writing.

2. To qualify for designation, a physician or chiropractor must:

(a) Possess the qualifications required of a physician or chiropractor who is appointed to the panel of physicians and chiropractors established pursuant to NRS 616C.090 and NAC 616C.003.

(b) Demonstrate a special competence and interest in industrial health by:

(1) Completing:

(I) An appropriate level of training, as determined by the Administrator, related to industrial health from a nationally recognized program that provides training related to industrial health; or

(II) One year or more of experience concerning industrial health in private practice.

The Administrator shall determine whether the experience in private practice concerning industrial health is sufficient to qualify for designation as a rating physician or chiropractor on a case-by-case basis.

(2) Except as otherwise provided in subsection 3, successfully completing a course on rating disabilities, in accordance with the most recent edition of the *Guide*, that is approved by the Administrator.

(3) ~~Except as otherwise provided in subsection 3, passing an examination on evaluating disabilities and impairments that is administered by the American Board of Independent Medical Examiners or its successor organization, or by any other organization or company recognized by the Division.~~

~~—(4)~~ Except as otherwise provided in subsection 3, passing the Nevada Impairment Rating Skills Assessment Test which is administered by the American Academy of Expert Medical

Evaluators or its successor organization and which examines the practical application of the rating of disabilities in accordance with the *Guide* with a score of 75 percent or higher.

(c) Demonstrate an understanding of:

(1) The regulations of the Division related to the evaluation of permanent partial disabilities; and

(2) The *Guide*.

3. The Administrator may exempt an ophthalmologist or psychiatrist who is authorized to practice in this State from the requirements set forth in subparagraphs 2 ~~[and]~~ *and* 3 ~~[and 4]~~ of paragraph (b) of subsection 2 and authorize an ophthalmologist or psychiatrist to evaluate injured employees with impaired vision or brain function according to his *or her* area of specialization.

4. In order to maintain designation as a rating physician or chiropractor, the physician or chiropractor must:

(a) Except as otherwise provided in subsection 5, perform ratings evaluations of permanent partial disabilities when selected pursuant to NRS 616C.490, except disabilities related to an employee's vision or brain function resulting from an industrial accident or occupational disease;

(b) Schedule and perform a rating evaluation within 30 days after receipt of a request from an insurer, a third-party administrator or an injured employee or his *or her* representative;

(c) Except as otherwise provided in subsection 5, serve without compensation for a period not to exceed 1 year on the panel to review ratings evaluations established pursuant to NAC 616C.023 upon the request of the Administrator;

(d) Except as otherwise provided in subsection 5 and after the date of designation as a rating physician or chiropractor, successfully complete biennially a course ~~[on rating disabilities.]~~ *of*

*continuing education*, in accordance with the most recent edition of the *Guide*, that is approved by the Administrator; and

(e) Except as otherwise provided in subsection 5, ~~if the physician or chiropractor passed an examination concerning an edition of the Guide that is not the most recent edition adopted by the Administrator to become designated as a rating physician,~~ pass the Nevada Impairment Rating Skills Assessment Test which is administered by the American Academy of Expert Medical Evaluators or its successor organization and which examines the practical application of the rating of disabilities in accordance with the *Guide* with a score of 75 percent or higher.

5. If an ophthalmologist or psychiatrist has been designated as a rating physician and wishes to maintain such designation, the Administrator may exempt the ophthalmologist or psychiatrist who is authorized to practice in this State from the requirements set forth in paragraphs (a), (c), (d) and (e) of subsection 4 and authorize the ophthalmologist or psychiatrist to continue to evaluate injured employees with impaired vision or brain function according to his *or her* area of specialization.

6. A rating evaluation of a permanent partial disability may be performed by a chiropractor only if the injured employee's injury and treatment is related to his *or her* neuromusculoskeletal system.

7. A rating physician or chiropractor may not rate the disability of an injured employee if the physician or chiropractor has:

(a) Previously examined or treated the injured employee for the injury related to his *or her* claim for workers' compensation; or

(b) Reviewed the health care records of the injured employee and has made recommendations regarding the likelihood of the injured employee's ratable impairment.



8. A rating evaluation of a permanent partial disability performed by a rating physician or chiropractor is subject to review by the Administrator pursuant to the provisions of NAC 616C.023.

**Sec. 19.** NAC 616C.027 is hereby amended to read as follows:

616C.027 1. A provider of health care whose bill has been denied or reduced or is not paid in a timely manner may, within 60 days after receiving notice of the denial or reduction, or within 60 days after the payment was due, submit a written request to the ~~[Industrial Insurance Regulation]~~ *Workers' Compensation* Section for a review of that action. The request must identify the billed item for which the review is sought and state the ground upon which the request is based. The ~~[Industrial Insurance Regulation]~~ *Workers' Compensation* Section shall review the matter, and if it determines that issuing a written determination is appropriate, it shall issue a written determination and mail or deliver copies of the determination to the provider of health care and the insurer. If the determination is in the provider's favor, the insurer shall, within 30 days after receiving notice of the determination, pay the bill, unless an appeal is taken in the manner provided by subsection 2.

2. A provider of health care or insurer aggrieved by the determination of the ~~[Industrial Insurance Regulation]~~ *Workers' Compensation* Section may file a request for a hearing before an appeals officer. The request must be filed within 30 days after the date of the determination.

3. The provider of health care and the insurer will be the only parties to the hearing scheduled pursuant to subsection 2.

**Sec. 20.** NAC 616C.082 is hereby amended to read as follows:

616C.082 1. An insurer, third-party administrator or organization for managed care shall ensure that all documents concerning claims that it receives pursuant to chapters 616A to 617, inclusive, of NRS or regulations adopted pursuant thereto indicate the date of receipt.

2. *An insurer, third-party administrator or organization for managed care shall indicate the date of approval or denial of payment on all medical bills maintained pursuant to subparagraph (1) of paragraph (f) of subsection 1 of NAC 616C.088.*

3. All claims filed with the insurer, third-party administrator or organization for managed care pursuant to subsection 1 and all documents concerning such claims must be acted upon in the chronological order of their filings, insofar as possible.

~~[3.]~~ 4. All documents which constitute the record of a claim filed with the insurer, third-party administrator or organization for managed care pursuant to subsection 1, including, *without limitation*, investigative reports, medical reports, and records evidencing payments of benefits, compensation or awards, remain the property of the insurer.

**Sec. 21.** NAC 616C.088 is hereby amended to read as follows:

616C.088 1. ~~[An insurer shall maintain a file of employees' claims concerning industrial injuries and occupational disease, including, without limitation, claims which have been denied. The file must be indexed by the names and social security numbers of the injured employees.~~

~~—2. The file for each]~~ *Each file of a claim concerning* industrial injury or occupational disease must contain:

(a) The employer's report of the industrial injury or occupational disease.

(b) The claim for compensation and any medical report associated with that claim that is issued after the claim is filed with the insurer.

(c) All:

(1) Applications for a stay concerning a decision on a claim for compensation made to a hearing officer, appeals officer or a court of competent jurisdiction;

(2) Written orders or decisions on a claim for compensation entered by a hearings officer, appeals officer or a court of competent jurisdiction;

(3) Written determinations made by an insurer, third-party administrator or an organization for managed care concerning a claim for compensation;

(4) Written settlement agreements or stipulations made between the injured employee and his *or her* employer or the insurer of the employer concerning a claim for compensation; and

(5) Except as otherwise provided in subparagraph (2) of paragraph (f), other documents which affect the amount, timing or denial of the payment of compensation.

↪ As used in this paragraph, “payment of compensation” has the meaning ascribed to it in subsection 2 of NAC 616D.305.

(d) A record of all compensation paid to the injured employee and all payments made to any other person in connection with the claim, for:

(1) Accident benefits;

(2) Temporary partial disability;

(3) Temporary total disability;

(4) Permanent partial disability;

(5) Permanent total disability;

(6) Death benefits; and

(7) Vocational rehabilitation,

↪ and the amount of the expected total incurred costs and the justification.

(e) A copy of any notice of termination of benefits which has been sent to the injured employee.

(f) Copies of all correspondence and other documents pertaining to the claim, including, without limitation, copies of:

(1) All medical bills incurred by the injured employee and received by the insurer; and

(2) Any notices sent to the injured employee to inform ~~him~~ *the injured employee* of his *or her* right to a review or appeal,

↪ but not including records of any privileged communication between the insurer and its attorney or of any investigation conducted by or on behalf of the insurer concerning a possible violation of NRS 616D.300.

(g) All ratings performed by any physician or chiropractor.

(h) A summary of conversations or oral negotiations, or both, conducted by the insurer with the injured employee, the legal counsel who represents the injured employee or any other party other than the physician or chiropractor of the injured employee, if action is requested or taken.

(i) After the claim is closed, the log of oral communications relating to the medical disposition of a claim that must be maintained by an insurer pursuant to NRS 616D.330.

~~3.~~ **2.** Each file of a claim must be retained for 2 years after the death of the injured employee.

**Sec. 22.** NAC 616C.091 is hereby amended to read as follows:

616C.091 **1.** After receipt of a claim for compensation, the insurer shall give written notice of its determination to accept or deny the claim to the injured employee , *the attorney or other authorized representative of the injured employee* or ~~his~~ *the* dependents *of the injured employee* and, if the injured employee's employer is not self-insured, to the injured employee's

employer. *The acceptance of a claim does not constitute the denial of a condition unless the requirements of this section are satisfied by the insurer.*

2. If the insurer denies the claim ~~or~~

~~—1.]~~ *or any part thereof:*

(a) The insurer shall, pursuant to NRS 616C.065, notify the Administrator of the denial.

~~[2.]~~ (b) The notice of denial to the injured employee , *the attorney or other authorized representative of the injured employee*, or ~~[his]~~ *the* dependents *of the injured employee* must include ~~or~~

~~—(a)]~~ , *without limitation:*

(1) A written statement of the right to request a hearing on the matter before a hearing officer and a form for requesting a hearing; and

~~[(b) The]~~

(2) *A specific statement concerning the* reasons for *and scope of* the *acceptance or* denial ~~or~~

~~—3.]~~ *of the claim or part of the claim.*

(c) The insurer shall provide a copy of each notice of denial it gives pursuant to ~~[subsection 2]~~ *paragraph (b)* to the injured employee's treating physician or chiropractor.

~~[4.]~~ (d) The notice of denial required to be given to the Administrator pursuant to ~~[subsection 4]~~ *paragraph (a)* must include:

~~[(a)]~~ (1) A copy of the notice of denial given to the injured employee , *the attorney or other authorized representative of the injured employee*, or ~~[his]~~ *the* dependents ~~[or]~~ *of the injured employee*; and

~~[(b)]~~ (2) A copy of Form C-4, Employee's Claim for Compensation/Report of Initial Treatment, that was completed by the injured employee or his *or her* dependents.

*3. If the insurer accepts the claim:*

*(a) The insurer shall, pursuant to NRS 616C.065, notify the Administrator of the acceptance.*

*(b) The notice of acceptance provided to the injured employee, the attorney or other authorized representative of the injured employee, or the dependents of the injured employee shall include, without limitation:*

*(1) Written notice of acceptance of the claim;*

*(2) A copy of Form D-52, Alternative Choice of Physician or Chiropractor and Referral to a Specialist; and*

*(3) Either:*

*(I) The address of the Internet website, if established and available, of the insurer or third-party administrator from which the injured employee can obtain a list of providers of health care who are authorized to provide medical and health care services to the injured employee; or*

*(II) A notification that pursuant to NAC 616C.030, the injured employee, the attorney or other authorized representative of the injured employee, or the treating physician or chiropractor of the injured employee may obtain, upon written request, a list of providers of health care who are authorized to provide medical and health care services to the injured employee.*

*4. A written notice of determination issued by an insurer must include, without limitation:*

*(a) The claim number;*

- (b) The name of the employer;*
- (c) The name of the insurer;*
- (d) If applicable, the name of the third-party administrator;*
- (e) The date of the injury;*
- (f) The date of the written notice of determination;*
- (g) If applicable, the specific parts of the body for which the claim is accepted;*
- (h) If applicable, the specific parts of the body for which the claim is denied;*
- (i) A notification that the injured employee may, pursuant to subsection 1 or 3 of NRS 616C.315, request a hearing or appeal the determination within 70 days after the determination was issued by the insurer; and*
- (j) The addresses of the offices of the Hearings Division of the Department of Administration located in Carson City and Las Vegas.*

5. Each notice of *acceptance or* denial must be given within the time prescribed in NRS 616C.065.

**Sec. 23.** NAC 616C.094 is hereby amended to read as follows:

616C.094 1. Except as otherwise provided in this section, within 30 days after receipt of a written request relating to a claim made by:

- (a) An injured employee, an employer, a health care provider or the attorney or other representative of any of them; or
  - (b) A spouse, child or parent of an injured employee who is deceased or incapacitated,
- ↪ the insurer, third-party administrator or organization for managed care shall, in writing, notify the person making the request of its determination concerning the request.

2. If the insurer, third-party administrator or organization for managed care terminates or denies any benefit in response to a written request, it shall notify the person making the request ~~[,]~~ *and the injured employee*, in writing, giving the reasons for its determination and an explanation of the ~~[person's]~~ right to appeal ~~[,]~~ *by the person making the request*.

3. If the insurer or third-party administrator denies a written request to reopen a claim, it shall notify the person making the request and the employer of that person, in writing, specifying the reasons for its determination and an explanation of the person's right to appeal.

**Sec. 24.** NAC 616C.097 is hereby amended to read as follows:

616C.097 1. Any written notice of a determination ~~[of an insurer who has contracted with]~~ *by* an organization for managed care that relates to accident benefits must include at the bottom of the notice a statement in substantially the following form:

If you disagree with the above determination, sign, date ~~[,]~~ and briefly explain on the bottom of this notice the reason for your appeal and return this notice to ~~[your insurer]~~ *the organization for managed care at the address indicated* within ~~[70]~~ *14* days after the date on which ~~[the]~~ *this* notice was mailed by the ~~[insurer.]~~ *organization for managed care*.

2. Any written notice of a determination ~~[of]~~ *by* an ~~[insurer]~~ *organization for managed care* that relates to benefits, other than accident benefits, ~~[provided by an insurer who has contracted with an organization for managed care.]~~ must include at the bottom of the notice a statement in substantially the following form:



If you disagree with the above determination, sign, date ~~[ ]~~ and briefly explain on the bottom of this notice the reason for your appeal and return it to the Hearing Officer at the Department of Administration within 70 days after the date on which the notice was mailed by the ~~[insurer.]~~ *organization for managed care.*

**Sec. 25.** NAC 616C.103 is hereby amended to read as follows:

616C.103 1. For purposes of determining whether an injured employee is stable and ratable and entitled to an evaluation to determine the extent of any permanent impairment pursuant to this section and NRS 616C.490, the Division interprets the term:

(a) “Stable” to include, without limitation, a written indication from a physician or chiropractor that the industrial injury or occupational disease of the injured employee:

- (1) Is stationary, permanent or static; or
- (2) Has reached maximum medical improvement.

(b) “Ratable” to include, without limitation, a written indication from a physician or chiropractor that the medical condition of the injured employee may have:

- (1) Resulted in a loss of motion, sensation or strength in a body part of the injured employee; or
- (2) Resulted in a loss of or abnormality to a physiological or anatomical structure or bodily function of the injured employee.

2. If an insurer proposes that an injured employee agree to a rating physician or chiropractor chosen by the insurer, the insurer shall inform the injured employee in writing that the injured employee:

- (a) Is not required to agree with the selection of that physician or chiropractor; and

(b) May request that the rating physician or chiropractor be selected in accordance with subsection 3 and NRS 616C.490.

3. An insurer shall comply with subsection 2 of NRS 616C.490, within the time prescribed in that subsection for the scheduling of an appointment, by:

(a) Requesting a physician or chiropractor from the list of qualified rating physicians and chiropractors designated by the Administrator to evaluate the injured employee and determine the extent of any permanent impairment or, if the injured employee and insurer have agreed to a rating physician or chiropractor pursuant to subsection 2 of NRS 616C.490, by submitting a completed form designated in NAC 616A.480 as D-35, ~~Request/Agreement~~ *Request* for a *Rotating Rating* Physician or Chiropractor, to the ~~Industrial Insurance Regulation~~ *Workers' Compensation* Section within 30 days after the insurer has received the statement from a physician or chiropractor that the injured employee is ratable and stable;

(b) Mailing written notice to the injured employee of the date, time and place of the appointment for the rating evaluation; and

(c) At least 3 working days before the rating evaluation, providing to the assigned rating physician or chiropractor from the insurer's file concerning the injured employee's claim:

(1) All reports or other written information concerning the injured employee's claim produced by a physician, chiropractor, hospital or other provider of health care, including the statement from the treating physician or chiropractor that the injured employee is stable and ratable, surgical reports, diagnostic, laboratory and radiography reports and information concerning any preexisting condition relating to the injured employee's claim;

(2) Any evidence or documentation of any previous evaluations performed to determine the extent of any of the injured employee's disabilities and any previous injury, disease or condition of the injured employee that is relevant to the evaluation being performed;

(3) The form designated in NAC 616A.480 as C-4, Employee's Claim for Compensation/Report of Initial Treatment;

(4) The form designated in NAC 616A.480 as D-35, ~~Request/Agreement~~ *Request* for a *Rotating Rating* Physician or Chiropractor; and

(5) The form designated in NAC 616A.480 as D-36, Request for Additional Information and Medical Release.

4. An insurer shall pay for the cost of travel for an injured employee to attend a rating evaluation as required by NAC 616C.105.

5. Except as otherwise provided in subsection 7, if the rating physician or chiropractor finds that the injured employee has a ratable impairment, the insurer shall, within the time prescribed by NRS 616C.490, offer the injured employee the award to which ~~he~~ *the injured employee* is entitled. The insurer shall make payment to the injured employee:

(a) Within 20 days; or

(b) If there is any child support obligation affecting the injured employee, within 35 days, ➡ after it receives the properly executed award papers from the injured employee or his *or her* representative.

6. If the rating physician or chiropractor determines that the permanent impairment may be apportioned pursuant to NAC 616C.490, the insurer shall advise the injured employee of the amount by which the rating was reduced and the reasons for the reduction.

7. If the insurer disagrees in good faith with the result of the rating evaluation, the insurer shall, within the time prescribed in NRS 616C.490:

(a) Offer the injured employee the portion of the award, in installments, which it does not dispute;

(b) Provide the injured employee with a copy of each rating evaluation performed of ~~[him;]~~ *the injured employee*; and

(c) Notify the injured employee of the specific reasons for the disagreement and ~~[his]~~ *the* right *of the injured employee* to appeal. The notice must also set forth a detailed proposal for resolving the dispute that can be executed in 75 days, unless the insurer demonstrates good cause for why the proposed resolution will require more than 75 days.

8. The injured employee must receive a copy of the results of each rating evaluation performed of ~~[him]~~ *the injured employee* before accepting an award for a permanent partial disability.

9. As used in this section, “award papers” means the following forms designated in NAC 616A.480, as appropriate:

(a) D-10(a), Election of Method of Payment of Compensation.

(b) D-10(b), Election of Method of Payment of Compensation for Disability Greater than 25 % ~~[Percent.]~~

(c) D-11, ~~[Reaffirmation]~~ *Reaffirmation/Retraction* of Lump Sum Request.

**Sec. 26.** NAC 616C.123 is hereby amended to read as follows:

616C.123 1. The most recently published edition of or update to the *Occupational Medicine Practice Guidelines*, published ~~[jointly]~~ by the American College of Occupational and Environmental Medicine , ~~[and the Occupational Environmental Medicine Health Information,~~

~~he,~~ is hereby adopted by reference as standards for the provision of accident benefits to employees who have suffered industrial injuries or occupational diseases.

2. The Administrator will, on or before February 1 of each year, review the most recently published edition of or update to the ~~{Occupational Medicine Practice}~~ *Guidelines*. Each new edition of or update to the ~~{Occupational Medicine Practice}~~ *Guidelines* shall be deemed approved by the Administrator for use in this State on February 1 of each year, unless a notice of disapproval of the edition or update is posted pursuant to this subsection by the immediately preceding April 1. If the Administrator wishes to disapprove a new edition of or update to the ~~{Occupational Medicine Practice}~~ *Guidelines*, ~~he~~ **the Administrator** will:

(a) Post a notice of disapproval at the largest public library in each county, the State Library and Archives, the Grant Sawyer Office Building located at 555 East Washington Avenue, Las Vegas, Nevada, and all offices of the Division; and

(b) Send a notice to each person included on the mailing list that the Division is required to maintain pursuant to paragraph (e) of subsection 1 of NRS 233B.0603.

↪ If the Administrator disapproves an edition of or update to the ~~{Occupational Medicine Practice}~~ *Guidelines*, the edition or update that was most recently adopted by reference or deemed approved pursuant to this section will continue in effect.

3. Except as otherwise provided in this subsection, insurers and providers of health care shall use the *Guidelines* as minimum standards for evaluating and ensuring the quality of programs of treatment provided to an injured employee who is entitled to accident benefits pursuant to chapters 616A to 617, inclusive, of NRS. If a condition of the injured employee makes compliance with the *Guidelines* impossible or medically inadvisable and a physician or chiropractor who:

(a) Is employed by or works pursuant to a contract with the insurer or its third-party administrator or organization for managed care to provide medical advice on claims;

(b) Is licensed to practice in this State;

(c) Possesses the education, training and expertise necessary to evaluate the medical condition of the injured employee or obtains the advice or assistance necessary to evaluate the medical condition of the employee; and

(d) Has reviewed the notes of the treating physician or chiropractor, the results of any tests conducted by the treating physician or chiropractor and any relevant health care records of the injured employee,

↪ recommends to the insurer not to authorize treatment pursuant to the *Guidelines*, the insurer may determine not to authorize treatment pursuant to the *Guidelines*.

4. An insurer may authorize treatment for an injured employee that exceeds the minimum standards of the *Guidelines* if the provider of health care provides, in writing, to the insurer his explanation for the need of a higher standard of treatment.

5. A copy of the *Guidelines* may be purchased from *the American College of Occupational and Environmental Medicine* ~~[Health Information, Inc., at 8 West Street, Beverly Farms, Massachusetts 01915-2226, or]~~ *at 25 Northwest Point Boulevard, Suite 700, Elk Grove Village, Illinois 60007-1030*, by telephone at ~~[(800) 533-8046,]~~ *(847) 818-1800, or on the Internet at <http://www.acoem.org>*, at a cost of \$175 for persons who are members of the American College of Occupational and Environmental Medicine and \$199 for persons who are not members. ~~[of the American College of Occupational and Environmental Medicine.]~~

6. As used in this section, the term “*Guidelines*” means the *Occupational Medicine Practice Guidelines* adopted by reference pursuant to subsection 1.

**Sec. 27.** NAC 616C.129 is hereby amended to read as follows:

616C.129 The members of the panel of physicians and chiropractors, approved for treatment of employees protected by workers' compensation, shall adhere to the following rules:

1. There may be only one treating physician or chiropractor in any one case at any one time, unless prior authorization is obtained from the insurer. Physicians and chiropractors associated with the treating physician or chiropractor may treat the injured employee during the temporary absence of the treating physician or chiropractor. In all cases, the treating physician or chiropractor is directly responsible for the management of the health care of the injured employee. Physicians in emergency rooms are not considered treating physicians within the meaning of NAC 616C.126 to 616C.141, inclusive.

2. The insurer shall give written notice to all interested persons of the transfer of an injured employee to a new physician or chiropractor.

3. Except as otherwise provided in this subsection, an injured employee or an insurer is not financially liable for the payment of the fees of a provider of health care who renders treatment to an injured employee for an industrial accident or occupational disease, knowing that the injured employee is already under the care of another provider of health care. The insurer may be liable for the payment of the fees pursuant to this subsection if the insurer gives prior written approval for the treatment or good cause is shown for the treatment provided.

4. Any prescription or service ordered by a physician or chiropractor other than:

(a) The treating physician or chiropractor; or

(b) A physician or chiropractor associated with the treating physician or chiropractor who is treating the injured employee during the temporary absence of the treating physician or chiropractor,

↪ is not a financial liability of the insurer unless good cause is shown for the prescription or service.

5. The treating physician or chiropractor must request written authorization from the insurer before ordering or performing any one of the following services with an estimated billed amount of \$200 or more:

- (a) Consultation;
- (b) Diagnostic testing;
- (c) Elective hospitalization;
- (d) Any surgery which is to be performed under circumstances other than an emergency; or
- (e) Any elective procedure.

6. Any request for prior authorization to order or perform any of the services set forth in subsection 5 must contain an explanation of the need for each service to be ordered or performed. If any of the services are performed without the insurer's written authorization, the insurer is not liable for the fee for the service, unless good cause is shown for providing the services without prior authorization.

7. A treatment program that consists of more than six visits, not including the initial evaluation, and is billed under codes 97010 to 97799, inclusive, or 98925 to 98943, inclusive, whether the visits are billed separately or included under different codes, must be authorized in advance by the insurer to verify the medical necessity for continued treatment. The first six visits do not require the prior authorization of the insurer. The number of requests *by the treating physician or chiropractor* for additional visits and any written authorization granted therefor are not restricted, and are subject only to the treatment prescribed by the treating physician or chiropractor and the determination of the insurer. A report of the status of an injured employee



may be requested by an insurer at any time during the course of treatment. *The treating physician or chiropractor shall respond to an insurer's written request for a report of the status of an injured employee within 30 days after receiving the request.* The initial evaluation shall be deemed to be separate from the initial six treatments. An initial evaluation may be performed on the same day as the initial treatment.

**Sec. 28.** NAC 616C.145 is hereby amended to read as follows:

616C.145 1. Except as otherwise provided in this section, providers of health care who treat injured employees pursuant to this chapter and chapter 616C of NRS shall comply with the most recently published edition of or update to the *Relative Values for Physicians*, which the Division hereby adopts by reference.

2. The Administrator will, on or before February 1 of each year, review the most recently published edition of or update to the *Relative Values for Physicians*. Each new edition of or update to the *Relative Values for Physicians* shall be deemed approved by the Division for use in this State from February 1 through January 31, unless a notice of disapproval of the edition or update is posted pursuant to this subsection by the immediately preceding February 1. If the Administrator wishes to disapprove a new edition of or update to the *Relative Values for Physicians*, ~~he~~ *the Administrator* will:

(a) Post a notice of disapproval at the largest public library in each county, the State Library and Archives, the Grant Sawyer Office Building located at 555 East Washington Avenue, Las Vegas, Nevada, and all offices of the Division; and

(b) Send a notice to each person included on the mailing list that the Division is required to maintain pursuant to paragraph (e) of subsection 1 of NRS 233B.0603.

↪ If the Administrator disapproves an edition of or update to the *Relative Values for Physicians* the edition or update that was most recently adopted by reference or deemed approved pursuant to this section will continue in effect.

3. A copy of *Relative Values for Physicians*, as adopted by reference pursuant to subsection 1, may be purchased from Ingenix, ~~[5225 Wiley Post Way, Suite 500,]~~ *at P.O. Box 27116*, Salt Lake City, Utah ~~[84116-2889, (800) 999-4600]~~ *84127-0116, by toll-free telephone at (800) 464-3649, or on the Internet at <http://www.shopingenix.com>*, for the price of ~~[\$279.95.]~~ *\$329.95.*

**Sec. 29.** NAC 616C.146 is hereby amended to read as follows:

616C.146 1. Anesthesiologists who treat injured employees pursuant to this chapter and chapter 616C of NRS shall comply with the most recently published edition of or update to the *Relative Value Guide of the American Society of Anesthesiologists*, which the Division hereby adopts by reference.

2. The Administrator will, on or before February 1 of each year, review the most recently published edition of or update to the *Relative Value Guide of the American Society of Anesthesiologists*. Each new edition of or update to the *Relative Value Guide of the American Society of Anesthesiologists* shall be deemed approved by the Division for use in this State on February 1 of each year, unless a notice of disapproval of the edition or update is posted pursuant to this subsection by the immediately preceding February 1. If the Administrator wishes to disapprove a new edition of or update to the *Relative Value Guide of the American Society of Anesthesiologists*, ~~[he]~~ *the Administrator* will:

(a) Post a notice of disapproval at the largest public library in each county, the State Library and Archives, the Grant Sawyer Office Building located at 555 East Washington Avenue, Las Vegas, Nevada, and all offices of the Division; and

(b) Send a notice to each person included on the mailing list that the Division is required to maintain pursuant to paragraph (e) of subsection 1 of NRS 233B.0603.

↪ If the Administrator disapproves an edition of or update to the *Relative Value Guide of the American Society of Anesthesiologists*, the edition or update that was most recently adopted by reference or deemed approved pursuant to this section will continue in effect.

3. A copy of the *Relative Value Guide of the American Society of Anesthesiologists*, as adopted by reference pursuant to subsection 1, may be purchased from the American Society of Anesthesiologists, 520 N. Northwest Highway, Park Ridge, Illinois 60068-2573, (847) 825-5586, *or on the Internet at <http://www2.asahq.org/publications/>*, for the price of \$25 ~~[ ]~~ *for members and \$75 for nonmembers.*

4. Except as otherwise provided in this subsection, an anesthesiologist shall use the codes that are stated in the *Relative Value Guide of the American Society of Anesthesiologists* for each procedure which ~~[he]~~ *the anesthesiologist* bills and submits to an insurer. If a code for a procedure performed by an anesthesiologist is not provided in the *Guide*, the anesthesiologist shall use the code provided for that procedure in the *Relative Values for Physicians*, as adopted by reference pursuant to NAC 616C.145, using the appropriate conversion factor for the code that is assigned to that procedure.

**Sec. 30.** NAC 616C.147 is hereby amended to read as follows:

616C.147 The Division hereby adopts by reference the ~~[most current complete]~~ *2007* list of eligible codes for surgical centers for ambulatory patients and the payment groups to which those codes are assigned , ~~[for services rendered on and after September 7, 2005,]~~ as those codes are set forth in the ~~[“Centers for Medicare and Medicaid Services, CMS”]~~ *“Healthcare Common [Procedures] Procedure* Coding System (HCPCS),” which is *prepared by the Centers for*

*Medicare and Medicaid Services and which is* contained in the *Relative Values for Physicians* that is adopted by reference pursuant to NAC 616C.145.

**Sec. 31.** NAC 616C.148 is hereby amended to read as follows:

616C.148 Unless good cause is shown:

1. A rating physician or chiropractor shall mail a report of an evaluation of an injured employee to the insurer within 14 days after the evaluation is completed. Unless good cause is shown, if an addendum is requested by the insurer, the rating physician or chiropractor shall mail the addendum to the insurer within 14 days after receiving the request.

2. If a rating evaluation is requested by an injured employee or his *or her* representative, the rating physician or chiropractor shall mail a report of the evaluation to the injured employee or his *or her* representative within 14 days after the evaluation is completed. Unless good cause is shown, if an addendum is requested by the injured employee or his *or her* representative, the rating physician or chiropractor shall mail the addendum to the injured employee or his *or her* representative within 14 days after receiving the request.

*3. A report of a rating evaluation performed by a rating physician or chiropractor must:*

*(a) Include all findings of physical examinations; and*

*(b) Reference all tables of the Guide used by the rating physician or chiropractor to determine the permanent impairment of the injured employee.*

*4. A rating physician or chiropractor shall retain copies of a report of a rating evaluation and any supporting documentation of the rating physician or chiropractor, excluding documents provided by an insurer pursuant to subparagraphs (1), (2) and (3) of paragraph (c) of subsection 3 of NAC 616C.103, for a period of 5 years after performing the rating evaluation referenced in the report.*

**Sec. 32.** NAC 616C.149 is hereby amended to read as follows:

616C.149 1. Each provider of health care and each medical facility shall submit a bill to the insurer which includes:

- (a) The usual charge for services provided;
- (b) The code for the procedure and a description of the services;
- (c) The number of visits and date of each visit to the office of the provider of health care or to the medical facility and the procedures followed in any treatment administered during the visit;
- (d) The codes for supplies and materials provided or administered to the injured employee that are set forth in the ~~["Centers for Medicare and Medicaid Services, CMS"]~~ *"Healthcare Common [Procedures] Procedure* Coding System (HCPCS)," as contained in the *Relative Values for Physicians*, as adopted by reference pursuant to NAC 616C.145;
- (e) The name of the injured employee and his *or her* employer and the date of his *or her* injury;
- (f) The tax identification number of the provider of health care; and
- (g) The signature of the person who provided the service.

2. In addition to the information required by subsection 1, each physician or chiropractor and each medical facility shall include on the bill the ICD-9-CM codes identifying the parts of the body of the injured employee that were affected by the injury, as set forth in the most recently published edition of or update to the *International Classification of Diseases, Clinical Modification* (ICD-9-CM), which is hereby adopted by reference.

3. The Administrator will, on or before February 1 of each year, review the most recently published edition of or update to the *International Classification of Diseases*. Each new edition of or update to the *International Classification of Diseases* shall be deemed approved by the

Administrator for use in this State on February 1 of each year, unless a notice of disapproval of the edition or update is posted pursuant to this subsection by the immediately preceding April 1. If the Administrator wishes to disapprove a new edition of or update to the *International Classification of Diseases*, ~~he~~ *the Administrator* will:

(a) Post a notice of disapproval at the largest public library in each county, the State Library and Archives, the Grant Sawyer Office Building located at 555 East Washington Avenue, Las Vegas, Nevada, and all offices of the Division; and

(b) Send a notice to each person included on the mailing list that the Division is required to maintain pursuant to paragraph (e) of subsection 1 of NRS 233B.0603.

➤ If the Administrator disapproves an edition of or update to the *International Classification of Diseases*, the edition or update that was most recently adopted by reference or deemed approved pursuant to this section will continue in effect.

4. A copy of Volumes 1, 2 and 3 of ~~this publication~~ *International Classification of Diseases* may be purchased from ~~:-~~

~~—(a) Channel Publishing, Ltd., P.O. Box 70723, Reno, Nevada 89570, (800) 248-2882, for the price of \$64.95; or~~

~~—(b) Ingenix, 5225 Wiley Post Way, Suite 500, Salt Lake City, Utah 84116-2889, (800) 999-4600, for the price of \$74.95.]~~ *the Government Printing Office at P.O. Box 979050, St. Louis, Missouri 63197-9000, by toll-free telephone at (866) 512-1800, or at the Internet address <http://www.bookstore.gpo.gov/>, for the price of \$19. This publication is also available, free of charge, from the Centers for Disease Control and Prevention at the Internet address [ftp://ftp.cdc.gov/pub/Health\\_Statistics/NCHS/Publications/ICD9-CM/2008](ftp://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/ICD9-CM/2008).*

5. The initial bill submitted to the insurer by a licensed physical therapist or a licensed occupational therapist must be accompanied by a copy of the order for the services rendered issued by the treating physician or chiropractor. Any subsequent bill submitted to the insurer by a licensed physical therapist or a licensed occupational therapist must include a copy of the order for the services rendered issued by the treating physician or chiropractor if the order for services rendered is changed by the treating physician or chiropractor.

**Sec. 33.** NAC 616C.288 is hereby amended to read as follows:

616C.288 An appeal by an insurer from a decision of the Chief of the ~~[Industrial Insurance Regulation]~~ *Workers' Compensation* Section must be made by filing a notice of appeal with an appeals officer within 30 days after the date of service of the Chief's decision.

**Sec. 34.** NAC 616C.396 is hereby amended to read as follows:

616C.396 1. The ~~[Industrial Insurance Regulation]~~ *Workers' Compensation* Section will investigate each claim against an uninsured employer to determine whether the claim will be assigned to the third-party administrator or insurer designated by the Division pursuant to NRS 616C.220 for the payment of benefits from the Uninsured Employers' Claim Account. The ~~[Industrial Insurance Regulation]~~ *Workers' Compensation* Section will refuse to assign the claim if:

- (a) The private carrier has failed to exhaust its remedies by failing to charge the claim against any existing policies of the employer of the employee or any principal contractor who is liable for the payment of compensation;
- (b) The claim includes a person excluded as an employee pursuant to NRS 616A.110;
- (c) The notice of the claim fails to include the documents which support the claim;
- (d) The claim fails to satisfy any provision of NRS 616C.220; or

(e) The injured employee fails to complete and return to the ~~[Industrial Insurance Regulation]~~

*Workers' Compensation* Section:

(1) Form D-16, Notice of Election for Compensation Benefits Under the Uninsured Employer Statutes;

(2) Form D-17, Employee's Claim for Compensation - Uninsured Employer; or

(3) Form D-18, Assignment ~~[of Claim]~~ *to Division* for Workers' ~~[Compensation—Uninsured Employer,]~~ *Compensation Benefits,*

↪ within 30 days after ~~[he receives]~~ *the Workers' Compensation Section mails* the form ~~[from]~~ *to the* ~~[Industrial Insurance Regulation Section.]~~ *injured employee.*

2. If the ~~[Industrial Insurance Regulation]~~ *Workers' Compensation* Section refuses to assign a claim, it will include in the notice required by NRS 616C.220 a statement of the right of appeal provided by that section.

**Sec. 35.** NAC 616C.527 is hereby amended to read as follows:

616C.527 1. An insurer shall provide any information required by the Administrator to carry out the provisions of NAC 616C.526 and NRS 616C.453.

2. An insurer who violates subsection 1 is subject to administrative action pursuant to ~~[NRS 616D.120.]~~ *NAC 616D.415.*

**Sec. 36.** NAC 616C.555 is hereby amended to read as follows:

616C.555 An insurer shall ensure that ~~[the]~~ :

*1. The* vocational rehabilitation counselor assigned to a claim by the insurer complies with the provisions of ~~[subsections 1,]~~ *subsection 2* ~~[and 3]~~ of NRS ~~[616C.550]~~ *616C.547, subsections 1 to 8, inclusive, of NRS 616C.555* and the provisions of NAC 616C.556 ~~[.]~~ ;



*2. A written assessment prepared pursuant to the provisions of NRS 616C.550 complies with the provisions of subsection 2 of NAC 616C.556; and*

*3. A plan for a program of vocational rehabilitation developed pursuant to the provisions of NRS 616C.555 complies with the provisions of subsections 1 to 8, inclusive, of that section.*

**Sec. 37.** Chapter 616D of NAC is hereby amended by adding thereto a new section to read as follows:

*If the Administrator determines that a vocational rehabilitation counselor who is not certified has violated the provisions of NRS 616C.543, the Administrator may impose an administrative fine pursuant to subsection 9 of NRS 616D.120 upon a certified vocational rehabilitation counselor who supervises and reviews the work of the vocational rehabilitation counselor who is not certified.*

**Sec. 38.** NAC 616D.060 is hereby amended to read as follows:

616D.060 If, after a hearing, the Administrator decides that the insurer, third-party administrator, organization for managed care, provider of health care or employer has committed the alleged violation, the Administrator will:

1. Prepare written findings of fact and conclusions of law;
2. Give notice of the right to file a petition for judicial review within 30 days after service of the decision; and
3. ~~{Cause}~~ *Mail* a copy of the findings of fact and conclusions of law to ~~{be served upon}~~ the insurer, third-party administrator, organization for managed care, provider of health care or employer . ~~{by certified mail.}~~

**Sec. 39.** NAC 616D.411 is hereby amended to read as follows:

616D.411 1. To determine the amount of a benefit penalty required to be paid pursuant to subsection 3 of NRS 616D.120, the Administrator will determine that the violation caused physical or economic harm to the injured employee or his *or her* dependents if ~~he~~ *the*

*Administrator* finds, by a preponderance of the evidence, that:

- (a) The harm would not have occurred but for the violation;
- (b) The violation was a substantial factor in bringing about the harm; and
- (c) There is no supervening cause that is responsible for bringing about the harm.

2. Physical harm must be established by a preponderance of objective medical evidence in the form of existing medical records or medical records furnished by the claimant.

3. The Administrator will determine the amount of a benefit penalty required to be paid pursuant to subsection 3 of NRS 616D.120 according to the following schedule. In addition to the required minimum benefit penalty of \$5,000, a claimant will be awarded \$1,625 for each point assessed, but in no event will the amount of the benefit penalty be greater than \$37,500.

Points assessed for physical harm:

Temporary minor harm .....	2 points
Temporary major harm.....	5 points
Permanent minor harm .....	5 points
Permanent major harm .....	10 points
Death .....	20 points

Points assessed for the amount of compensation found to be due the claimant:

Amount of compensation

\$3,001 - \$5,000.....	1 point
\$5,001 - \$7,000.....	2 points
\$7,001 - \$9,000.....	3 points
\$9,001 - \$11,000.....	4 points
\$11,001 - \$13,000.....	5 points
\$13,001 - \$15,000.....	6 points
\$15,001 - \$17,000.....	7 points
\$17,001 - \$19,000.....	8 points
\$19,001 - \$21,000.....	9 points
An amount that is greater than \$21,000 .....	10 points

Points assessed for prior violations:

One prior violation .....	1 point
Two prior violations .....	3 points
More than two prior violations.....	5 points

Points assessed for economic harm:

Amount of economic harm

\$6,001 - \$7,000.....	1 point
\$7,001 - \$8,000.....	2 points
\$8,001 - \$9,000.....	3 points
\$9,001 - \$10,000.....	4 points
\$10,001 - \$11,000.....	5 points

\$11,001 - \$12,000.....	6 points
\$12,001 - \$13,000.....	7 points
\$13,001 - \$14,000.....	8 points
\$14,001 - \$15,000.....	9 points
More than \$15,000 .....	10 points

4. To determine the number of prior violations of an insurer, organization for managed care, health care provider, third-party administrator or employer, the Administrator will ~~consider~~ :

(a) *Consider* only those fines and benefit penalties imposed pursuant to paragraphs (a) to (e), inclusive, and ~~(h)~~ (i) of subsection 1 of NRS 616D.120 in the immediately preceding 5 years.

(b) *Not consider those benefit penalties imposed pursuant to paragraph (b) of subsection 3 of NRS 616D.120.*

5. As used in this section:

(a) “Dependent” means a person who:

(1) At the time of the violation, is:

(I) The spouse of the injured employee;

(II) A child of the injured employee and is under 18 years of age; or

(III) A child of the injured employee, is 18 years of age or older and is physically or mentally incapacitated and unable to earn a wage; or

(2) Is a parent of the injured employee, a child of the injured employee who is 18 years of age or older, a stepchild of the injured employee or a sibling of the injured employee if that person’s dependency upon the injured employee is established by a federal income tax return of the injured employee or by any other reliable evidence.

(b) “Economic harm” includes:

- (1) The loss of money or an item of monetary value; and
- (2) The deprivation of a reasonable expectation of a financial or monetary advantage.

(c) “Permanent major harm” means physical harm that:

(1) Results in a complete or significant loss of the ability to engage in activities of daily living, including, without limitation, caring for oneself, performing manual tasks, walking, standing, sitting, seeing, hearing, speaking, breathing, learning, working, sleeping, functioning sexually, and engaging in normal recreational and social activities; and

(2) Is unlikely to be alleviated in spite of medical treatment that a reasonable person is willing to undergo.

(d) “Permanent minor harm” means physical harm that:

(1) Does not result in a complete or significant loss of the ability to engage in activities of daily living, including, without limitation, caring for oneself, performing manual tasks, walking, standing, sitting, seeing, hearing, speaking, breathing, learning, working, sleeping, functioning sexually, and engaging in normal recreational and social activities; and

(2) Is unlikely to be alleviated in spite of medical treatment that a reasonable person is willing to undergo.

(e) “Physical harm” means death or any physiological disorder or condition, cosmetic disfigurement or anatomic loss affecting one or more of the following body systems:

- (1) The neurological system.
- (2) The musculoskeletal system.
- (3) Special sense organs.
- (4) The respiratory system, including, without limitation, speech organs.

- (5) The cardiovascular system.
  - (6) The reproductive system.
  - (7) The digestive system.
  - (8) The genitourinary system.
  - (9) The hemic and lymphatic system.
  - (10) The skin.
  - (11) The endocrine system.
- (f) “Temporary major harm” means physical harm that:

(1) Results in a complete or significant loss of the ability to engage in activities of daily living, including, without limitation, caring for oneself, performing manual tasks, walking, standing, sitting, seeing, hearing, speaking, breathing, learning, working, sleeping, functioning sexually, and engaging in normal recreational and social activities; and

(2) Is likely to be alleviated with or without medical treatment.

- (g) “Temporary minor harm” means physical harm that:

(1) Does not result in a complete or significant loss of the ability to engage in activities of daily living, including, without limitation, caring for oneself, performing manual tasks, walking, standing, sitting, seeing, hearing, speaking, breathing, learning, working, sleeping, functioning sexually, and engaging in normal recreational and social activities; and

(2) Is likely to be alleviated with or without medical treatment.

**Sec. 40.** NAC 616D.415 is hereby amended to read as follows:

616D.415 Except as otherwise provided in chapters 616A to 617, inclusive, of NRS, or in any regulation adopted pursuant thereto:

1. If the Administrator determines that:

(a) An insurer or third-party administrator has failed to comply or has complied in an untimely manner with any provision of chapter 616A, 616B, 616C, 616D or 617 of NRS, or any regulation adopted pursuant thereto, that requires the insurer or third-party administrator to make a determination regarding the acceptance or denial of a claim for compensation;

(b) An insurer or third-party administrator has failed to comply or has complied in an untimely manner with any provision of chapter 616A, 616B, 616C, 616D or 617 of NRS, or any regulation adopted pursuant thereto, that requires the insurer or third-party administrator to make a payment of benefits to an injured employee;

(c) An insurer or employer has failed to comply or has complied in an untimely manner with any of the provisions of NRS 616B.460 or 616B.461 or NAC 616B.124 to 616B.136, inclusive;

(d) An insurer, organization for managed care, provider of health care, third-party administrator or employer has failed to comply or has complied in an untimely manner with any of the provisions of NRS 616A.475, 616B.006, 616B.009 or 617.357 or NAC 616A.410 ~~or~~ **616C.527**;

(e) A treating physician or chiropractor has failed to comply or has complied in an untimely manner with any of the provisions of NRS 616C.020, 616C.040, subsection 7 of NRS 616C.475 or NRS 617.352, or any regulations adopted pursuant thereto, that require the treating physician or chiropractor to complete a claim for compensation; or

(f) An employer has failed to comply or has complied in an untimely manner with any of the provisions of NRS 616C.045 or 617.354, or any regulation adopted pursuant thereto, that require the employer to complete a report of industrial injury or occupational disease,

↪ and the Administrator determines that the violation was not an intentional violation, the Administrator may impose an administrative fine in an amount not to exceed those amounts set

forth in subsection 2 of NRS 616D.120 or order a plan of corrective action to be submitted to the Administrator, or both.

2. If the Administrator determines that an insurer, organization for managed care, health care provider, third-party administrator or employer has committed two or more violations of the same or similar provisions of chapters 616A to 617, inclusive, of NRS, or any regulation adopted pursuant thereto, the Administrator may impose an administrative fine in an amount not to exceed those amounts set forth in subsection 2 of NRS 616D.120 or order a plan of corrective action to be submitted to the Administrator, or both.

**Sec. 41.** NAC 616A.140, 616A.430, 616B.780, 616B.786, 616B.789, 616B.792, 616B.795, 616B.796, 616B.800, 616B.809, 616B.810, 616B.812, 616B.815, 616B.818, 616C.085, 616C.112 and 616D.335 are hereby repealed.

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## TEXT OF REPEALED SECTIONS

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**616A.140 “Industrial Insurance Regulation Section” defined. (NRS 616A.400)**

“Industrial Insurance Regulation Section” means the Industrial Insurance Regulation Section of the Division of Industrial Relations of the Department of Business and Industry.

**616A.430 Clarification of certain provisions or relief from strict application. (NRS 616A.400)** A brief explanation of the procedure for obtaining clarification of NAC 616A.420,



616C.091, 616C.094, 616C.145 to 616C.149, inclusive, 616C.423, 616C.447 or 616C.502, or relief from the strict application of any of their terms, may be obtained from the Division of Industrial Relations, 400 West King Street, Suite 400, Carson City, Nevada 89703.

**616B.780 Establishment of employer-employee relationship; liability of principal contractor for premiums. (NRS 616A.400)**

1. An employer who hires a person to do work related to, or in furtherance of, his business operations that are insured by a private carrier is presumed to have established an employer-employee relationship between himself and the person performing the work in the absence of a written contract between the two parties which establishes that no employer-employee relationship exists between the two parties, in accordance with chapters 616A to 617, inclusive, of NRS.

2. If a subcontractor or independent contractor does not have an active policy with a private carrier, the principal contractor must be assessed premiums based on:

- (a) The payroll for the period of the contract with the subcontractor or independent contractor;
- (b) The appropriate classification for the work performed by the subcontractor or independent contractor; and
- (c) The experience modification factor of the principal contractor.

3. A principal contractor may provide the complete payroll records of the employees of each uninsured subcontractor and independent contractor. Except as otherwise provided in this subsection, if the principal contractor does not provide the complete payroll records of his uninsured subcontractors and independent contractors, the full contract price shall be deemed to be the payroll for the employees of the subcontractors and independent contractors. If the

contract is for labor and materials or labor and equipment and evidence is provided to the private carrier which indicates the portion of the contract price that is for labor, that amount may be deemed the payroll for the employees of the subcontractor or independent contractor. If such an amount is not indicated in the contract, the private carrier shall determine what portion of the contract price will be deemed the payroll for the employees of the subcontractor or independent contractor. In no case may the payroll used to calculate the premiums of the principal contractor be less than the portion of the contract price that is for labor.

4. If a subcontractor or independent contractor has a policy with a private carrier but fails to pay the proper premiums, the principal contractor is liable for the amount of any unpaid premiums based on the rate and modification factor for premiums of the subcontractor or independent contractor.

**616B.786 Coverage of sole proprietor acting as subcontractor or principal contractor.**  
**(NRS 616A.400)**

1. A sole proprietor acting as a subcontractor in this State who is licensed pursuant to chapter 624 of NRS shall be deemed to receive \$500 per month in wages. A sole proprietor acting in alternating roles as a principal contractor and subcontractor shall be deemed to receive \$500 per month in wages. The type of license issued to the sole proprietor pursuant to chapter 624 of NRS does not affect the coverage or deemed wage required.

2. A sole proprietor acting only as a principal contractor may be relieved of the requirement of maintaining coverage for himself by submitting written notice to the private carrier which insures him that he is acting only as a principal contractor. If the private carrier determines that the sole proprietor is acting only as a principal contractor, the private carrier shall terminate his deemed wage effective on the date of receipt of the written notice. The termination of the

deemed wage must not be made retroactive to a date before receipt of the written notice by the private carrier. If, after the termination of the deemed wage, the private carrier determines that the sole proprietor was at any time acting as a subcontractor, the private carrier shall reinstate the deemed wage effective on the date on which it was terminated, but in no case may it be made retroactive for more than 3 years or to the date of the last audit, whichever is more recent. If a sole proprietor who was determined to be acting only as a principal contractor at the inception of his policy with a private carrier acts at any time thereafter as a subcontractor or in alternating roles as a principal contractor and subcontractor, his deemed wage becomes effective on the date of his first subcontract, but in no case may it be made retroactive for more than 3 years or to the date of the last audit, whichever is more recent.

3. If a sole proprietor acting as a subcontractor provides coverage for his employees but fails to secure and maintain coverage for himself, the principal contractor is responsible for the payment of premiums for the sole proprietor during the term of the contract.

**616B.789 Use of wages in determining premium and disability compensation; liability of principal contractor for premiums. (NRS 616A.400)**

1. For the purposes of determining premium and disability compensation, the wage of a sole proprietor who is not licensed pursuant to chapter 624 of NRS, has not elected coverage under the elective provisions of chapters 616A to 617, inclusive, of NRS and is performing as a subcontractor to an insured principal contractor shall be deemed to be \$300 per month or \$10 per day for the period of the subcontract, unless the contract specifies a wage greater than \$300 per month or \$10 per day for the sole proprietor.

2. For the purposes of determining premium and disability compensation, the wage of a sole proprietor who is licensed pursuant to chapter 624 of NRS but who has failed to open or

maintain an account in good standing and who is performing as a subcontractor to an insured principal contractor shall be deemed to be \$500 per month or \$17 per day for the period of the subcontract unless the contract specifies a wage greater than \$500 per month or \$17 per day for the sole proprietor.

3. For the purposes of determining the premium required to be paid by the principal contractor and disability compensation, the wages of an employee of a sole proprietor who is a subcontractor and has not obtained coverage for his employees must be the actual wages paid, if the payroll records are provided to the private carrier. In the absence of complete payroll records, subsection 3 of NAC 616B.780 applies.

4. The principal contractor is liable for the amount of any premiums payable as a result of the application of subsections 1, 2 and 3. The premium payable must be based on the classifications and rates that would be applicable to the subcontractor and the experience modification factor which would be applicable to the principal contractor.

**616B.792 Coverage of sole proprietor seeking to obtain or fulfill contract with State.**  
**(NRS 616A.400)**

1. A sole proprietor who is not licensed pursuant to chapter 624 of NRS, but who is required by statute to provide industrial insurance for himself to obtain, fulfill or both obtain and fulfill a contract to furnish service to the State, will be provided coverage during the term of the contract at the rate provided in the manual at the deemed wage of \$300 per month.

2. If a sole proprietor who is licensed pursuant to chapter 624 of NRS accepts a state contract, coverage will be provided at the deemed wage of \$500 per month whether or not the license is material to the state contract. Coverage will be provided during the term of the contract

or as long as the sole proprietor is licensed at the rate provided in the manual for licensed sole proprietors.

**616B.795 Coverage of corporate officers. (NRS 616A.400)** A private carrier shall provide coverage to an officer of a corporation if the corporation is required to be insured pursuant to NRS 616B.624 or has elected to be insured pursuant to chapters 616A to 617, inclusive, of NRS, including, without limitation:

1. An officer of a corporation under subchapter S of the Internal Revenue Code, who is regularly employed by the corporation in the State of Nevada, or who is from a nonreciprocating state working temporarily in the State of Nevada, based upon the amounts deemed to be paid to him pursuant to chapters 616A to 617, inclusive, of NRS, or based on the actual amount paid to him as shown on the records of payroll maintained by the corporation, but excluding any dividends paid to him; and

2. An officer of a corporation who may be excluded pursuant to NRS 616A.110, but is required to be insured pursuant to NRS 616B.624, or elects to be insured pursuant to chapters 616A to 617, inclusive, of NRS.

**616B.796 Certain provisions not applicable to coverage of corporate officer. (NRS 616A.110, 616A.400, 616B.624)** The Administrator will not interpret the provisions of NRS 616A.110 as affecting the requirements for the coverage of a corporate officer set forth in NRS 616B.624.

**616B.800 Coverage for excluded employees. (NRS 616A.400, 616B.656)**

1. If an employer elects to cover an employee who is excluded from the benefits of chapters 616A to 617, inclusive, of NRS pursuant to NRS 616A.110 or if the employer subsequently wishes to withdraw such an election, the written statement or notice that the employer is required

to provide pursuant to subsection 2 of NRS 616B.656 to his insurer and the Administrator must be served personally or sent by first-class mail on a completed form entitled D-44, Election of Coverage by Employer and Employer Withdrawal of Election of Coverage, which is prescribed by the Administrator, or, if sent by electronic transmission, the notice must contain the same information as the form. The notice must be provided within 30 days after the effective date of the election or withdrawal. The employer is not required to serve the notice on the Administrator if notice is served on the Administrator by the insurer on behalf of the employer.

2. If an employee that is excluded from the benefits of chapters 616A to 617, inclusive, of NRS pursuant to NRS 616A.110 rejects coverage elected by his employer pursuant to NRS 616B.656 or if the employee subsequently elects to waive such a rejection, the written notice that the employee must provide to his employer, the insurer of his employer and the Administrator pursuant to subsection 3 of NRS 616B.656 must be served personally or sent by first-class mail on a completed form entitled D-43, Employee's Election to Reject Coverage and Election to Waive the Rejection of Coverage for Excluded Persons, which is prescribed by the Administrator, or, if sent by electronic transmission, the notice must contain the same information as the form. The notice must be provided within 30 days after the effective date of the election or rejection. The employee is not required to serve the notice on the Administrator if notice is served on the Administrator by the insurer on behalf of the employee.

**616B.809 Elected coverage for sole proprietors. (NRS 616A.400, 616B.659)**

1. If a sole proprietor elects to purchase industrial insurance pursuant to chapters 616A to 617, inclusive, of NRS or elects to pay an additional amount of premium for additional coverage or subsequently wishes to withdraw an election for coverage, the written notice that the sole proprietor is required to provide to the private carrier and the Administrator pursuant to NRS

616B.659 must be served personally or sent by first-class mail on a completed form entitled D-45, Sole Proprietor Coverage, which is prescribed by the Administrator, or, if sent by electronic transmission, the notice must contain the same information as the form. The notice must be served within 30 days after the effective date of the election or withdrawal and must be accompanied by a report of any physical examinations prescribed by the private carrier. The sole proprietor is not required to serve the notice on the Administrator if notice is served on the Administrator by the private carrier on behalf of the sole proprietor.

2. A sole proprietor for whom coverage is elective pursuant to NRS 616A.220, who meets the qualifications for elective coverage pursuant to that section and who is not otherwise required to maintain coverage pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS, must comply with the requirements set forth in NAC 616B.810.

3. Except as otherwise provided in subsection 4, for the purposes of determining premium and disability compensation, a sole proprietor who applies for coverage pursuant to NRS 616B.659 will be provided coverage at the rate provided in the manual at the deemed wage of \$300 per month or, if additional premiums are received for additional coverage, at the deemed wage of \$1,800 per month. A sole proprietor who:

(a) Files notice with a private carrier, pursuant to NRS 616B.659, of his election to pay for additional coverage; and

(b) Sustains an injury within the 90-day period provided by subsection 6 of NRS 616B.659, ➤ will be provided coverage at the deemed wage of \$300 per month, notwithstanding the election to pay for additional coverage.

4. The private carrier may increase the monthly premium payable pursuant to subsection 3 based on the results of the physical examination prescribed by the private carrier.

**616B.810 Elected coverage for real estate broker, broker-salesman or salesman. (NRS 616A.220, 616A.400)**

1. A person who is licensed pursuant to chapter 645 of NRS as a real estate broker, broker-salesman or salesman and who is not otherwise required to maintain coverage pursuant to chapters 616A to 617, inclusive, of NRS may elect coverage pursuant to NRS 616A.220 by submitting to a private carrier:

- (a) An original application for industrial insurance; or
- (b) A separate election form or a letter signed by the licensee.

2. A licensee who elects coverage pursuant to NRS 616A.220 will be assigned a classification based on his occupation as a licensed real estate broker, broker-salesman or salesman at the deemed wage of \$1,500 per month.

**616B.812 Application for coverage of volunteers. (NRS 616A.400, 616B.656)**

1. An employer who applies for coverage of volunteers must have an active account with a private carrier unless he is a self-insured employer or a member of an association.

2. A self-insured employer or member of an association who has elected to cover volunteers must report that election to the Administrator.

3. An employer's application for coverage of volunteers, whether or not the employer is self-insured, must contain:

- (a) An identification of the formal program which he is sponsoring and which is manned by volunteers.
- (b) The types of work being performed by the volunteers.
- (c) The beginning and, if known, the ending dates of the formal program.
- (d) The average number of volunteers who will be active in the program each month.



- (e) The employer's agreement to maintain, as a part of his official records, a roster of active volunteers and to present the roster for audit by the payroll auditors of the private carrier.
- (f) The location of the roster of active volunteers.
- (g) The name of the person responsible for maintenance of the roster.
- (h) The name and telephone number of a person who may be asked for information regarding the volunteers.
- (i) The person in the employer's organization who is authorized to sign reports of injury when volunteers are involved.

**616B.815 Coverage for volunteers: Effective date; classifications; payroll to be reported. (NRS 616A.400, 616B.656)**

1. Elective coverage of volunteers becomes effective on the date on which the employer's application for such coverage is approved and accepted:

(a) In the case of an employer who is not self-insured or a member of an association, by a private carrier.

(b) In the case of a self-insured employer or a member of an association, by the Administrator.

2. The private carrier shall, in the case of a sponsoring employer insured by it, assign a separate classification from the manual for the employer to use in reporting the payroll and premium of the volunteers.

3. The deemed wage of \$100 is reportable for each volunteer who is on the active roster of the sponsored organization for any part of a month.

**616B.818 Termination of coverage for volunteers. (NRS 616A.400, 616B.656)**

1. The elective coverage of volunteers remains in effect until:

(a) The electing employer, if he is insured by a private carrier, notifies the private carrier, or if he is a self-insured employer or member of an association, notifies the Administrator, that the coverage is to be terminated; or

(b) The Administrator or the private carrier finds that an employer electing coverage has not maintained a current roster of volunteers,

↪ whichever occurs earlier.

2. If the private carrier terminates coverage pursuant to paragraph (b) of subsection 1, the private carrier must do so by the issuance of an endorsement changing the coverage of the electing employer's policy.

3. For an employer who is insured by a private carrier, the premium for any period during which coverage was active but the employer did not maintain a roster must be based on the greater of either the number of volunteers who were declared on the application for coverage, or the largest number of volunteers provided on prior rosters.

**616C.085 Log of claims. (NRS 616A.400)** Each insurer shall maintain a log of claims. The log must contain the following information:

1. The name of the injured employee.
2. The date on which the alleged injury occurred or disease was reported to the employer.
3. A brief description of the alleged accident and injury of occupational disease, including, without limitation, a statement as to the type of any benefits paid.
4. An entry to indicate whether the claim has been denied.

**616C.112 Notice of intention to close claim. (NRS 616A.400, 616C.235)** The notice of intention to close a claim required by subsection 1 of NRS 616C.235 must include:

1. The provisions of subsection 2 of NRS 616C.390; and

2. An offer to the injured employee of an opportunity for him to appeal from the insurer's determination to close the claim.

**616D.335 Order for cessation of business: Compliance. (NRS 616A.400, 616D.110)**

1. The representative of the Administrator who delivers the order of cessation of business shall remain at the place of employment or jobsite to witness that the employer immediately orders all employees and other persons present to leave the place of employment or jobsite and that all operations are terminated.

2. If the representative of the Administrator observes that the terms of the order are not carried out immediately, the representative must contact the nearest law enforcement agency by the most expeditious means and request that the agency render assistance in enforcing the terms of the order.