

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

LCB File No. R076-23

February 21, 2024

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

AUTHORITY: §§ 1, 2, 5-7, 9, 17 and 18, NRS 616A.400; § 3, NRS 616A.400 and 616B.021, as amended by section 3 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3614; § 4, NRS 616A.400, 616B.021, as amended by section 3 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3614, and section 2 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3614; § 8, NRS 616A.400 and 616C.090, as amended by section 10 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3619; §§ 10-14, NRS 616A.400 and 616C.490, as amended by section 17 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3630; § 15, NRS 616A.400 and 616C.140; § 16, NRS 616A.400 and 616D.120, as amended by section 20 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3635.

A REGULATION relating to industrial insurance; revising the names of certain forms used in the administration of claims for workers' compensation; requiring an insurer to submit certain information to the Administrator of the Division of Industrial Relations of the Department of Business and Industry; revising requirements for the maintenance and reproduction of certain files or forms relating to certain insurance claims; setting forth certain requirements concerning the manner in which a rating physician or chiropractic physician is selected to perform certain examinations or evaluations; requiring certain physicians or chiropractic physicians to annually submit to the Administrator a certification indicating certain information; requiring certain employers, insurers and third-party administrators to submit certain information to an electronic database established by the Division; revising certain requirements for a person to qualify for and maintain the designation of a rating physician or chiropractic physician; revising the circumstances under which the Administrator will take certain disciplinary action against a rating physician or chiropractic physician; revising the circumstances under which a rating physician or chiropractic physician may suspend certain examinations; revising the time period in which an insurer or employer must notify an injured employee of the time and place of certain examinations; revising certain provisions relating to the amount and calculation of a benefit penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Administrator of the Division of Industrial Relations of the Department of Business and Industry to regulate forms of notice, claims and other blank forms deemed proper and advisable. (NRS 616A.400) Existing regulations identify by name certain forms and require an insurer, employer, injured employee, provider of health care, organization for managed care or third-party administrator to use those forms in the administration of claims for workers' compensation. (NAC 616A.480) **Section 1** of this regulation revises the names of certain forms.

Before the enactment of Senate Bill No. 274 (S.B. 274) of the 2023 Legislative Session, existing law required a person who acts as a third-party administrator pursuant to the Nevada Industrial Insurance Act or the Nevada Occupational Diseases Act to administer claims arising under each plan of insurance that the person administers from one or more offices located in this State. (NRS 616B.503, as that section existed before January 1, 2024) S.B. 274 removed that requirement and established certain authorizations and requirements concerning the administration of claims arising under the Nevada Industrial Insurance Act or the Nevada Occupational Diseases Act, including, without limitation, authorizing certain persons to administer such claims at a location outside this State, subject to various requirements. (NRS 616B.503, as amended by section 5 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3615; section 2 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3614) **Section 4** of this regulation revises existing regulations which were adopted before the enactment of S.B. 274 and which require claims of injured workers concerning industrial injuries to be administered in this State to instead require such claims to be administered in accordance with the provisions of existing law concerning the administration of claims, as amended by S.B. 274.

Before the enactment of S.B. 274, existing law required certain insurers to maintain an office in this State that is operated by the insurer or its third-party administrator and to provide access to files relating to industrial insurance claims at that office. (NRS 616B.021, as that section existed before January 1, 2024; NRS 616B.027, as that section existed before January 1, 2024) S.B. 274 revised the requirements relating to access to such files to instead: (1) require an insurer to make such files available for inspection and reproduction by electronic means or at an office operated by the insurer or its third-party administrator located in this State; and (2) authorize the insurer to keep physical records concerning a claim filed in this State at a location outside this State if those records are made available for inspection and reproduction in certain electronic forms or an office located in this State. (NRS 616B.021, as amended by section 3 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3614) Existing regulations adopted before the enactment of S.B. 274 require claim files to be maintained at an office located in this State and, for a claim file maintained by an insurer or third-party administrator, available for inspection at an office of the insurer or third-party administrator in this State. (NAC 616B.010, 616B.013) **Sections 3 and 4** of this regulation revise those requirements to instead require claim files maintained by an insurer or third-party administrator to be made available for inspection and reproduction in accordance with the provisions of existing law concerning the availability of claim files, as amended by S.B. 274. **Section 3** additionally revises certain requirements concerning the submission of certain correspondence and documents to an insurer, third-party administrator or organization for managed care.

Existing law authorizes certain persons to select or request that the Administrator select a rating physician or chiropractic physician at random from the list of qualified physicians or

chiropractic physicians maintained by the Administrator to examine or evaluate an injured employee under certain circumstances. (NRS 616C.100, as amended by section 11 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3622, NRS 616C.145, as amended by section 12 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3623, NRS 616C.330, as amended by section 15 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3627, NRS 616C.360, as amended by section 16 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3628, NRS 616C.490, as amended by section 17 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3630) **Section 6** of this regulation sets forth various requirements concerning that selection process. Under **section 6**, a person who wishes to select or request that the Administrator select a rating physician is required to submit to the Administrator a specified form to initiate the selection process. **Section 6** requires the Administrator to then select a rating physician or chiropractic physician at random from the list of qualified physicians or chiropractic physicians designated by the Administrator, subject to certain geographic considerations set forth in **section 7** of this regulation. **Section 6** sets forth certain requirements for providing certain notice relating to the selection of a rating physician or chiropractic physician, including, without limitation, the notice required if the rating physician or chiropractic physician wishes to decline a selection. **Section 12** of this regulation makes failing to provide the required notice concerning the declination of a selection grounds for the taking of certain disciplinary action taken by the Administrator against a rating physician or chiropractic physician. **Section 13** of this regulation revises provisions relating to the selection of a rating physician or chiropractic physician by an insurer to conform to the procedures set forth in **section 6**.

Existing law requires the Administrator to establish, maintain and update a panel of physicians and chiropractic physicians who have demonstrated special competence and interest in industrial health to treat injured employees under the Nevada Industrial Insurance Act or the Nevada Occupational Diseases Act. Existing law also requires the Administrator to remove from being included on the panel as a practitioner of a discipline or specialization any physician or chiropractic physician who does not accept and treat injured employees for industrial injuries or occupational diseases in that discipline or specialization. (NRS 616C.090, as amended by section 10 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3619) **Section 8** of this regulation requires each physician or chiropractic physician appointed to the panel to annually submit to the Administrator a certification that indicates the disciplines or specializations in which the physician or chiropractic physician accepts and treats injured employees for industrial injuries or occupational diseases. **Section 8** authorizes the Administrator to consider a physician or chiropractic physician's submission of the form or failure to submit the form when determining whether to remove the physician or chiropractic physician from inclusion on the panel or reinstate the physician or chiropractic physician to the panel.

Existing law requires the Administrator to publish a report each calendar quarter containing the name of each rating physician or chiropractic physician who conducted certain examinations or evaluations of an injured employee in the immediately preceding calendar quarter. (Section 7 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3616) Existing law requires an insurer to provide certain information to the Administrator, if required for establishing and maintaining the index of claims. (NRS 616B.018) **Section 2** of this regulation provides that, if a rating physician or chiropractic physician has determined the percentage of disability for an injured employee, the name of the rating physician or chiropractic physician and the date on which the determination was made are required to be: (1) included

with any information submitted by the insurer for establishing and maintaining the index of claims; and (2) submitted to the Administrator by the insurer within 30 days after the date on which the determination was made.

Existing law requires an insurer to keep a list of physicians and chiropractic physicians who are included on a panel maintained by the Administrator from which an injured employee may choose to receive treatment. Existing law requires the Administrator to adopt regulations prescribing the form in which such a list created by an employer, insurer or third-party administrator must be maintained. (NRS 616C.087, as amended by section 9 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3617) **Section 9** of this regulation requires an employer, insurer or third-party administrator to submit certain information concerning the physicians or chiropractic physicians on the list to an electronic database established by the Division and sets forth the manner in which some of that information will be used.

Existing law requires the Administrator to maintain a list of qualified rating physicians and chiropractic physicians designated by the Administrator. (NRS 616C.490, as amended by section 17 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3630) Existing regulations establish various requirements for a person to qualify for and maintain the designation of a rating physician or chiropractic physician. (NAC 616C.021) **Section 10** of this regulation revises those requirements. **Section 10** also sets forth certain exceptions from certain requirements for qualification and specifies the types of rating evaluations for a permanent partial disability that certain rating physicians or chiropractic physicians are authorized to perform. **Sections 11 and 18** of this regulation eliminate those exceptions and specifications effective July 1, 2026.

Existing regulations prohibit a rating physician or chiropractic physician from rating the disability of an injured employee if the rating physician or chiropractic physician has engaged in certain activities with respect to the injured employee. (NAC 616C.021) **Section 10** revises the circumstances under which a rating physician or chiropractic physician is prohibited from rating the disability of an injured employee.

Existing regulations authorize an injured employee, employer, insurer or third-party administrator to have his or her attorney or other representative present during a rating evaluation for a permanent partial disability if permitted by the rating physician or chiropractic physician. Existing regulations also authorize the rating physician or chiropractic physician to request that the attorney or representative leave the examination room or terminate the examination: (1) if the attorney or representative disrupts the examination; or (2) to protect the privacy of the injured employee. (NAC 616C.109) **Section 14** of this regulation instead authorizes the rating physician or chiropractic physician to suspend the examination if the attorney or representative disrupts or attempts to participate in the examination.

Existing regulations require an insurer or employer who requests that an injured employee who has filed a claim for compensation submit to a medical examination to notify the injured employee in writing of the time and place of the medical examination within a certain period of time. (NAC 616C.1162) **Section 15** of this regulation revises that period of time.

Existing law requires the Administrator under certain circumstances to order an insurer, organization for managed care, health care provider, third-party administrator, employer or professional employer organization to pay a claimant a benefit penalty for refusing to process a claim for compensation or committing certain other violations of the Nevada Industrial Insurance Act or the Nevada Occupational Diseases Act. (NRS 616D.120, as amended by section 20 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3635) S.B. 274 increased the

minimum amount of such a benefit penalty from \$5,000 to \$17,000 and the maximum amount of such a benefit penalty from \$50,000 to \$120,000 with respect to claims which are filed on or after January 1, 2024. (Sections 20 and 23 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at pages 3635 and 3640, respectively) **Section 16** of this regulation revises existing regulations which set forth the method by which the Administrator will determine the amount of a benefit penalty to reflect the minimum and maximum amount of such a penalty as set forth under existing law, as amended by S.B. 274. **Section 17** of this regulation specifies that such amounts are applicable only with respect to claims which are filed on or after January 1, 2024. **Section 16** additionally defines the term “claim” for the purposes of existing regulations which set forth the method by which the Administrator will determine the amount of a benefit penalty.

Section 1. 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 Rights and Benefits.

(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 or she 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 health care provider who conducted the initial examination of the injured employee must be retained by that health care provider. If the health care provider who conducted the initial examination files the form by electronic transmission, the health care provider 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 health care provider that is:

(I) Unique to the health care provider;

(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 or she will maintain the original form for the claim for compensation for 3 years.

↪ If the health care provider who conducted the initial examination moves from or ceases treating patients in this State, the health care provider 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. As used in this paragraph, "health care provider" means a physician, chiropractic physician, physician assistant or advanced practice registered nurse.

(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-9a, Permanent Partial Disability Award Calculation Work Sheet.
- (k) D-9b, Permanent Partial Disability Award Calculation Work Sheet for Disability Over 30

Percent Body Basis.

- (l) D-9c, Permanent Work-Related Mental Impairment Rating Report Work Sheet.
- (m) D-10a, Election of Lump Sum Payment of Compensation.
- (n) D-10b, Election of Lump Sum Payment of Compensation for Disability Greater than 30

Percent.

- (o) D-11, Reaffirmation/Retraction of Lump Sum Request.
- (p) D-12a, Request for Hearing - Contested Claim.
- (q) D-12b, Request for Hearing - Uninsured Employer.
- (r) D-13, Injured Employee's Right to Reopen a Claim Which Has Been Closed.
- (s) D-14, Permanent Total Disability Report of Employment.
- (t) D-15, Election for Nevada Workers' Compensation Coverage for Out-of-State Injury.
- (u) D-16, Notice of Election for Compensation Benefits Under the Uninsured Employer

Statutes.

- (v) D-17, Employee's Claim for Compensation - Uninsured Employer.
- (w) D-18, Assignment to Division for Workers' Compensation Benefits.
- (x) D-21, Fatality Report.
- (y) D-22, Notice to Employees - Tip Information.
- (z) D-23, Employee's Declaration of Election to Report Tips.

- (aa) D-24, Request for Reimbursement of Expenses for Travel and Lost Wages.
- (bb) D-25, Affirmation of Compliance with Mandatory Industrial Insurance Requirements.
- (cc) D-26, Application for Reimbursement of Claim-Related Travel Expenses.
- (dd) D-27, Interest Calculation for Compensation Due.
- (ee) D-28, Rehabilitation Lump Sum Request.
- (ff) D-29, Lump Sum Rehabilitation Agreement.
- (gg) D-30, Notice of Claim Acceptance.
- (hh) D-31, Notice of Intention to Close Claim.
- (ii) D-32, Authorization Request for Additional Chiropractic Treatment.
- (jj) D-33, Authorization Request for Additional Physical Therapy Treatment.
- (kk) D-34, Health Insurance Claim Form (CMS 1500 Billing Form).
- (ll) D-35, Request for ~~{a-Rotating}~~ *Assignment of Rating* Physician or ~~{Chiropractor}~~

Chiropractic Physician.

- (mm) D-36, Request for Additional Medical Information and Medical Release.
- (nn) D-37, Insurer's Subsequent Injury Checklist.
- (oo) D-38, Index of Claims System - Claim Registration.
- (pp) D-39, Physician's and ~~{Chiropractor's}~~ *Chiropractic Physician's* Progress Report - Certification of Disability.
- (qq) D-43, Employee's Election to Reject Coverage and Election to Waive the Rejection of Coverage for Excluded Persons.
- (rr) D-44, Election of Coverage by Employer; Employer Withdrawal of Election of Coverage.
- (ss) D-45, Sole Proprietor Coverage.

(tt) D-46, Temporary Partial Disability Calculation Worksheet.

(uu) D-52, CMS (UB-92).

(vv) D-53, Alternative Choice of Physician or ~~{Chiropractor.}~~ *Chiropractic Physician*.

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, Firefighters and Police Officers Medical History Form.

(b) OD-2, Firefighters and Police Officers Lung Examination Form.

(c) OD-3, Firefighters and Police Officers Extensive Heart Examination Form.

(d) OD-4, Firefighters and Police Officers Limited Heart Examination Form.

(e) OD-5, Firefighters and Police Officers Hearing Examination Form.

(f) OD-6, Sample Letter.

(g) OD-7, Important Information Regarding Physical Examinations for Police Officers and Firefighters.

(h) OD-8, Occupational Disease Claim 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 Workers' Compensation Section will post the following forms on its Internet website:

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

(b) D-12b, 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 to Division for Workers' Compensation Benefits.

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

If a rating physician or chiropractic physician has determined the percentage of disability for an injured employee, the name of the rating physician or chiropractic physician and the date on which the physician or chiropractic physician made the determination must be:

1. Included with any information submitted by the insurer to the Administrator pursuant to subsection 2 of NRS 616B.018; and

2. Submitted to the Administrator by the insurer within 30 days after the date on which the rating physician or chiropractic physician made the determination.

Sec. 3. NAC 616B.010 is hereby amended to read as follows:

616B.010 1. Except as otherwise provided in subsection 2 and NAC 616B.013, copies of all claim files maintained by ~~{an insurer, third-party administrator or}~~ :

(a) An 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.

(b) An insurer or third-party administrator pursuant to chapters 616A to 617, inclusive, of NRS or regulations adopted pursuant thereto must be made available for inspection and reproduction in accordance with NRS 616B.021, as amended by section 3 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3614.

2. Any Form C-4, Employee's Claim for Compensation/Report of Initial Treatment, *and all other correspondence and other documents* submitted to an insurer, third-party administrator or organization for managed care that concerns a claim for compensation which is being administered pursuant to chapters 616A to 617, inclusive, of NRS or any regulations adopted pursuant thereto must be ~~{addressed}~~ *mailed to the address of* the insurer, third-party administrator or organization for managed care at one of its offices ~~{located in this State. All other correspondence and other documents submitted}~~ *or provided by electronic means* to ~~{an}~~ *the* 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 or to a facility located outside this State for the sole purpose of electronic scanning of the correspondence and documents to the claim file.}~~ All correspondence and documents shall be deemed to be officially received only if they have been so ~~{addressed.}~~ *mailed or provided by electronic means.*

Sec. 4. NAC 616B.013 is hereby amended to read as follows:

616B.013 1. An insurer or third-party administrator shall ensure that each file of any claim of an injured worker concerning an industrial injury which is filed in accordance with chapters 616A to 617, inclusive, of NRS or a regulation adopted pursuant thereto is available for inspection during regular business hours by:

- (a) The injured worker;
- (b) The attorney or other authorized representative of the injured worker;
- (c) The Commissioner or a designee thereof; or
- (d) The Administrator.

2. All files of the claims of injured workers concerning industrial injuries *administered by a person described in section 2 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3614*, must be administered in ~~this State~~ *accordance with that section* and be *made* available for inspection ~~at an office of the insurer or third-party administrator~~ *and reproduction* in ~~this State~~ *accordance with NRS 616B.021, as amended by section 3 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3614.*

3. After reviewing the file of a claim, the Commissioner or Administrator will report his or her findings to the insurer.

Sec. 5. Chapter 616C of NAC is hereby amended by adding thereto the provisions set forth as sections 6 to 9, inclusive, of this regulation.

Sec. 6. 1. *A person who, pursuant to NRS 616C.100, as amended by section 11 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3622, NRS 616C.145, as amended by section 12 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3623, NRS 616C.330, as amended by section 15 of Senate Bill No. 274, chapter 535, Statutes*

of Nevada 2023, at page 3627, NRS 616C.360, as amended by section 16 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3628, or NRS 616C.490, as amended by section 17 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3630, wishes to select or request that the Administrator select a rating physician or chiropractic physician at random from the list of qualified physicians or chiropractic physicians designated by the Administrator pursuant to subsection 2 of NRS 616C.490 shall submit to the Administrator a completed copy of the form designated in NAC 616A.480 as Form D-35, Request for Assignment of Rating Physician or Chiropractic Physician.

2. Upon receipt of a completed Form D-35 submitted pursuant to subsection 1, the Administrator shall assign a rating physician or chiropractic physician to examine or evaluate the injured employee by:

(a) Selecting at random, and in accordance with the requirements of section 7 of this regulation, a rating physician or chiropractic physician from the list of qualified physicians or chiropractic physicians designated by the Administrator pursuant to subsection 2 of NRS 616C.490, as amended by section 17 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3630; and

(b) Notifying by electronic means the rating physician or chiropractic physician selected and the person who submitted the completed Form D-35 of the selection.

3. If the rating physician or chiropractic physician selected pursuant to subsection 2 wishes to decline the selection, the rating physician or chiropractic physician must, not later than 2 business days after receipt of a notification made pursuant to subsection 2, notify the person who submitted the completed Form D-35 pursuant to subsection 1 and the Administrator of the declination.

4. If a rating physician or chiropractic physician selected pursuant to subsection 2 declines the selection, the Administrator shall assign another rating physician or chiropractic physician to examine or evaluate the injured employee in accordance with subsection 2, unless the person who submitted the completed Form D-35 pursuant to subsection 1, not more than 5 business days after receipt of a notification made pursuant to subsection 3, submits to the Administrator another completed copy of Form D-35 which identifies a rating physician or chiropractic physician whom the injured employer and the insurer have agreed upon.

Sec. 7. 1. In assigning a rating physician or chiropractic physician to examine or evaluate an injured employee pursuant to section 6 of this regulation, the Administrator shall select at random a rating physician or chiropractic physician whose practice is located in:

(a) The southern Nevada region if the injured employee resides in the southern Nevada region.

(b) The northern Nevada region if the injured employee resides in the northern Nevada region.

(c) The northern Nevada region or the rural Nevada region if the injured employee resides in the rural Nevada region.

2. For the purposes of this section:

(a) The southern Nevada region consists of Clark, Lincoln, Nye and Esmerelda Counties.

(b) The northern Nevada region consists of Carson City and Lyon, Churchill, Storey, Douglas, Mineral and Washoe Counties.

(c) The rural Nevada region consists of Pershing, Humboldt, Elko, Lander, Eureka and White Pine Counties.

Sec. 8. 1. *Each physician or chiropractic physician appointed to the panel of physicians and chiropractic physicians shall, on or before June 1 of each year, submit to the Administrator, on a form prescribed by the Administrator, a certification indicating each discipline or specialization in which the physician or chiropractic physician accepts and treats injured employees for industrial injuries or occupational diseases.*

2. *The Administrator may consider whether a physician or chiropractic physician has submitted or failed to submit the certification pursuant to the requirements of subsection 1 in determining whether:*

(a) *To remove the physician or chiropractic physician from being included on the panel of physicians and chiropractic physicians as a practitioner of a discipline or specialization pursuant to NRS 616C.090, as amended by section 10 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3619; and*

(b) *To reinstate the physician or chiropractic physician on the panel of physicians and chiropractic physicians as a practitioner of a discipline or specialization pursuant to NRS 616C.090, as amended by section 10 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3619.*

Sec. 9. 1. *Each employer, insurer or third-party administrator that creates a list of physicians and chiropractic physicians pursuant to NRS 616C.087 shall, on or before October 1 of each year, submit to an electronic database established by the Division the following information:*

(a) *The name of the employer, insurer or third-party administrator;*

(b) *The identification number assigned to the employer, insurer or third-party administrator by the Administrator;*

(c) The first name, last name and middle initial of each physician or chiropractic physician included on the list;

(d) The type of license held by each physician or chiropractic physician, including a license to practice medicine, osteopathic medicine or chiropractic; and

(e) The date on which the employer, insurer or third-party administrator submits the information required to be submitted pursuant to this subsection.

2. The Administrator will use the information provided pursuant to subsection 1 to verify that the physicians and chiropractic physicians on the panel of physicians and chiropractic physicians accept and treat injured employees for industrial injuries or occupational diseases in their applicable disciplines or specializations.

3. The electronic database established by the Division pursuant to subsection 1 will include, without limitation, a function to allow insurers to sort physicians and chiropractic physicians by the part of the body which each physician or chiropractic physician treats.

NEW FIRST
PARALLEL
SECTION

Sec. 10. NAC 616C.021 is hereby amended to read as follows:

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

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

(a) Possess the qualifications required of a physician or chiropractic physician who is appointed to the panel of physicians and chiropractic physicians 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) ~~Three~~ 3 years 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 chiropractic physician on a case-by-case basis.]~~

(2) ~~[Except as otherwise provided in subsection 3, successfully]~~ **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,]~~ **subsections 7 and 8**, 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.

(4) Except as otherwise provided in subsection 5, successfully completing a course approved by the Administrator on Form D-9c, Permanent Work-Related Mental Impairment Rating Report Work Sheet.

(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), (3) and (4) of paragraph (b) of subsection 2 and authorize an ophthalmologist to evaluate injured employees with impaired vision or a psychiatrist to evaluate injured employees with impaired brain function or mental or behavioral disorders according to his or her area of specialization.~~

~~—4.}~~ In order to maintain designation as a rating physician or chiropractic physician, the physician or chiropractic physician must:

(a) ~~{Except as otherwise provided in subsection 5, perform}~~ **Perform** ratings evaluations of permanent partial disabilities when selected pursuant to NRS 616C.490, *as amended by section 17 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3630*, except ~~{disabilities related to an employee's vision or brain function resulting from an industrial accident or occupational disease.}~~ *for any rating evaluation that the selected rating physician or chiropractic physician declines. The rating physician or chiropractic physician is responsible for performing each rating evaluation for which he or she is selected and does not decline but may reference, as part of the rating evaluation, a specialized test performed by another health care provider which was performed after the injured employee has been determined to be stable and ratable. Except for a rating evaluation that is performed posthumously or to apportion a rating in accordance with NRS 616C.099, solely reviewing health care records does not constitute performance of a rating evaluation of a permanent partial disability.*

(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 ~~+~~ *unless:*

- (1) The selected rating physician or chiropractic physician declines the selection; or*
- (2) The insurer or third-party administrator agrees with the injured employee or his or her representative to extend the period in which the physician or chiropractic physician must schedule and perform the rating evaluation pursuant to this paragraph.*

(c) Except as otherwise provided in this paragraph , ~~and subsection 5,~~ serve without compensation for a period of 1 year on the panel to review ratings evaluations established pursuant to NAC 616C.023 upon the request of the Administrator. With the approval of the Administrator, a physician or chiropractic physician may serve without compensation on the panel for an additional period of 1 year.

(d) ~~Except as otherwise provided in subsection 5 and after~~ *After* the date of designation as a rating physician or chiropractic physician, successfully complete biennially a course *for continuing education* that is approved by the Administrator on rating disabilities, in accordance with the ~~American Medical Association's~~ *Guide*.

~~{(e) Except as otherwise provided in subsection 5, if the physician or chiropractic physician 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 to continue to evaluate injured employees with impaired vision or the psychiatrist to continue to evaluate injured employees with impaired brain function or mental or behavioral disorders according to his or her area of specialization.~~

~~—6.— A rating evaluation of a permanent partial disability may be performed by a chiropractic physician only if the injured employee’s injury and treatment are related to his or her neuromusculoskeletal system.~~

~~—7.— A}~~

4. A rating physician, including, without limitation, a rating physician who is an ophthalmologist or psychiatrist, or chiropractic physician who has passed the “MD” version of the Nevada Impairment Rating Skills Assessment Test required by subparagraph (3) of paragraph (b) of subsection 2 with a score of 75 percent or higher and who has successfully completed a course on Form D-9c required by subparagraph (4) of paragraph (b) of subsection 2 may perform a rating evaluation of a permanent partial disability involving any type of injury or disorder. Such a rating evaluation must be performed in accordance with the requirements of the Guide or Form D-9c, as applicable.

5. A physician who has passed the “MD” version of the Nevada Impairment Rating Skills Assessment Test required by subparagraph (3) of paragraph (b) of subsection 2 with a score of 75 percent or higher may qualify for designation as a rating physician without successfully completing a course on Form D-9c required by subparagraph (4) of paragraph (b) of

subsection 2. A rating physician who has passed the “MD” version of the Nevada Impairment Rating Skills Assessment Test required by subparagraph (3) of paragraph (b) of subsection 2 with a score of 75 percent or higher but who has not successfully completed a course on Form D-9c required by subparagraph (4) of paragraph (b) of subsection 2 may perform a rating evaluation of a permanent partial disability involving any type of injury or disorder, except for an injury or disorder rated using Form D-9c. Such a rating evaluation must be performed in accordance with the requirements of the Guide.

6. A rating physician or chiropractic physician who has passed only the “DC” version of the Nevada Impairment Rating Skills Assessment Test required by subparagraph (3) of paragraph (b) of subsection 2 with a score of 75 percent or higher may only perform a rating evaluation of a permanent partial disability involving an injury or disorder rated using chapter 1, 2, 13, 15, 16 or 17 of the Guide. Such a rating evaluation must be performed in accordance with the requirements of the applicable chapter of the Guide.

7. An ophthalmologist may qualify for designation as a rating physician without passing the Nevada Impairment Rating Skills Assessment Test required by subparagraph (3) of paragraph (b) of subsection 2 with a score of 75 percent or higher. A rating physician who is an ophthalmologist and who has not passed the Nevada Impairment Rating Skills Assessment Test required by subparagraph (3) of paragraph (b) of subsection 2 with a score of 75 percent or higher may only perform a rating evaluation of a permanent partial disability involving an injury or disorder of the visual system. Such a rating evaluation must be performed in accordance with the requirements of the Guide.

8. A psychiatrist may qualify for designation as a rating physician without passing the Nevada Impairment Rating Skills Assessment Test required by subparagraph (3) of paragraph

(b) of subsection 2 with a score of 75 percent or higher. A rating physician who is a psychiatrist, who has successfully completed a course on Form D-9c required by subparagraph (4) of paragraph (b) of subsection 2 and who has not passed the Nevada Impairment Rating Skills Assessment Test required by subparagraph (3) of paragraph (b) of subsection 2 with a score of 75 percent or higher may only perform a rating evaluation of a permanent partial disability involving a mental impairment that is rated using Form D-9c. Such a rating evaluation must be performed in accordance with the requirements of Form D-9c.

9. *Except as otherwise provided in subsection 10, a rating physician or chiropractic physician may not rate the disability of an injured employee if the physician or chiropractic physician 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 **for any purpose relating to his or her claim for workers' compensation** and has made recommendations regarding the likelihood of the injured employee's ratable impairment.*

10. *A rating physician or chiropractic physician who has previously performed one or more rating evaluations for a permanent partial disability for an injured employee but who has not otherwise engaged in the activities described in subsection 9 with respect to the injured employee may rate the disability of the injured employee, unless the disability is being rated at the request of the injured employee to obtain a second determination of the percentage of disability pursuant to NRS 616C.100 or 616C.145, as amended by section 12 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3623.*

~~18.1~~ **11.** A rating evaluation of a permanent partial disability performed by a rating physician or chiropractic physician is subject to review by the Administrator pursuant to the provisions of NAC 616C.023.

Sec. 11. NAC 616C.021 is hereby amended to read as follows:

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

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

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

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

(1) Completing 3 years or more of experience concerning industrial health in private practice.

(2) Successfully completing a course on rating disabilities, in accordance with the *Guide*, that is approved by the Administrator.

(3) ~~Except as otherwise provided in subsections 7 and 8, passing~~ **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.

(4) ~~Except as otherwise provided in subsection 5, successfully~~ **Successfully** completing a course approved by the Administrator on Form D-9c, Permanent Work-Related Mental Impairment Rating Report Work Sheet.

(c) Demonstrate an understanding of:

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

(2) The *Guide*.

3. In order to maintain designation as a rating physician or chiropractic physician, the physician or chiropractic physician must:

(a) Perform ratings evaluations of permanent partial disabilities when selected pursuant to NRS 616C.490, as amended by section 17 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3630, except for any rating evaluation that the selected rating physician or chiropractic physician declines. The rating physician or chiropractic physician is responsible for performing each rating evaluation for which he or she is selected and does not decline but may reference, as part of the rating evaluation, a specialized test performed by another health care provider which was performed after the injured employee has been determined to be stable and ratable. Except for a rating evaluation that is performed posthumously or to apportion a rating in accordance with NRS 616C.099, solely reviewing health care records does not constitute performance of a rating evaluation of a permanent partial disability.

(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, unless:

(1) The selected rating physician or chiropractic physician declines the selection; or

(2) The insurer or third-party administrator agrees with the injured employee or his or her representative to extend the period in which the physician or chiropractic physician must schedule and perform the rating evaluation pursuant to this paragraph.

(c) Except as otherwise provided in this paragraph, serve without compensation for a period of 1 year on the panel to review ratings evaluations established pursuant to NAC 616C.023 upon the request of the Administrator. With the approval of the Administrator, a physician or chiropractic physician may serve without compensation on the panel for an additional period of 1 year.

(d) After the date of designation as a rating physician or chiropractic physician, successfully complete biennially a course for continuing education that is approved by the Administrator on rating disabilities, in accordance with the *Guide*.

4. ~~{A rating physician, including, without limitation, a rating physician who is an ophthalmologist or psychiatrist, or chiropractic physician who has passed the “MD” version of the Nevada Impairment Rating Skills Assessment Test required by subparagraph (3) of paragraph (b) of subsection 2 with a score of 75 percent or higher and who has successfully completed a course on Form D-9c required by subparagraph (4) of paragraph (b) of subsection 2 may perform a rating evaluation of a permanent partial disability involving any type of injury or disorder. Such a rating evaluation must be performed in accordance with the requirements of the *Guide* or Form D-9c, as applicable.~~

~~—5.—A physician who has passed the “MD” version of the Nevada Impairment Rating Skills Assessment Test required by subparagraph (3) of paragraph (b) of subsection 2 with a score of 75 percent or higher may qualify for designation as a rating physician without successfully completing a course on Form D-9c required by subparagraph (4) of paragraph (b) of subsection 2. A rating physician who has passed the “MD” version of the Nevada Impairment Rating Skills Assessment Test required by subparagraph (3) of paragraph (b) of subsection 2 with a score of 75 percent or higher but who has not successfully completed a course on Form D-9c required by~~

~~subparagraph (4) of paragraph (b) of subsection 2 may perform a rating evaluation of a permanent partial disability involving any type of injury or disorder, except for an injury or disorder rated using Form D-9c. Such a rating evaluation must be performed in accordance with the requirements of the *Guide*.~~

~~—6.— A rating physician or chiropractic physician who has passed only the “DC” version of the Nevada Impairment Rating Skills Assessment Test required by subparagraph (3) of paragraph (b) of subsection 2 with a score of 75 percent or higher may only perform a rating evaluation of a permanent partial disability involving an injury or disorder rated using chapter 1, 2, 13, 15, 16 or 17 of the *Guide*. Such a rating evaluation must be performed in accordance with the requirements of the applicable chapter of the *Guide*.~~

~~—7.— An ophthalmologist may qualify for designation as a rating physician without passing the Nevada Impairment Rating Skills Assessment Test required by subparagraph (3) of paragraph (b) of subsection 2 with a score of 75 percent or higher. A rating physician who is an ophthalmologist and who has not passed the Nevada Impairment Rating Skills Assessment Test required by subparagraph (3) of paragraph (b) of subsection 2 with a score of 75 percent or higher may only perform a rating evaluation of a permanent partial disability involving an injury or disorder of the visual system. Such a rating evaluation must be performed in accordance with the requirements of the *Guide*.~~

~~—8.— A psychiatrist may qualify for designation as a rating physician without passing the Nevada Impairment Rating Skills Assessment Test required by subparagraph (3) of paragraph (b) of subsection 2 with a score of 75 percent or higher. A rating physician who is a psychiatrist, who has successfully completed a course on Form D-9c required by subparagraph (4) of paragraph (b) of subsection 2 and who has not passed the Nevada Impairment Rating Skills~~

~~Assessment Test required by subparagraph (3) of paragraph (b) of subsection 2 with a score of 75 percent or higher may only perform a rating evaluation of a permanent partial disability involving a mental impairment that is rated using Form D-9e. Such a rating evaluation must be performed in accordance with the requirements of Form D-9e.~~

~~9.]~~ Except as otherwise provided in subsection ~~H0.]~~ 5, a rating physician or chiropractic physician may not rate the disability of an injured employee if the physician or chiropractic physician has:

- (a) Previously examined or treated the injured employee; or
- (b) Reviewed the health care records of the injured employee for any purpose relating to his or her claim for workers' compensation and has made recommendations regarding the likelihood of the injured employee's ratable impairment.

~~H0.]~~ 5. A rating physician or chiropractic physician who has previously performed one or more rating evaluations for a permanent partial disability for an injured employee but who has not otherwise engaged in the activities described in subsection ~~H9.]~~ 4 with respect to the injured employee may rate the disability of the injured employee, unless the disability is being rated at the request of the injured employee to obtain a second determination of the percentage of disability pursuant to NRS 616C.100 or 616C.145, as amended by section 12 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3623.

~~H1.]~~ 6. A rating evaluation of a permanent partial disability performed by a rating physician or chiropractic physician is subject to review by the Administrator pursuant to the provisions of NAC 616C.023.

Sec. 12. NAC 616C.024 is hereby amended to read as follows:

616C.024 1. The Administrator will issue a warning to any physician or chiropractic physician on the list of rating physicians and chiropractic physicians designated pursuant to NRS 616C.490, or suspend or remove any physician or chiropractic physician from the list if the physician or chiropractic physician:

(a) Fails to correct errors in subsequent ratings evaluations after receiving three or more written responses from the panel established by the Administrator pursuant to NAC 616C.023 which address the same or similar errors identified in ratings performed by the physician or chiropractic physician;

(b) Violates any provision of NAC 616C.006 or commits two or more violations of any of the provisions of chapters 616A to 617, inclusive, of NRS or any other regulations adopted pursuant thereto;

(c) Is the subject of any disciplinary action that resulted in the suspension or revocation of his or her license or the limitation of his or her practice by the applicable licensing authority;

(d) Is determined by the Administrator to have engaged in any action detrimental to an injured employee, an employer, an insurer or the program of industrial insurance;

(e) Refuses to serve as a member of the panel to review ratings evaluations established pursuant to NAC 616C.023 or serves as a member of the panel but does not attend the meetings of the panel; ~~for~~

(f) Fails to perform ratings evaluations ~~when selected~~ pursuant to NRS 616C.490 or schedules and fails to perform ratings evaluations in accordance with that section ~~H~~; *or*

(g) Fails to notify the Administrator and the person who submitted a completed copy of Form D-35, Request for Assignment of Rating Physician or Chiropractic Physician, to the

Administrator of the decision of the physician or chiropractic physician to decline his or her selection pursuant to section 6 of this regulation within the time required by that section.

2. If the Administrator intends to suspend or remove a physician or chiropractic physician from the list of rating physicians and chiropractic physicians, the Administrator will cause written notice of the suspension or removal to be delivered by certified mail to the physician or chiropractic physician affected. The physician or chiropractic physician may appeal the determination of the Administrator by filing a written notice of appeal with the Administrator within 10 days after the notice of suspension or removal is received. If a notice of appeal is filed in the manner provided by this subsection, the Administrator will conduct a hearing on the matter and issue a decision in writing affirming or reversing the determination.

3. Except as otherwise provided in this subsection, the suspension or removal of a physician or chiropractic physician from the list of rating physicians and chiropractic physicians becomes final and effective upon the expiration of the time permitted by subsection 2 for the filing of a notice of appeal. If a notice of appeal is filed in the manner provided by subsection 2, the suspension or removal is final and effective upon the issuance of a decision affirming the determination of the Administrator. The issuance of such a decision is a final decision for the purposes of judicial review.

Sec. 13. 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 chiropractic physician 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 chiropractic physician 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;

(2) Resulted in a loss of or abnormality to a physiological or anatomical structure or bodily function of the injured employee; or

(3) Resulted in a mental or behavioral disorder as the result of a claim that has been accepted pursuant to NRS 616C.180.

2. If an insurer proposes that an injured employee agree to a rating physician or chiropractic physician 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 chiropractic physician; and

(b) May request that the rating physician or chiropractic physician be selected in accordance with subsection 3 and NRS 616C.490, as amended by section 17 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3630.

3. An insurer shall comply with subsection 2 of NRS 616C.490, as amended by section 17 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3630, within the time prescribed in that subsection for the scheduling of an appointment, by:

(a) ~~Requesting~~ **Selecting** a **rating** physician or chiropractic physician ~~from the list of qualified rating physicians and chiropractic physicians designated by the Administrator to~~ **in accordance with the procedures for the random selection of a rating physician or chiropractic**

physician set forth in section 6 of this regulation and requesting that the selected rating physician or chiropractic physician 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 chiropractic physician pursuant to subsection 2 of NRS 616C.490, as amended by section 17 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3630, by submitting a completed form designated in NAC 616A.480 as D-35, Request for ~~{a Rotating}~~ *Assignment of Rating Physician or {Chiropractor,} Chiropractic Physician, which identifies the rating physician or chiropractic physician* to the ~~{Workers' Compensation Section}~~ *Administrator* within 30 days after the insurer has received the statement from a physician or chiropractic physician that the injured employee is ratable and stable; and

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

4. At least 3 working days before a rating evaluation, the party that requested the rating evaluation must provide to the assigned rating physician or chiropractic physician:

(a) All reports or other written information concerning the injured employee's claim produced by a physician, chiropractic physician, hospital or other provider of health care, including the statement from the treating physician or chiropractic physician 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;

(b) 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;

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

(d) The form designated in NAC 616A.480 as D-35, Request for ~~{a Rotating}~~ *Assignment of Rating* Physician or ~~{Chiropractor;}~~ *Chiropractic Physician;* and

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

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

6. Except as otherwise provided in subsection ~~{6;}~~ 7, if the rating physician or chiropractic physician 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 or she 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 the later of the date on which the insurer offers the award or the date on which it receives the properly executed lump-sum award papers from the injured employee or his or her representative.

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 and pay 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 the injured employee; and

(c) Notify the injured employee of the specific reasons for the disagreement and 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 the injured employee before accepting an award for a permanent partial disability.

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

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

(b) D-10b, Election of Lump Sum Payment of Compensation for Disability Greater than 30 Percent.

(c) D-11, Reaffirmation/Retraction of Lump Sum Request.

Sec. 14. NAC 616C.109 is hereby amended to read as follows:

616C.109 1. If an injured employee, employer, insurer or third-party administrator is permitted by the rating physician or chiropractic physician to have his or her attorney or other representative present during a rating evaluation for a permanent partial disability, that party shall, in writing and at least 5 working days before the evaluation, notify each of the other persons described and the attorney or other representative of those persons of the intent to have his or her attorney or other representative attend the evaluation. The rating physician or chiropractic physician may ~~request an attorney or representative to leave the examination room or may terminate~~ *suspend* the examination ~~:~~

~~—(a) If~~ *if* the attorney or representative disrupts *or attempts to participate in* the examination .
~~;~~ *or*

~~—(b) To protect the privacy of the injured employee.~~

2. Nothing in this section shall be deemed to limit the right conferred by subsection 4 of NRS 616C.140.

Sec. 15. NAC 616C.1162 is hereby amended to read as follows:

616C.1162 1. If an insurer or employer requests that an injured employee who has filed a claim for compensation submit to a medical examination pursuant to NRS 616C.140, the insurer or employer shall notify the injured employee, in writing, of the time and place of the medical examination ~~†~~:

~~—(a) At~~ *at* least ~~[10]~~ *21* days before the date of the medical examination, ~~if the employee resides within the state in which the medical examination will be conducted; or~~

~~—(b) At least 15 days before the date of the medical examination, if~~ *unless* the ~~employee resides outside of~~ *parties agree that* the ~~[state in which]~~ *insurer or employer will notify* the ~~[medical examination will be conducted.]~~ *injured employee on a specific date which is less than 21 days before the date of the medical examination.*

2. An insurer that requests an injured employee to submit to a medical examination pursuant to NRS 616C.140 shall provide a copy of the written notification required pursuant to subsection 1 to the employer of the injured employee at the same time at which written notification is provided to the injured employee.

3. An employer that requests an injured employee to submit to a medical examination pursuant to NRS 616C.140 shall provide a copy of the written notification required pursuant to subsection 1 to the insurer of the employer at the same time at which written notification is provided to the injured employee.

Sec. 16. 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, *as amended by section 20 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3635*, the Administrator will determine that the violation caused physical or economic harm to the injured employee or his or her dependents if 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 , *as amended by section 20 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3635*, according to the following schedule. In addition to the required minimum benefit penalty of ~~+\$5,000,+~~ **\$17,000**, a claimant will be awarded ~~+\$2,250+~~ **\$8,500** for each point assessed, but in no event will the amount of the benefit penalty be greater than ~~+\$50,000,+~~ **\$120,000**.

Points assessed for physical harm:

Temporary minor harm	2 points
Temporary major harm.....	5 points
Permanent minor harm	5 points
Permanent major harm	15 points
Death	25 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:

Average number of claims handled in the past 3 years of 4,000 or more

Five or less prior violations	0 points
Six prior violations	1 point
Seven prior violations.....	2 points
Eight prior violations.....	4 points
Nine or more prior violations	6 points

Average number of claims handled in the past 3 years of less than 4,000 but more than 1,500

Three or less prior violations.....	0 points
Four prior violations.....	1 point
Five prior violations.....	2 points
Six prior violations.....	4 points
Seven or more prior violations.....	6 points

Average number of claims handled in the past 3 years of 1,500 or less

One prior violation.....	0 points
Two prior violations.....	1 point
Three prior violations.....	2 points
Four prior violations.....	4 points
Five or more prior violations.....	6 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, employer or employee leasing company, the Administrator will:

(a) Consider only those fines and benefit penalties imposed pursuant to paragraphs (a) to (e), inclusive, (h) and (i) of subsection 1 of NRS 616D.120 using the 3 most recent complete years of available data.

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

5. To determine the average number of claims handled in the past 3 years, the Administrator will consider the 3 most recent complete years of available data.

6. As used in this section:

(a) *“Claim” means a claim for compensation for which a Form C-4, Employee’s Claim for Compensation/Report of Initial Treatment, has been submitted to the employer of an injured employee and the insurer or third-party administrator of the employer pursuant to NAC 616C.080.*

(b) “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)~~ (c) "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.

~~(e)~~ (d) "Number of claims handled" means the total number of claims accepted, denied or reopened during a 1-year period.

~~(d)~~ (e) "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.

~~(e)~~ (f) "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.

~~(g)~~ (g) “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.

~~(g)~~ (h) “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.

~~(h)~~ (i) “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. 17. The amendatory provisions of subsection 3 of section 16 of this regulation apply only with respect to claims which are filed on or after January 1, 2024.

Sec. 18. 1. This section and sections 1 to 10, inclusive, and 12 to 17, inclusive, of this regulation become effective on the date on which this regulation is approved by the Legislative Commission and filed with the Secretary of State pursuant to NRS 233B.070.

2. Section 11 of this regulation becomes effective on July 1, 2026.