
SENATE BILL NO. 381—SENATOR CANNIZZARO

MARCH 20, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to workers' compensation. (BDR 53-1157)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

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

AN ACT relating to industrial insurance; establishing the substantive right of an injured employee to choose a treating health care provider under the Nevada Industrial Insurance Act or the Nevada Occupational Diseases Act; revising provisions governing the panel of treating physicians and chiropractors established by the Administrator of the Division of Industrial Relations of the Department of Business and Industry to require the inclusion of certain health care providers; authorizing the Administrator to select a rating physician or chiropractor for an injured employee upon request; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 In 2007, the Nevada Supreme Court held that the Nevada Industrial Insurance
2 Act does not entitle a claimant for compensation under that Act to his or her choice
3 of treating physician as a substantive right. (*Valdez v. Employers Ins. Co. of Nev.*,
4 123 Nev. 170 (2007)) **Section 2** of this bill provides that the choice of a treating
5 health care provider, defined as a physician, osteopathic physician, chiropractor,
6 physical therapist or psychologist, is a substantive right of an injured employee who
7 has a claim under the Nevada Industrial Insurance Act (chapters 616A-616D of
8 NRS) or the Nevada Occupational Diseases Act (chapter 617 of NRS). **Section 2**
9 does not revise certain existing provisions to grant an injured employee the choice
10 of physician or chiropractor in the performance of certain examinations or
11 certifications or ratings of disability. **Section 2** requires an insurer to: (1) include in
12 its list of health care providers from which an injured employee may choose to
13 receive treatment a certain percentage or number of health care providers from the
14 panel of health care providers established and maintained by the Administrator of
15 the Division of Industrial Relations of the Department of Business and Industry;
16 and (2) update and file its list of health care providers with the Administrator



17 annually. **Section 2** also requires the Administrator to provide a copy of an
18 insurer's list to any member of the public upon request or post a copy of each such
19 list on an Internet website for viewing, printing or downloading by the public.
20 **Section 2** sets forth procedures and limitations governing the removal of a health
21 care provider from an insurer's list. Finally, **section 2** provides that, except under
22 certain circumstances, an injured employee may continue to receive treatment from
23 a health care provider who has been removed from a list.

24 **Sections 3-7, 9-25 and 28-35** of this bill revise provisions referencing treating
25 physicians or chiropractors to instead reference treating health care providers for
26 consistency with **section 2**.

27 Existing law requires the Administrator to establish a panel of physicians and
28 chiropractors to treat injured employees under chapters 616A to 616D, inclusive, or
29 chapter 617 of NRS. Existing law also provides that an injured employee may
30 receive treatment by more than one physician or chiropractor if the insurer provides
31 written authorization. (NRS 616C.090) **Section 8** of this bill revises these
32 provisions to: (1) require the Administrator to annually update the panel; (2) require
33 the inclusion of physicians, chiropractors, osteopathic physicians, physical
34 therapists and psychologists on the panel maintained by the Administrator; and (3)
35 provide that an injured employee may receive treatment by more than one health
36 care provider if the insurer provides written authorization or by order of a hearing
37 officer or appeals officer.

38 Existing law sets forth procedures under which an insurer selects a physician or
39 chiropractor to determine an injured employee's percentage of disability. (NRS
40 616C.490) **Section 26** of this bill additionally authorizes an injured employee or his
41 or her legal representative to request that the Administrator select a rating physician
42 or chiropractor.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 616B.527 is hereby amended to read as
2 follows:

3 616B.527 1. A self-insured employer, an association of self-
4 insured public or private employers or a private carrier may:

5 (a) Except as otherwise provided in NRS 616B.5273, enter into
6 a contract or contracts with one or more organizations for managed
7 care to provide comprehensive medical and health care services to
8 employees for injuries and diseases that are compensable pursuant
9 to chapters 616A to 617, inclusive, of NRS.

10 (b) Enter into a contract or contracts with providers of health
11 care, including, without limitation, physicians who provide primary
12 care, specialists, pharmacies, physical therapists, radiologists,
13 nurses, diagnostic facilities, laboratories, hospitals and facilities that
14 provide treatment to outpatients, to provide medical and health care
15 services to employees for injuries and diseases that are compensable
16 pursuant to chapters 616A to 617, inclusive, of NRS.

17 (c) Require employees to obtain medical and health care
18 services for their industrial injuries from those organizations and
19 persons with whom the self-insured employer, association or private



1 carrier has contracted pursuant to paragraphs (a) and (b), or as the
2 self-insured employer, association or private carrier otherwise
3 prescribes.

4 (d) Except as otherwise provided in subsection ~~3~~ 4 of NRS
5 616C.090, require employees to obtain the approval of the self-
6 insured employer, association or private carrier before obtaining
7 medical and health care services for their industrial injuries from a
8 provider of health care who has not been previously approved by the
9 self-insured employer, association or private carrier.

10 2. An organization for managed care with whom a self-insured
11 employer, association of self-insured public or private employers or
12 a private carrier has contracted pursuant to this section shall comply
13 with the provisions of NRS 616B.528, 616B.5285 and 616B.529.

14 **Sec. 2.** Chapter 616C of NRS is hereby amended by adding
15 thereto a new section to read as follows:

16 *1. The Legislature hereby declares that:*

17 *(a) The choice of a treating health care provider is a*
18 *substantive right and substantive benefit of an injured employee*
19 *who has a claim under the Nevada Industrial Insurance Act or the*
20 *Nevada Occupational Diseases Act.*

21 *(b) The injured employees of this State have a substantive right*
22 *to an adequate choice of health care providers to treat their*
23 *industrial injuries and occupational diseases.*

24 *2. Except as otherwise provided in subsections 3 and 4, an*
25 *insurer's list of health care providers from which an injured*
26 *employee may choose pursuant to NRS 616C.090 must include not*
27 *less than 25 percent of the total number of health care providers in*
28 *each of the following disciplines and specializations, without*
29 *limitation, from the panel of health care providers maintained by*
30 *the Administrator pursuant to NRS 616C.090:*

31 *(a) Orthopedic surgery on spines;*

32 *(b) Orthopedic surgery on shoulders;*

33 *(c) Orthopedic surgery on elbows;*

34 *(d) Orthopedic surgery on wrists;*

35 *(e) Orthopedic surgery on hands;*

36 *(f) Orthopedic surgery on hips;*

37 *(g) Orthopedic surgery on knees;*

38 *(h) Orthopedic surgery on ankles;*

39 *(i) Orthopedic surgery on feet;*

40 *(j) Neurosurgery;*

41 *(k) Neurology;*

42 *(l) Cardiology;*

43 *(m) Pulmonology;*

44 *(n) Psychology;*

45 *(o) Psychiatry;*



- 1 (p) Pain management;
- 2 (q) Occupational medicine;
- 3 (r) Physiatry;
- 4 (s) Physical medicine;
- 5 (t) Physical therapy; and
- 6 (u) Chiropractic medicine.

7 3. An insurer's list of health care providers required pursuant
8 to NRS 616C.090 must include not fewer than 10 health care
9 providers for each discipline or specialization set forth in
10 subsection 2. For any other discipline or specialization not
11 specifically identified in subsection 2, the insurer's list must
12 include not fewer than 10 health care providers unless the panel
13 of health care providers maintained by the Administrator pursuant
14 to NRS 616C.090 contains fewer than 10 health care providers for
15 that discipline or specialization, in which case all of the health
16 care providers on the panel for that discipline or specialization
17 must be included on the insurer's list.

18 4. For each county whose population is 100,000 or more, in
19 addition to meeting the percentage required by subsection 2, an
20 insurer's list of health care providers must include for that county
21 only those health care providers who maintain in that county:

- 22 (a) An active practice; and
- 23 (b) A physical office.

24 5. Each insurer shall, not later than October 1 of each year,
25 update the list of health care providers and file the list with the
26 Administrator. The list must be certified by an adjuster who is
27 licensed pursuant to chapter 684A of NRS.

28 6. Upon receipt of a list of health care providers that is filed
29 pursuant to subsection 5, the Administrator shall:

- 30 (a) Stamp the list as having been filed; and
- 31 (b) Indicate on the list the date on which it was filed.

32 7. The Administrator shall:

- 33 (a) Provide a copy of an insurer's list of health care providers
34 to any member of the public who requests a copy; or
- 35 (b) Post a copy of each insurer's list of health care providers
36 on an Internet website maintained by the Administrator and
37 accessible to the public for viewing, printing or downloading.

38 8. At any time, a health care provider may request in writing
39 that he or she be removed from an insurer's list of health care
40 providers. The insurer must comply with the request and omit the
41 health care provider from the next list which the insurer files with
42 the Administrator.

43 9. A health care provider may not be involuntarily removed
44 from an insurer's list of health care providers except for good



1 *cause. As used in this subsection, "good cause" means that one or*
2 *more of the following circumstances apply:*

3 *(a) The health care provider has died or is disabled.*

4 *(b) The license of the health care provider has been revoked or*
5 *suspended.*

6 *(c) The health care provider has been convicted of:*

7 *(1) A felony; or*

8 *(2) A crime for a violation of a provision of chapter 616D*
9 *of NRS.*

10 *(d) The health care provider has been removed from the panel*
11 *of health care providers maintained by the Administrator pursuant*
12 *to NRS 616C.090 by the Administrator upon a finding of good*
13 *cause due to one of the circumstances described in paragraph (a),*
14 *(b) or (c).*

15 *10. Unless a health care provider is removed from an*
16 *insurer's list of health care providers pursuant to subsection 9, an*
17 *injured employee may continue to receive treatment from that*
18 *health care provider even if:*

19 *(a) The employer of the injured employee changes insurers or*
20 *administrators.*

21 *(b) The health care provider is no longer included in the*
22 *applicable insurer's list of health care providers, provided that the*
23 *health care provider agrees to continue to accept compensation for*
24 *that treatment at the rates which:*

25 *(1) Were previously agreed upon when the health care*
26 *provider was most recently included in the list; or*

27 *(2) Are newly negotiated but do not exceed the amounts*
28 *provided under the fee schedule adopted by the Administrator.*

29 *11. As used in this section, "health care provider" means:*

30 *(a) A physician who is licensed pursuant to chapter 630 of*
31 *NRS;*

32 *(b) An osteopathic physician who is licensed pursuant to*
33 *chapter 633 of NRS;*

34 *(c) A chiropractor who is licensed pursuant to chapter 634 of*
35 *NRS;*

36 *(d) A physical therapist who is licensed pursuant to chapter*
37 *640 of NRS; or*

38 *(e) A psychologist who is licensed pursuant to chapter 641 of*
39 *NRS.*

40 **Sec. 3.** NRS 616C.040 is hereby amended to read as follows:

41 616C.040 1. Except as otherwise provided in this section, a
42 treating ~~[physician or chiropractor]~~ *health care provider* shall,
43 within 3 working days after first providing treatment to an injured
44 employee for a particular injury, complete and file a claim for
45 compensation with the employer of the injured employee and the



1 employer's insurer. If the employer is a self-insured employer, the
2 treating ~~{physician or chiropractor}~~ *health care provider* shall file
3 the claim for compensation with the employer's third-party
4 administrator. If the ~~{physician or chiropractor}~~ *health care provider*
5 files the claim for compensation by electronic transmission, the
6 ~~{physician or chiropractor}~~ *health care provider* shall, upon request,
7 mail to the insurer or third-party administrator the form that contains
8 the original signatures of the injured employee and the ~~{physician or~~
9 ~~chiropractor}~~ *health care provider*. The form must be mailed within
10 7 days after receiving such a request.

11 2. A ~~{physician or chiropractor}~~ *health care provider* who has
12 a duty to file a claim for compensation pursuant to subsection 1 may
13 delegate the duty to a medical facility. If the ~~{physician or~~
14 ~~chiropractor}~~ *health care provider* delegates the duty to a medical
15 facility:

16 (a) The medical facility must comply with the filing
17 requirements set forth in this section; and

18 (b) The delegation must be in writing and signed by:

19 (1) The ~~{physician or chiropractor}~~ *health care provider*;
20 and

21 (2) An authorized representative of the medical facility.

22 3. A claim for compensation required by subsection 1 must be
23 filed on a form prescribed by the Administrator.

24 4. If a claim for compensation is accompanied by a certificate
25 of disability, the certificate must include a description of any
26 limitation or restrictions on the injured employee's ability to work.

27 5. Each ~~{physician, chiropractor}~~ *health care provider* and
28 medical facility that treats injured employees, each insurer, third-
29 party administrator and employer, and the Division shall maintain at
30 their offices a sufficient supply of the forms prescribed by the
31 Administrator for filing a claim for compensation.

32 6. The Administrator may impose an administrative fine of not
33 more than \$1,000 for each violation of subsection 1 on:

34 (a) A ~~{physician or chiropractor}~~ *health care provider*; or

35 (b) A medical facility if the duty to file the claim for
36 compensation has been delegated to the medical facility pursuant to
37 this section.

38 7. *As used in this section, "health care provider" has the*
39 *meaning ascribed to it in section 2 of this act.*

40 **Sec. 4.** NRS 616C.045 is hereby amended to read as follows:

41 616C.045 1. Except as otherwise provided in NRS 616B.727,
42 within 6 working days after the receipt of a claim for compensation
43 from a ~~{physician or chiropractor}~~ *health care provider*, or a
44 medical facility if the duty to file the claim for compensation has
45 been delegated to the medical facility pursuant to NRS 616C.040, an



1 employer shall complete and file with his or her insurer or third-
2 party administrator an employer's report of industrial injury or
3 occupational disease.

4 2. The report must:

5 (a) Be filed on a form prescribed by the Administrator;

6 (b) Be signed by the employer or the employer's designee;

7 (c) Contain specific answers to all questions required by the
8 regulations of the Administrator; and

9 (d) Be accompanied by a statement of the wages of the
10 employee if the claim for compensation received from the treating
11 ~~[physician or chiropractor,]~~ *health care provider*, or a medical
12 facility if the duty to file the claim for compensation has been
13 delegated to the medical facility pursuant to NRS 616C.040,
14 indicates that the injured employee is expected to be off work for 5
15 days or more.

16 3. An employer who files the report required by subsection 1
17 by electronic transmission shall, upon request, mail to the insurer or
18 third-party administrator the form that contains the original
19 signature of the employer or the employer's designee. The form
20 must be mailed within 7 days after receiving such a request.

21 4. The Administrator shall impose an administrative fine of not
22 more than \$1,000 on an employer for each violation of this section.

23 *5. As used in this section, "health care provider" has the*
24 *meaning ascribed to it in section 2 of this act.*

25 **Sec. 5.** NRS 616C.050 is hereby amended to read as follows:

26 616C.050 1. An insurer shall provide to each claimant:

27 (a) Upon written request, one copy of any medical information
28 concerning the claimant's injury or illness.

29 (b) A statement which contains information concerning the
30 claimant's right to:

31 (1) Receive the information and forms necessary to file a
32 claim;

33 (2) Select a treating ~~[physician or chiropractor]~~ *health care*
34 *provider* and an alternative treating ~~[physician or chiropractor]~~
35 *health care provider* in accordance with the provisions of
36 NRS 616C.090;

37 (3) Request the appointment of the Nevada Attorney for
38 Injured Workers to represent the claimant before the appeals officer;

39 (4) File a complaint with the Administrator;

40 (5) When applicable, receive compensation for:

41 (I) Permanent total disability;

42 (II) Temporary total disability;

43 (III) Permanent partial disability;

44 (IV) Temporary partial disability;



1 (V) All medical costs related to the claimant's injury or
2 disease; or

3 (VI) The hours the claimant is absent from the place of
4 employment to receive medical treatment pursuant to
5 NRS 616C.477;

6 (6) Receive services for rehabilitation if the claimant's injury
7 prevents him or her from returning to gainful employment;

8 (7) Review by a hearing officer of any determination or
9 rejection of a claim by the insurer within the time specified by
10 statute; and

11 (8) Judicial review of any final decision within the time
12 specified by statute.

13 2. The insurer's statement must include a copy of the form
14 designed by the Administrator pursuant to subsection ~~[8]~~ 9 of NRS
15 616C.090 that notifies injured employees of their right to select an
16 alternative treating ~~[physician or chiropractor.]~~ *health care*
17 *provider*. The Administrator shall adopt regulations for the
18 manner of compliance by an insurer with the other provisions of
19 subsection 1.

20 3. *As used in this section, "health care provider" has the*
21 *meaning ascribed to it in section 2 of this act.*

22 **Sec. 6.** NRS 616C.055 is hereby amended to read as follows:

23 616C.055 1. The insurer may not, in accepting responsibility
24 for any charges, use fee schedules which unfairly discriminate
25 among ~~[physicians and chiropractors.]~~ *health care providers*.

26 2. ~~[If a physician or chiropractor]~~ *Except as otherwise*
27 *provided in section 2 of this act, if a health care provider* is
28 removed from the panel established pursuant to NRS 616C.090 or
29 from participation in a plan for managed care established pursuant
30 to NRS 616B.527, the ~~[physician or chiropractor, as applicable,]~~
31 *health care provider* must not be paid for any services rendered to
32 the injured employee after the date of the removal.

33 3. *As used in this section, "health care provider" has the*
34 *meaning ascribed to it in section 2 of this act.*

35 **Sec. 7.** NRS 616C.075 is hereby amended to read as follows:

36 616C.075 1. If an employee is properly directed to submit to
37 a physical examination and the employee refuses to permit the
38 treating ~~[physician or chiropractor]~~ *health care provider* to make an
39 examination and to render medical attention as may be required
40 immediately, no compensation may be paid for the injury claimed to
41 result from the accident.

42 2. *As used in this section, "health care provider" has the*
43 *meaning ascribed to it in section 2 of this act.*



1 **Sec. 8.** NRS 616C.090 is hereby amended to read as follows:

2 616C.090 1. The Administrator shall establish , *maintain*
3 *and update not less frequently than annually on or before July 1*
4 *of each year*, a panel of ~~physicians and chiropractors~~ *health care*
5 *providers* who have demonstrated special competence and interest
6 in industrial health to treat injured employees under chapters 616A
7 to 616D, inclusive, or chapter 617 of NRS. *The Administrator shall*
8 *maintain the following information relating to each health care*
9 *provider on the panel:*

10 (a) *The name of the health care provider.*

11 (b) *The title or degree of the health care provider.*

12 (c) *The street address of the office of the health care provider.*

13 (d) *The telephone number of the office of the health care*
14 *provider.*

15 (e) *The discipline or specialization practiced by the health care*
16 *provider.*

17 2. Every employer whose insurer has not entered into a
18 contract with an organization for managed care or with providers of
19 health care ~~services~~ pursuant to NRS 616B.527 shall maintain a
20 list of those ~~physicians and chiropractors~~ *health care providers* on
21 the panel who are reasonably accessible to his or her employees.

22 ~~2.~~ 3. An injured employee whose employer's insurer has not
23 entered into a contract with an organization for managed care or
24 with providers of health care ~~services~~ pursuant to NRS 616B.527
25 may choose a treating ~~physician or chiropractor~~ *health care*
26 *provider* from the panel of ~~physicians and chiropractors.~~ *health*
27 *care providers.* If the injured employee is not satisfied with the first
28 ~~physician or chiropractor~~ *health care provider* he or she so
29 chooses, the injured employee may make an alternative choice of
30 ~~physician or chiropractor~~ *health care provider* from the panel if
31 the choice is made within 90 days after his or her injury. The insurer
32 shall notify the first ~~physician or chiropractor~~ *health care provider*
33 in writing. The notice must be postmarked within 3 working days
34 after the insurer receives knowledge of the change. The first
35 ~~physician or chiropractor~~ *health care provider* must be reimbursed
36 only for the services the ~~physician or chiropractor, as applicable,~~
37 *health care provider* rendered to the injured employee up to and
38 including the date of notification. Except as otherwise provided in
39 this subsection, any further change is subject to the approval of the
40 insurer, which must be granted or denied within 10 days after a
41 written request for such a change is received from the injured
42 employee. If no action is taken on the request within 10 days, the
43 request shall be deemed granted. Any request for a change of
44 ~~physician or chiropractor~~ *health care provider* must include the
45 name of the new ~~physician or chiropractor~~ *health care provider*



1 chosen by the injured employee. If the treating ~~{physician or~~
2 ~~chiropractor}~~ *health care provider* refers the injured employee to a
3 specialist for treatment, the treating ~~{physician or chiropractor}~~
4 *health care provider* shall provide to the injured employee a list that
5 includes the name of each ~~{physician or chiropractor}~~ *health care*
6 *provider* with that specialization who is on the panel. After
7 receiving the list, the injured employee shall, at the time the referral
8 is made, select a ~~{physician or chiropractor}~~ *health care provider*
9 from the list.

10 ~~{3.}~~ 4. An injured employee whose employer's insurer has
11 entered into a contract with an organization for managed care or
12 with providers of health care ~~{services}~~ pursuant to NRS 616B.527
13 must choose a treating ~~{physician or chiropractor}~~ *health care*
14 *provider* pursuant to the terms of that contract. If the injured
15 employee is not satisfied with the first ~~{physician or chiropractor}~~
16 *health care provider* he or she so chooses, the injured employee
17 may make an alternative choice of ~~{physician or chiropractor}~~
18 *health care provider* pursuant to the terms of the contract without
19 the approval of the insurer if the choice is made within 90 days after
20 his or her injury. If the injured employee, after choosing a treating
21 ~~{physician or chiropractor,}~~ *health care provider,* moves to a county
22 which is not served by the organization for managed care or
23 providers of health care ~~{services}~~ named in the contract and the
24 insurer determines that it is impractical for the injured employee to
25 continue treatment with the ~~{physician or chiropractor,}~~ *health care*
26 *provider,* the injured employee must choose a treating ~~{physician or~~
27 ~~chiropractor}~~ *health care provider* who has agreed to the terms of
28 that contract unless the insurer authorizes the injured employee to
29 choose another ~~{physician or chiropractor,}~~ *health care provider.* If
30 the treating ~~{physician or chiropractor}~~ *health care provider* refers
31 the injured employee to a specialist for treatment, the treating
32 ~~{physician or chiropractor}~~ *health care provider* shall provide to the
33 injured employee a list that includes the name of each ~~{physician or~~
34 ~~chiropractor}~~ *health care provider* with that specialization who is
35 available pursuant to the terms of the contract with the organization
36 for managed care or with providers of health care ~~{services}~~
37 pursuant to NRS 616B.527, as appropriate. After receiving the list,
38 the injured employee shall, at the time the referral is made, select a
39 ~~{physician or chiropractor}~~ *health care provider* from the list. If the
40 employee fails to select a ~~{physician or chiropractor,}~~ *health care*
41 *provider,* the insurer may select a ~~{physician or chiropractor}~~ *health*
42 *care provider* with that specialization. If a ~~{physician or~~
43 ~~chiropractor}~~ *health care provider* with that specialization is not
44 available pursuant to the terms of the contract, the organization for
45 managed care or the provider of health care ~~{services}~~ may select a



1 ~~{physician or chiropractor}~~ *health care provider* with that
2 specialization.

3 ~~{4.}~~ 5. If the injured employee is not satisfied with the
4 ~~{physician or chiropractor}~~ *health care provider* selected by himself
5 or herself or by the insurer, the organization for managed care or the
6 provider of health care ~~{services}~~ pursuant to subsection ~~{3.}~~ 4, the
7 injured employee may make an alternative choice of ~~{physician or~~
8 ~~chiropractor}~~ *health care provider* pursuant to the terms of the
9 contract. A change in the treating ~~{physician or chiropractor}~~ *health*
10 *care provider* may be made at any time but is subject to the approval
11 of the insurer, which must be granted or denied within 10 days after
12 a written request for such a change is received from the injured
13 employee. If no action is taken on the request within 10 days, the
14 request shall be deemed granted. Any request for a change of
15 ~~{physician or chiropractor}~~ *health care provider* must include the
16 name of the new ~~{physician or chiropractor}~~ *health care provider*
17 chosen by the injured employee. If the insurer denies a request for a
18 change in the treating ~~{physician or chiropractor}~~ *health care*
19 *provider* under this subsection, the insurer must include in a written
20 notice of denial to the injured employee the specific reason for the
21 denial of the request.

22 ~~{5.}~~ 6. Except when emergency medical care is required and
23 except as otherwise provided in NRS 616C.055, the insurer is not
24 responsible for any charges for medical treatment or other accident
25 benefits furnished or ordered by any ~~{physician, chiropractor}~~ *health*
26 *care provider* or other person selected by the injured employee in
27 disregard of the provisions of this section or for any compensation
28 for any aggravation of the injured employee's injury attributable to
29 improper treatments by such ~~{physician, chiropractor}~~ *health care*
30 *provider* or other person.

31 ~~{6.}~~ 7. The Administrator may order necessary changes in a
32 panel of ~~{physicians and chiropractors}~~ *health care providers* and
33 shall suspend or remove any ~~{physician or chiropractor}~~ *health care*
34 *provider* from a panel for good cause shown ~~{~~
35 ~~—7.}~~ *in accordance with section 2 of this act.*

36 8. An injured employee may receive treatment by more than
37 one ~~{physician or chiropractor if}~~ *health care provider:*

38 (a) *If* the insurer provides written authorization for such
39 treatment ~~{~~

40 ~~—8.}~~ ; or

41 (b) *By order of a hearing officer or appeals officer.*

42 9. The Administrator shall design a form that notifies injured
43 employees of their right pursuant to subsections ~~{2.}~~ 3, ~~{and}~~ 4 and
44 5 to select an alternative treating ~~{physician or chiropractor}~~ *health*



1 *care provider* and make the form available to insurers for
2 distribution pursuant to subsection 2 of NRS 616C.050.

3 *10. As used in this section, "health care provider" has the*
4 *meaning ascribed to it in section 2 of this act.*

5 **Sec. 9.** NRS 616C.095 is hereby amended to read as follows:

6 616C.095 *1.* The ~~physician or chiropractor~~ *health care*
7 *provider* shall inform the injured employee of the injured
8 employee's rights under chapters 616A to 616D, inclusive, or
9 chapter 617 of NRS and lend all necessary assistance in making
10 application for compensation and such proof of other matters as
11 required by the rules of the Division, without charge to the
12 employee.

13 *2. As used in this section, "health care provider" has the*
14 *meaning ascribed to it in section 2 of this act.*

15 **Sec. 10.** NRS 616C.098 is hereby amended to read as follows:

16 616C.098 *1.* Certain phrases relating to a claim for
17 compensation for an industrial injury or occupational disease and
18 used by a ~~physician or chiropractor~~ *health care provider* when
19 determining the causation of an industrial injury or occupational
20 disease are deemed to be equivalent and may be used
21 interchangeably. Those phrases are:

22 ~~1-1~~ *(a)* "Directly connect this injury or occupational disease as
23 job incurred"; and

24 ~~1-2~~ *(b)* "A degree of reasonable medical probability that the
25 condition in question was caused by the industrial injury."

26 *2. As used in this section, "health care provider" has the*
27 *meaning ascribed to it in section 2 of this act.*

28 **Sec. 11.** NRS 616C.130 is hereby amended to read as follows:

29 616C.130 *1.* The insurer shall not authorize the payment of
30 any money to a ~~physician or chiropractor~~ *health care provider* for
31 services rendered by the ~~physician or chiropractor, as applicable,~~
32 *health care provider* in attending an injured employee until an
33 itemized statement for the services has been received by the insurer
34 accompanied by a certificate of the ~~physician or chiropractor~~
35 *health care provider* stating that a duplicate of the itemized
36 statement has been filed with the employer of the injured employee.

37 *2. As used in this section, "health care provider" has the*
38 *meaning ascribed to it in section 2 of this act.*

39 **Sec. 12.** NRS 616C.140 is hereby amended to read as follows:

40 616C.140 *1.* Any employee who is entitled to receive
41 compensation under chapters 616A to 616D, inclusive, of NRS
42 shall, if:

43 (a) Requested by the insurer or employer; or

44 (b) Ordered by an appeals officer or a hearing officer,



1 ↪ submit to a medical examination at a time and from time to time
2 at a place reasonably convenient for the employee, and as may be
3 provided by the regulations of the Division.

4 2. If the insurer has reasonable cause to believe that an injured
5 employee who is receiving compensation for a permanent total
6 disability is no longer disabled, the insurer may request the
7 employee to submit to an annual medical examination to determine
8 whether the disability still exists. The insurer shall pay the costs of
9 the examination.

10 3. The request or order for an examination must fix a time and
11 place therefor, with due regard for the nature of the medical
12 examination, the convenience of the employee, the employee's
13 physical condition and the employee's ability to attend at the time
14 and place fixed.

15 4. The employee is entitled to have a ~~physician or~~
16 ~~chiropractor,~~ *health care provider*, provided and paid for by the
17 employee, present at any such examination.

18 5. If the employee refuses to submit to an examination ordered
19 or requested pursuant to subsection 1 or 2 or obstructs the
20 examination, the right of the employee to compensation is
21 suspended until the examination has taken place, and no
22 compensation is payable during or for the period of suspension.

23 6. Any ~~physician or chiropractor~~ *health care provider* who
24 makes or is present at any such examination may be required to
25 testify as to the result thereof.

26 7. *As used in this section, "health care provider" has the*
27 *meaning ascribed to it in section 2 of this act.*

28 **Sec. 13.** NRS 616C.145 is hereby amended to read as follows:

29 616C.145 1. An injured employee may obtain an independent
30 medical examination:

31 (a) Except as otherwise provided in subsections 2 and 3,
32 whenever a dispute arises from a determination issued by the insurer
33 regarding the approval of care, the direction of a treatment plan or
34 the scope of the claim;

35 (b) Within 30 days after an injured employee receives any report
36 generated pursuant to a medical examination requested by the
37 insurer pursuant to NRS 616C.140; or

38 (c) At any time by leave of a hearing officer or appeals officer
39 after the denial of any therapy or treatment.

40 2. An injured employee is entitled to an independent medical
41 examination pursuant to paragraph (a) of subsection 1 only:

42 (a) For a claim for compensation that is open;

43 (b) When the closure of a claim for compensation is under
44 dispute pursuant to NRS 616C.235; or



1 (c) When a hearing or appeal is pending pursuant to NRS
2 616C.330 or 616C.360.

3 3. An injured employee is entitled to only one independent
4 medical examination per calendar year pursuant to paragraph (a) of
5 subsection 1.

6 4. Except as otherwise provided in subsection 5, an
7 independent medical examination must not involve treatment and
8 must be conducted by a physician or chiropractor selected by the
9 injured employee from the panel of ~~[physicians and chiropractors]~~
10 *health care providers* established pursuant to subsection 1 of NRS
11 616C.090. *As used in this subsection, "health care provider" has*
12 *the meaning ascribed to it in section 2 of this act.*

13 5. If the dispute concerns the rating of a permanent disability,
14 an independent medical examination may be conducted by a rating
15 physician or chiropractor. The injured employee must select the next
16 rating physician or chiropractor in rotation from the list of qualified
17 physicians and chiropractors maintained by the Administrator
18 pursuant to subsection 2 of NRS 616C.490, unless the insurer and
19 the injured employee otherwise agree to a rating physician or
20 chiropractor.

21 6. The insurer shall:

22 (a) Pay the costs of any independent medical examination
23 conducted pursuant to this section in accordance with NRS
24 616C.260; and

25 (b) Upon request, receive a copy of any report or other
26 document that is generated as a result of the independent medical
27 examination.

28 7. The provisions of this section do not apply to an independent
29 medical examination ordered by a hearing officer pursuant to
30 subsection 3 of NRS 616C.330 or by an appeals officer pursuant to
31 subsection 3 of NRS 616C.360.

32 **Sec. 14.** NRS 616C.160 is hereby amended to read as follows:

33 616C.160 *1.* If, after a claim for compensation is filed
34 pursuant to NRS 616C.020:

35 ~~[1.]~~ (a) The injured employee seeks treatment from a ~~[physician~~
36 ~~or chiropractor]~~ *health care provider* for a newly developed injury
37 or disease; and

38 ~~[2.]~~ (b) The employee's medical records for the injury reported
39 do not include a reference to the injury or disease for which
40 treatment is being sought, or there is no documentation indicating
41 that there was possible exposure to an injury described in paragraph
42 (b), (c) or (d) of subsection 2 of NRS 616A.265,

43 ↪ the injury or disease for which treatment is being sought must not
44 be considered part of the employee's original claim for
45 compensation unless the ~~[physician or chiropractor]~~ *health care*



1 *provider* establishes by medical evidence a causal relationship
2 between the injury or disease for which treatment is being sought
3 and the original accident.

4 *2. As used in this section, "health care provider" has the*
5 *meaning ascribed to it in section 2 of this act.*

6 **Sec. 15.** NRS 616C.230 is hereby amended to read as follows:

7 616C.230 1. Compensation is not payable pursuant to the
8 provisions of chapters 616A to 616D, inclusive, or chapter 617 of
9 NRS for an injury:

10 (a) Caused by the employee's willful intention to injure himself
11 or herself.

12 (b) Caused by the employee's willful intention to injure another.

13 (c) That occurred while the employee was in a state of
14 intoxication, unless the employee can prove by clear and convincing
15 evidence that his or her state of intoxication was not the proximate
16 cause of the injury. For the purposes of this paragraph, an employee
17 is in a state of intoxication if the level of alcohol in the bloodstream
18 of the employee meets or exceeds the limits set forth in subsection 1
19 of NRS 484C.110.

20 (d) That occurred while the employee was under the influence of
21 a controlled or prohibited substance, unless the employee can prove
22 by clear and convincing evidence that his or her being under the
23 influence of a controlled or prohibited substance was not the
24 proximate cause of the injury. For the purposes of this paragraph, an
25 employee is under the influence of a controlled or prohibited
26 substance if the employee had an amount of a controlled or
27 prohibited substance in his or her system at the time of his or her
28 injury that was equal to or greater than the limits set forth in
29 subsection 3 or 4 of NRS 484C.110 and for which the employee did
30 not have a current and lawful prescription issued in the employee's
31 name.

32 2. For the purposes of paragraphs (c) and (d) of subsection 1:

33 (a) The affidavit or declaration of an expert or other person
34 described in NRS 50.310, 50.315 or 50.320 is admissible to prove
35 the existence of an impermissible quantity of alcohol or the
36 existence, quantity or identity of an impermissible controlled or
37 prohibited substance in an employee's system. If the affidavit or
38 declaration is to be so used, it must be submitted in the manner
39 prescribed in NRS 616C.355.

40 (b) When an examination requested or ordered includes testing
41 for the use of alcohol or a controlled or prohibited substance, the
42 laboratory that conducts the testing must be licensed pursuant to the
43 provisions of chapter 652 of NRS.

44 (c) The results of any testing for the use of alcohol or a
45 controlled or prohibited substance, irrespective of the purpose for



1 performing the test, must be made available to an insurer or
2 employer upon request, to the extent that doing so does not conflict
3 with federal law.

4 3. No compensation is payable for the death, disability or
5 treatment of an employee if the employee's death is caused by,
6 or insofar as the employee's disability is aggravated, caused or
7 continued by, an unreasonable refusal or neglect to submit to or to
8 follow any competent and reasonable surgical treatment or medical
9 aid.

10 4. If any employee persists in an unsanitary or injurious
11 practice that imperils or retards his or her recovery, or refuses to
12 submit to such medical or surgical treatment as is necessary to
13 promote his or her recovery, the employee's compensation may be
14 reduced or suspended.

15 5. An injured employee's compensation, other than accident
16 benefits, must be suspended if:

17 (a) A ~~physician or chiropractor~~ *health care provider*
18 determines that the employee is unable to undergo treatment, testing
19 or examination for the industrial injury solely because of a condition
20 or injury that did not arise out of and in the course of employment;
21 and

22 (b) It is within the ability of the employee to correct the
23 nonindustrial condition or injury.

24 ➤ The compensation must be suspended until the injured employee
25 is able to resume treatment, testing or examination for the industrial
26 injury. The insurer may elect to pay for the treatment of the
27 nonindustrial condition or injury.

28 6. As used in this section ~~["prohibited"]~~:

29 (a) *"Health care provider" has the meaning ascribed to it in*
30 *section 2 of this act.*

31 (b) *"Prohibited" substance* has the meaning ascribed to it in
32 NRS 484C.080.

33 **Sec. 16.** NRS 616C.260 is hereby amended to read as follows:

34 616C.260 1. All fees and charges for accident benefits must
35 not:

36 (a) Exceed the amounts usually billed and paid in the State for
37 similar treatment.

38 (b) Be unfairly discriminatory as between persons legally
39 qualified to provide the particular service for which the fees or
40 charges are asked.

41 2. The Administrator shall, giving consideration to the fees and
42 charges being billed and paid in the State, establish a schedule of
43 reasonable fees and charges allowable for accident benefits provided
44 to injured employees whose insurers have not contracted with an
45 organization for managed care or with providers of health care



1 ~~[services]~~ pursuant to NRS 616B.527. The Administrator shall
2 review and revise the schedule on or before February 1 of each year.
3 In the revision, the Administrator shall adjust the schedule by the
4 corresponding annual change in the Consumer Price Index, Medical
5 Care Component.

6 3. The Administrator shall designate a vendor who compiles
7 data on a national basis concerning fees and charges that are billed
8 and paid for treatment or services similar to the treatment and
9 services that qualify as accident benefits in this State to provide the
10 Administrator with such information as the Administrator deems
11 necessary to carry out the provisions of subsection 2. The
12 designation must be made pursuant to reasonable competitive
13 bidding procedures established by the Administrator. In addition,
14 the Administrator may request a health insurer, health maintenance
15 organization or provider of accident benefits, an agent or employee
16 of such a person, or an agency of the State to provide the
17 Administrator with information concerning fees and charges that are
18 billed and paid in this State for similar services as the Administrator
19 deems necessary to carry out the provisions of subsection 2. The
20 Administrator shall require a health insurer, health maintenance
21 organization or provider of accident benefits, an agent or employee
22 of such a person, or an agency of the State that provides records or
23 reports of fees and charges billed and paid pursuant to this section to
24 provide interpretation and identification concerning the information
25 delivered. The Administrator may impose an administrative fine of
26 \$500 on a health insurer, health maintenance organization or
27 provider of accident benefits, or an agent or employee of such a
28 person for each refusal to provide the information requested
29 pursuant to this subsection.

30 4. The Division may adopt reasonable regulations necessary to
31 carry out the provisions of this section. The regulations must include
32 provisions concerning:

33 (a) Standards for the development of the schedule of fees and
34 charges that are billed and paid; and

35 (b) The monitoring of compliance by providers of benefits with
36 the schedule of fees and charges.

37 5. The Division shall adopt regulations requiring the use of a
38 system of billing codes as recommended by the American Medical
39 Association.

40 **Sec. 17.** NRS 616C.270 is hereby amended to read as follows:

41 616C.270 1. Every employer who has elected to provide
42 accident benefits for his or her injured employees shall prepare and
43 submit a written report to the Administrator:



1 (a) Within 6 days after any accident if an injured employee is
2 examined *by a physician or chiropractor* or treated by a ~~physician~~
3 ~~or chiropractor;~~ *health care provider;* and

4 (b) If the injured employee receives additional medical services.
5 2. The Administrator shall review each report to determine
6 whether the employer is furnishing the accident benefits required by
7 chapters 616A to 616D, inclusive, of NRS.

8 3. The content and form of the written reports must be
9 prescribed by the Administrator.

10 *4. As used in this section, "health care provider" has the*
11 *meaning ascribed to it in section 2 of this act.*

12 **Sec. 18.** NRS 616C.275 is hereby amended to read as follows:

13 616C.275 1. If the Administrator finds that the employer is
14 furnishing the requirements of accident benefits in such a manner
15 that there are reasonable grounds for believing that the health, life or
16 recovery of the employee is being endangered or impaired thereby,
17 or that an employer has failed to provide benefits pursuant to NRS
18 616C.265 for which he or she has made arrangements, the
19 Administrator may, upon application of the employee, or upon the
20 Administrator's own motion, order a change of ~~physicians or~~
21 ~~chiropractors;~~ *health care providers* or of any other requirements of
22 accident benefits.

23 2. If the Administrator orders a change of ~~physicians or~~
24 ~~chiropractors;~~ *health care providers* or of any other accident
25 benefits, the cost of the change must be borne by the insurer.

26 3. The cause of action of an injured employee against an
27 employer insured by a private carrier must be assigned to the private
28 carrier.

29 *4. As used in this section, "health care provider" has the*
30 *meaning ascribed to it in section 2 of this act.*

31 **Sec. 19.** NRS 616C.280 is hereby amended to read as follows:

32 616C.280 1. The Administrator may withdraw his or her
33 approval of an employer's providing accident benefits for his or her
34 employees and require the employer to pay the premium collected
35 pursuant to NRS 616C.255 if the employer intentionally:

36 ~~1.]~~ (a) Determines incorrectly that a claimed injury did not
37 arise out of and in the course of the employee's employment;

38 ~~2.]~~ (b) Fails to advise an injured employee of the employee's
39 rights under chapters 616A to 616D, inclusive, or chapter 617 of
40 NRS;

41 ~~3.]~~ (c) Impedes the determination of disability or benefits by
42 delaying a needed change of an injured employee's ~~physician or~~
43 ~~chiropractor;~~

44 ~~—4.]~~ *health care provider;*



1 (d) Causes an injured employee to file a legal action to recover
2 any compensation or other medical benefits due the employee from
3 the employer;

4 ~~15.1~~ (e) Violates any of the Administrator's or the Division's
5 regulations regarding the provision of accident benefits by
6 employers; or

7 ~~16.1~~ (f) Discriminates against an employee who claims benefits
8 under chapters 616A to 616D, inclusive, or chapter 617 of NRS.

9 *2. As used in this section, "health care provider" has the*
10 *meaning ascribed to it in section 2 of this act.*

11 **Sec. 20.** NRS 616C.330 is hereby amended to read as follows:

12 616C.330 1. The hearing officer shall:

13 (a) Except as otherwise provided in subsection 2 of NRS
14 616C.315, within 5 days after receiving a request for a hearing, set
15 the hearing for a date and time within 30 days after his or her receipt
16 of the request at a place in Carson City, Nevada, or Las Vegas,
17 Nevada, or upon agreement of one or more of the parties to pay all
18 additional costs directly related to an alternative location, at any
19 other place of convenience to the parties, at the discretion of the
20 hearing officer;

21 (b) Give notice by mail or by personal service to all interested
22 parties to the hearing at least 15 days before the date and time
23 scheduled; and

24 (c) Conduct hearings expeditiously and informally.

25 2. The notice must include a statement that the injured
26 employee may be represented by a private attorney or seek
27 assistance and advice from the Nevada Attorney for Injured
28 Workers.

29 3. If necessary to resolve a medical question concerning an
30 injured employee's condition or to determine the necessity of
31 treatment for which authorization for payment has been denied, the
32 hearing officer may order an independent medical examination,
33 which must not involve treatment, and refer the employee to a
34 physician or chiropractor of his or her choice who has demonstrated
35 special competence to treat the particular medical condition of the
36 employee, whether or not the physician or chiropractor is on the
37 insurer's panel of providers of health care. If the medical question
38 concerns the rating of a permanent disability, the hearing officer
39 may refer the employee to a rating physician or chiropractor. The
40 rating physician or chiropractor must be selected in rotation from
41 the list of qualified physicians and chiropractors maintained by the
42 Administrator pursuant to subsection 2 of NRS 616C.490, unless the
43 insurer and injured employee otherwise agree to a rating physician
44 or chiropractor. The insurer shall pay the costs of any medical
45 examination requested by the hearing officer.



1 4. The hearing officer may consider the opinion of an
2 examining physician or chiropractor, in addition to the opinion of an
3 authorized treating ~~[physician or chiropractor,]~~ *health care*
4 *provider*, in determining the compensation payable to the injured
5 employee. *As used in this subsection, "health care provider" has*
6 *the meaning ascribed to it in section 2 of this act.*

7 5. If an injured employee has requested payment for the cost of
8 obtaining a second determination of his or her percentage of
9 disability pursuant to NRS 616C.100, the hearing officer shall
10 decide whether the determination of the higher percentage of
11 disability made pursuant to NRS 616C.100 is appropriate and, if so,
12 may order the insurer to pay to the employee an amount equal to the
13 maximum allowable fee established by the Administrator pursuant
14 to NRS 616C.260 for the type of service performed, or the usual fee
15 of that physician or chiropractor for such service, whichever is less.

16 6. The hearing officer shall order an insurer, organization for
17 managed care or employer who provides accident benefits for
18 injured employees pursuant to NRS 616C.265 to pay to the
19 appropriate person the charges of a provider of health care if the
20 conditions of NRS 616C.138 are satisfied.

21 7. The hearing officer may allow or forbid the presence of a
22 court reporter and the use of a tape recorder in a hearing.

23 8. The hearing officer shall render his or her decision within 15
24 days after:

25 (a) The hearing; or

26 (b) The hearing officer receives a copy of the report from the
27 medical examination the hearing officer requested.

28 9. The hearing officer shall render a decision in the most
29 efficient format developed by the Chief of the Hearings Division of
30 the Department of Administration.

31 10. The hearing officer shall give notice of the decision to each
32 party by mail. The hearing officer shall include with the notice of
33 the decision the necessary forms for appealing from the decision.

34 11. Except as otherwise provided in NRS 616C.380, the
35 decision of the hearing officer is not stayed if an appeal from that
36 decision is taken unless an application for a stay is submitted by a
37 party. If such an application is submitted, the decision is
38 automatically stayed until a determination is made on the
39 application. A determination on the application must be made within
40 30 days after the filing of the application. If, after reviewing the
41 application, a stay is not granted by the hearing officer or an appeals
42 officer, the decision must be complied with within 10 days after the
43 refusal to grant a stay.



1 **Sec. 21.** NRS 616C.350 is hereby amended to read as follows:
2 616C.350 1. Any ~~physician or chiropractor~~ **health care**
3 **provider** who attends an employee within the provisions of chapters
4 616A to 616D, inclusive, or chapter 617 of NRS in a professional
5 capacity, may be required to testify before an appeals officer. A
6 ~~physician or chiropractor~~ **health care provider** who testifies is
7 entitled to receive the same fees as witnesses in civil cases and, if
8 the appeals officer so orders at his or her own discretion, a fee equal
9 to that authorized for a consultation by the appropriate schedule of
10 fees for ~~physicians or chiropractors.~~ **health care providers who**
11 **practice in that discipline or specialization.** These fees must be
12 paid by the insurer.

13 2. Information gained by the attending ~~physician or~~
14 **chiropractor** **health care provider** while in attendance on the
15 injured employee is not a privileged communication if:

16 (a) Required by an appeals officer for a proper understanding of
17 the case and a determination of the rights involved; or

18 (b) The information is related to any fraud that has been or is
19 alleged to have been committed in violation of the provisions of this
20 chapter or chapter 616A, 616B, 616D or 617 of NRS.

21 3. *As used in this section, "health care provider" has the*
22 *meaning ascribed to it in section 2 of this act.*

23 **Sec. 22.** NRS 616C.360 is hereby amended to read as follows:

24 616C.360 1. A stenographic or electronic record must be kept
25 of the hearing before the appeals officer and the rules of evidence
26 applicable to contested cases under chapter 233B of NRS apply to
27 the hearing.

28 2. The appeals officer must hear any matter raised before him
29 or her on its merits, including new evidence bearing on the matter.

30 3. If there is a medical question or dispute concerning an
31 injured employee's condition or concerning the necessity of
32 treatment for which authorization for payment has been denied, the
33 appeals officer may:

34 (a) Order an independent medical examination and refer the
35 employee to a physician or chiropractor of his or her choice who has
36 demonstrated special competence to treat the particular medical
37 condition of the employee, whether or not the physician or
38 chiropractor is on the insurer's panel of providers of health care. If
39 the medical question concerns the rating of a permanent disability,
40 the appeals officer may refer the employee to a rating physician or
41 chiropractor. The rating physician or chiropractor must be selected
42 in rotation from the list of qualified physicians or chiropractors
43 maintained by the Administrator pursuant to subsection 2 of NRS
44 616C.490, unless the insurer and the injured employee otherwise



1 agree to a rating physician or chiropractor. The insurer shall pay the
2 costs of any examination requested by the appeals officer.

3 (b) If the medical question or dispute is relevant to an issue
4 involved in the matter before the appeals officer and all parties agree
5 to the submission of the matter to an independent review
6 organization, submit the matter to an independent review
7 organization in accordance with NRS 616C.363 and any regulations
8 adopted by the Commissioner.

9 4. The appeals officer may consider the opinion of an
10 examining physician or chiropractor, in addition to the opinion of an
11 authorized treating ~~[physician or chiropractor,]~~ *health care*
12 *provider*, in determining the compensation payable to the injured
13 employee. *As used in this subsection, "health care provider" has*
14 *the meaning ascribed to it in section 2 of this act.*

15 5. If an injured employee has requested payment for the cost of
16 obtaining a second determination of his or her percentage of
17 disability pursuant to NRS 616C.100, the appeals officer shall
18 decide whether the determination of the higher percentage of
19 disability made pursuant to NRS 616C.100 is appropriate and, if so,
20 may order the insurer to pay to the employee an amount equal to the
21 maximum allowable fee established by the Administrator pursuant
22 to NRS 616C.260 for the type of service performed, or the usual fee
23 of that physician or chiropractor for such service, whichever is less.

24 6. The appeals officer shall order an insurer, organization for
25 managed care or employer who provides accident benefits for
26 injured employees pursuant to NRS 616C.265 to pay to the
27 appropriate person the charges of a provider of health care if the
28 conditions of NRS 616C.138 are satisfied.

29 7. Any party to the appeal or contested case or the appeals
30 officer may order a transcript of the record of the hearing at any
31 time before the seventh day after the hearing. The transcript must be
32 filed within 30 days after the date of the order unless the appeals
33 officer otherwise orders.

34 8. Except as otherwise provided in subsection 9, the appeals
35 officer shall render a decision:

36 (a) If a transcript is ordered within 7 days after the hearing,
37 within 30 days after the transcript is filed; or

38 (b) If a transcript has not been ordered, within 30 days after the
39 date of the hearing.

40 9. The appeals officer shall render a decision on a contested
41 claim submitted pursuant to subsection 2 of NRS 616C.345 within
42 15 days after:

43 (a) The date of the hearing; or



1 (b) If the appeals officer orders an independent medical
2 examination, the date the appeals officer receives the report of the
3 examination,

4 ↪ unless both parties to the contested claim agree to a later date.

5 10. The appeals officer may affirm, modify or reverse any
6 decision made by a hearing officer and issue any necessary and
7 proper order to give effect to his or her decision.

8 **Sec. 23.** NRS 616C.363 is hereby amended to read as follows:

9 616C.363 1. Not later than 5 business days after the date that
10 an independent review organization receives a request for an
11 external review, the independent review organization shall:

12 (a) Review the documents and materials submitted for the
13 external review; and

14 (b) Notify the injured employee, his or her employer and the
15 insurer whether the independent review organization needs any
16 additional information to conduct the external review.

17 2. The independent review organization shall render a decision
18 on the matter not later than 15 business days after the date that it
19 receives all information that is necessary to conduct the external
20 review.

21 3. In conducting the external review, the independent review
22 organization shall consider, without limitation:

23 (a) The medical records of the insured;

24 (b) Any recommendations of the **[physician] health care**
25 **provider, as defined in section 2 of this act,** of the insured; and

26 (c) Any other information approved by the Commissioner for
27 consideration by an independent review organization.

28 4. In its decision, the independent review organization shall
29 specify the reasons for its decision. The independent review
30 organization shall submit a copy of its decision to:

31 (a) The injured employee;

32 (b) The employer;

33 (c) The insurer; and

34 (d) The appeals officer, if any.

35 5. The insurer shall pay the costs of the services provided by
36 the independent review organization.

37 6. The Commissioner may adopt regulations to govern the
38 process of external review and to carry out the provisions of this
39 section. Any regulations adopted pursuant to this section must
40 provide that:

41 (a) All parties must agree to the submission of a matter to an
42 independent review organization before a request for external
43 review may be submitted;

44 (b) A party may not be ordered to submit a matter to an
45 independent review organization; and



1 (c) The findings and decisions of an independent review
2 organization are not binding.

3 **Sec. 24.** NRS 616C.390 is hereby amended to read as follows:
4 616C.390 Except as otherwise provided in NRS 616C.392:

5 1. If an application to reopen a claim to increase or rearrange
6 compensation is made in writing more than 1 year after the date on
7 which the claim was closed, the insurer shall reopen the claim if:

8 (a) A change of circumstances warrants an increase or
9 rearrangement of compensation during the life of the claimant;

10 (b) The primary cause of the change of circumstances is the
11 injury for which the claim was originally made; and

12 (c) The application is accompanied by the certificate of a
13 ~~physician or a chiropractor~~ *health care provider* showing a change
14 of circumstances which would warrant an increase or rearrangement
15 of compensation.

16 2. After a claim has been closed, the insurer, upon receiving an
17 application and for good cause shown, may authorize the reopening
18 of the claim for medical investigation only. The application must be
19 accompanied by a written request for treatment from the ~~physician
20 or chiropractor~~ *health care provider* treating the claimant,
21 certifying that the treatment is indicated by a change in
22 circumstances and is related to the industrial injury sustained by the
23 claimant.

24 3. If a claimant applies for a claim to be reopened pursuant to
25 subsection 1 or 2 and a final determination denying the reopening is
26 issued, the claimant shall not reapply to reopen the claim until at
27 least 1 year after the date on which the final determination is issued.

28 4. Except as otherwise provided in subsection 5, if an
29 application to reopen a claim is made in writing within 1 year after
30 the date on which the claim was closed, the insurer shall reopen the
31 claim only if:

32 (a) The application is supported by medical evidence
33 demonstrating an objective change in the medical condition of the
34 claimant; and

35 (b) There is clear and convincing evidence that the primary
36 cause of the change of circumstances is the injury for which the
37 claim was originally made.

38 5. An application to reopen a claim must be made in writing
39 within 1 year after the date on which the claim was closed if:

40 (a) The claimant did not meet the minimum duration of
41 incapacity as set forth in NRS 616C.400 as a result of the injury;
42 and

43 (b) The claimant did not receive benefits for a permanent partial
44 disability.



1 ↳ If an application to reopen a claim to increase or rearrange
2 compensation is made pursuant to this subsection, the insurer shall
3 reopen the claim if the requirements set forth in paragraphs (a), (b)
4 and (c) of subsection 1 are met.

5 6. If an employee's claim is reopened pursuant to this section,
6 the employee is not entitled to vocational rehabilitation services or
7 benefits for a temporary total disability if, before the claim was
8 reopened, the employee:

9 (a) Retired; or

10 (b) Otherwise voluntarily removed himself or herself from the
11 workforce,

12 ↳ for reasons unrelated to the injury for which the claim was
13 originally made.

14 7. One year after the date on which the claim was closed, an
15 insurer may dispose of the file of a claim authorized to be reopened
16 pursuant to subsection 5, unless an application to reopen the claim
17 has been filed pursuant to that subsection.

18 8. An increase or rearrangement of compensation is not
19 effective before an application for reopening a claim is made unless
20 good cause is shown. The insurer shall, upon good cause shown,
21 allow the cost of emergency treatment the necessity for which has
22 been certified by a ~~physician or a chiropractor.~~ **health care**
23 **provider.**

24 9. A claim that closes pursuant to subsection 2 of NRS
25 616C.235 and is not appealed or is unsuccessfully appealed pursuant
26 to the provisions of NRS 616C.305 and 616C.315 to 616C.385,
27 inclusive, may not be reopened pursuant to this section.

28 10. The provisions of this section apply to any claim for which
29 an application to reopen the claim or to increase or rearrange
30 compensation is made pursuant to this section, regardless of the date
31 of the injury or accident to the claimant. If a claim is reopened
32 pursuant to this section, the amount of any compensation or benefits
33 provided must be determined in accordance with the provisions of
34 NRS 616C.425.

35 11. As used in this section:

36 (a) "Governmental program" means any program or plan under
37 which a person receives payments from a public form of retirement.
38 Such payments from a public form of retirement include, without
39 limitation:

40 (1) Social security received as a result of the Social Security
41 Act, as defined in NRS 287.120;

42 (2) Payments from the Public Employees' Retirement
43 System, as established by NRS 286.110;

44 (3) Payments from the Retirees' Fund, as defined in
45 NRS 287.04064;



1 (4) A disability retirement allowance, as defined in NRS
2 1A.040 and 286.031;

3 (5) A retirement allowance, as defined in NRS 218C.080;
4 and

5 (6) A service retirement allowance, as defined in NRS
6 1A.080 and 286.080.

7 (b) *“Health care provider” has the meaning ascribed to it in*
8 *section 2 of this act.*

9 (c) “Retired” means a person who, on the date he or she filed for
10 reopening a claim pursuant to this section:

11 (1) Is not employed or earning wages; and

12 (2) Receives benefits or payments for retirement from a:

13 (I) Pension or retirement plan;

14 (II) Governmental program; or

15 (III) Plan authorized by 26 U.S.C. § 401(a), 401(k),
16 403(b), 457 or 3121.

17 ~~(e)~~ (d) “Wages” means any remuneration paid by an employer
18 to an employee for the personal services of the employee, including,
19 without limitation:

20 (1) Commissions and bonuses; and

21 (2) Remuneration payable in any medium other than cash.

22 **Sec. 25.** NRS 616C.475 is hereby amended to read as follows:

23 616C.475 1. Except as otherwise provided in this section,
24 NRS 616C.175 and 616C.390, every employee in the employ of an
25 employer, within the provisions of chapters 616A to 616D,
26 inclusive, of NRS, who is injured by accident arising out of and in
27 the course of employment, or his or her dependents, is entitled to
28 receive for the period of temporary total disability, 66 2/3 percent of
29 the average monthly wage.

30 2. Except as otherwise provided in NRS 616B.028 and
31 616B.029, an injured employee or his or her dependents are not
32 entitled to accrue or be paid any benefits for a temporary total
33 disability during the time the injured employee is incarcerated. The
34 injured employee or his or her dependents are entitled to receive
35 such benefits when the injured employee is released from
36 incarceration if the injured employee is certified as temporarily
37 totally disabled by a physician or chiropractor.

38 3. If a claim for the period of temporary total disability is
39 allowed, the first payment pursuant to this section must be issued by
40 the insurer within 14 working days after receipt of the initial
41 certification of disability and regularly thereafter.

42 4. Any increase in compensation and benefits effected by the
43 amendment of subsection 1 is not retroactive.

44 5. Payments for a temporary total disability must cease when:



1 (a) A physician or chiropractor determines that the employee is
2 physically capable of any gainful employment for which the
3 employee is suited, after giving consideration to the employee's
4 education, training and experience;

5 (b) The employer offers the employee light-duty employment or
6 employment that is modified according to the limitations or
7 restrictions imposed by a physician or chiropractor , *or the*
8 *employee's treating health care provider*, pursuant to subsection 7;
9 or

10 (c) Except as otherwise provided in NRS 616B.028 and
11 616B.029, the employee is incarcerated.

12 6. Each insurer may, with each check that it issues to an injured
13 employee for a temporary total disability, include a form approved
14 by the Division for the injured employee to request continued
15 compensation for the temporary total disability.

16 7. A certification of disability issued by a physician or
17 chiropractor *or the employee's treating health care provider* must:

18 (a) Include the period of disability and a description of any
19 physical limitations or restrictions imposed upon the work of the
20 employee;

21 (b) Specify whether the limitations or restrictions are permanent
22 or temporary; and

23 (c) Be signed by the ~~treating~~ physician or chiropractor , *or the*
24 *employee's treating health care provider* authorized pursuant to
25 NRS 616B.527 or appropriately chosen pursuant to subsection ~~{3 or}~~
26 *4 or 5* of NRS 616C.090.

27 8. If the certification of disability specifies that the physical
28 limitations or restrictions are temporary, the employer of the
29 employee at the time of the employee's accident may offer
30 temporary, light-duty employment to the employee. If the employer
31 makes such an offer, the employer shall confirm the offer in writing
32 within 10 days after making the offer. The making, acceptance or
33 rejection of an offer of temporary, light-duty employment pursuant
34 to this subsection does not affect the eligibility of the employee to
35 receive vocational rehabilitation services, including compensation,
36 and does not exempt the employer from complying with NRS
37 616C.545 to 616C.575, inclusive, and 616C.590 or the regulations
38 adopted by the Division governing vocational rehabilitation
39 services. Any offer of temporary, light-duty employment made by
40 the employer must specify a position that:

41 (a) Is substantially similar to the employee's position at the time
42 of his or her injury in relation to the location of the employment and
43 the hours the employee is required to work;

44 (b) Provides a gross wage that is:



1 (1) If the position is in the same classification of
2 employment, equal to the gross wage the employee was earning at
3 the time of his or her injury; or

4 (2) If the position is not in the same classification of
5 employment, substantially similar to the gross wage the employee
6 was earning at the time of his or her injury; and

7 (c) Has the same employment benefits as the position of the
8 employee at the time of his or her injury.

9 ***9. As used in this section, "health care provider" has the***
10 ***meaning ascribed to it in section 2 of this act.***

11 **Sec. 26.** NRS 616C.490 is hereby amended to read as follows:

12 616C.490 1. Except as otherwise provided in NRS 616C.175,
13 every employee, in the employ of an employer within the provisions
14 of chapters 616A to 616D, inclusive, of NRS, who is injured by an
15 accident arising out of and in the course of employment is entitled to
16 receive the compensation provided for permanent partial disability.
17 As used in this section, "disability" and "impairment of the whole
18 person" are equivalent terms.

19 2. ***Except as otherwise provided in subsection 3:***

20 (a) Within 30 days after receiving from a physician or
21 chiropractor a report indicating that the injured employee may have
22 suffered a permanent disability and is stable and ratable, the insurer
23 shall schedule an appointment with the rating physician or
24 chiropractor selected pursuant to this subsection to determine the
25 extent of the employee's disability.

26 (b) Unless the insurer and the injured employee otherwise agree
27 to a rating physician or chiropractor:

28 ~~(a)~~ (1) The insurer shall select the rating physician or
29 chiropractor from the list of qualified rating physicians and
30 chiropractors designated by the Administrator, to determine
31 the percentage of disability in accordance with the American
32 Medical Association's Guides to the Evaluation of Permanent
33 Impairment as adopted and supplemented by the Division pursuant
34 to NRS 616C.110.

35 ~~(b)~~ (2) Rating physicians and chiropractors must be selected
36 in rotation from the list of qualified physicians and chiropractors
37 designated by the Administrator, according to their area of
38 specialization and the order in which their names appear on the list
39 unless the next physician or chiropractor is currently an employee of
40 the insurer making the selection, in which case the insurer must
41 select the physician or chiropractor who is next on the list and who
42 is not currently an employee of the insurer.

43 3. ***Notwithstanding any other provision of law, an injured***
44 ***employee or the legal representative of an injured employee may,***
45 ***at any time, without limitation, request that the Administrator***



1 *select a rating physician or chiropractor from the list of qualified*
2 *physicians and chiropractors designated by the Administrator. The*
3 *Administrator, upon receipt of the request, shall immediately*
4 *select for the injured employee the rating physician or*
5 *chiropractor who is next in rotation on the list, according to the*
6 *area of specialization.*

7 4. If an insurer contacts ~~{the}~~ a treating physician or
8 chiropractor to determine whether an injured employee has suffered
9 a permanent disability, the insurer shall deliver to the treating
10 physician or chiropractor that portion or a summary of that portion
11 of the American Medical Association's Guides to the Evaluation of
12 Permanent Impairment as adopted by the Division pursuant to NRS
13 616C.110 that is relevant to the type of injury incurred by the
14 employee.

15 ~~{4.}~~ 5. At the request of the insurer, the injured employee shall,
16 before an evaluation by a rating physician or chiropractor is
17 performed, notify the insurer of:

18 (a) Any previous evaluations performed to determine the extent
19 of any of the employee's disabilities; and

20 (b) Any previous injury, disease or condition sustained by the
21 employee which is relevant to the evaluation performed pursuant to
22 this section.

23 ➤ The notice must be on a form approved by the Administrator and
24 provided to the injured employee by the insurer at the time of the
25 insurer's request.

26 ~~{5.}~~ 6. Unless the regulations adopted pursuant to NRS
27 616C.110 provide otherwise, a rating evaluation must include an
28 evaluation of the loss of motion, sensation and strength of an injured
29 employee if the injury is of a type that might have caused such a
30 loss. Except in the case of claims accepted pursuant to NRS
31 616C.180, no factors other than the degree of physical impairment of
32 the whole person may be considered in calculating the
33 entitlement to compensation for a permanent partial disability.

34 ~~{6.}~~ 7. The rating physician or chiropractor shall provide the
35 insurer with his or her evaluation of the injured employee. After
36 receiving the evaluation, the insurer shall, within 14 days, provide
37 the employee with a copy of the evaluation and notify the employee:

38 (a) Of the compensation to which the employee is entitled
39 pursuant to this section; or

40 (b) That the employee is not entitled to benefits for permanent
41 partial disability.

42 ~~{7.}~~ 8. Each 1 percent of impairment of the whole person must
43 be compensated by a monthly payment:

44 (a) Of 0.5 percent of the claimant's average monthly wage for
45 injuries sustained before July 1, 1981;



1 (b) Of 0.6 percent of the claimant's average monthly wage for
2 injuries sustained on or after July 1, 1981, and before June 18, 1993;

3 (c) Of 0.54 percent of the claimant's average monthly wage for
4 injuries sustained on or after June 18, 1993, and before January 1,
5 2000; and

6 (d) Of 0.6 percent of the claimant's average monthly wage for
7 injuries sustained on or after January 1, 2000.

8 ↪ Compensation must commence on the date of the injury or the
9 day following the termination of temporary disability compensation,
10 if any, whichever is later, and must continue on a monthly basis for
11 5 years or until the claimant is 70 years of age, whichever is later.

12 ~~§ 9.~~ Compensation benefits may be paid annually to
13 claimants who will be receiving less than \$100 a month.

14 ~~§ 10.~~ Except as otherwise provided in subsection ~~§ 11,~~ if
15 there is a previous disability, as the loss of one eye, one hand, one
16 foot, or any other previous permanent disability, the percentage of
17 disability for a subsequent injury must be determined by computing
18 the percentage of the entire disability and deducting therefrom the
19 percentage of the previous disability as it existed at the time of the
20 subsequent injury.

21 ~~§ 11.~~ If a rating evaluation was completed for a previous
22 disability involving a condition, organ or anatomical structure that is
23 identical to the condition, organ or anatomical structure being
24 evaluated for the present disability, the percentage of disability for a
25 subsequent injury must be determined by deducting the percentage
26 of the previous disability from the percentage of the present
27 disability, regardless of the edition of the American Medical
28 Association's Guides to the Evaluation of Permanent Impairment as
29 adopted by the Division pursuant to NRS 616C.110 used to
30 determine the percentage of the previous disability. The
31 compensation awarded for a permanent disability on a subsequent
32 injury must be reduced only by the awarded or agreed upon
33 percentage of disability actually received by the injured employee
34 for the previous injury regardless of the percentage of the previous
35 disability.

36 ~~§ 12.~~ The Division may adopt schedules for rating
37 permanent disabilities resulting from injuries sustained before
38 July 1, 1973, and reasonable regulations to carry out the provisions
39 of this section.

40 ~~§ 13.~~ The increase in compensation and benefits effected
41 by the amendment of this section is not retroactive for accidents
42 which occurred before July 1, 1973.

43 ~~§ 14.~~ This section does not entitle any person to double
44 payments for the death of an employee and a continuation of



1 payments for a permanent partial disability, or to a greater sum in
2 the aggregate than if the injury had been fatal.

3 **Sec. 27.** NRS 616C.495 is hereby amended to read as follows:

4 616C.495 1. Except as otherwise provided in NRS 616C.380,
5 an award for a permanent partial disability may be paid in a lump
6 sum under the following conditions:

7 (a) A claimant injured on or after July 1, 1973, and before
8 July 1, 1981, who incurs a disability that does not exceed 12 percent
9 may elect to receive his or her compensation in a lump sum. A
10 claimant injured on or after July 1, 1981, and before July 1, 1995,
11 who incurs a disability that does not exceed 30 percent may elect to
12 receive his or her compensation in a lump sum.

13 (b) The spouse, or in the absence of a spouse, any dependent
14 child of a deceased claimant injured on or after July 1, 1973, who is
15 not entitled to compensation in accordance with NRS 616C.505, is
16 entitled to a lump sum equal to the present value of the deceased
17 claimant's undisbursed award for a permanent partial disability.

18 (c) Any claimant injured on or after July 1, 1981, and before
19 July 1, 1995, who incurs a disability that exceeds 30 percent may
20 elect to receive his or her compensation in a lump sum equal to the
21 present value of an award for a disability of 30 percent. If the
22 claimant elects to receive compensation pursuant to this paragraph,
23 the insurer shall pay in installments to the claimant that portion of
24 the claimant's disability in excess of 30 percent.

25 (d) Any claimant injured on or after July 1, 1995, and before
26 January 1, 2016, who incurs a disability that:

27 (1) Does not exceed 25 percent may elect to receive his or
28 her compensation in a lump sum.

29 (2) Exceeds 25 percent may:

30 (I) Elect to receive his or her compensation in a lump sum
31 equal to the present value of an award for a disability of 25 percent.
32 If the claimant elects to receive compensation pursuant to this sub-
33 subparagraph, the insurer shall pay in installments to the claimant
34 that portion of the claimant's disability in excess of 25 percent.

35 (II) To the extent that the insurer has offered to provide
36 compensation in a lump sum up to the present value of an award for
37 disability of 30 percent, elect to receive his or her compensation in a
38 lump sum up to the present value of an award for a disability of 30
39 percent. If the claimant elects to receive compensation pursuant to
40 this sub-subparagraph, the insurer shall pay in installments to the
41 claimant that portion of the claimant's disability in excess of 30
42 percent.

43 (e) Any claimant injured on or after January 1, 2016, and before
44 July 1, 2017, who incurs a disability that:



1 (1) Does not exceed 30 percent may elect to receive his or
2 her compensation in a lump sum.

3 (2) Exceeds 30 percent may elect to receive his or her
4 compensation in a lump sum equal to the present value of an award
5 for a disability of 30 percent. If the claimant elects to receive
6 compensation pursuant to this subparagraph, the insurer shall pay in
7 installments to the claimant that portion of the claimant's disability
8 in excess of 30 percent.

9 (f) Any claimant injured on or after July 1, 2017, who incurs a
10 disability that exceeds 30 percent may elect to receive his or her
11 compensation in a lump sum equal to the present value of an award
12 for a disability of up to 30 percent. If the claimant elects to receive
13 compensation pursuant to this paragraph, the insurer shall pay in
14 installments to the claimant that portion of the claimant's disability
15 in excess of 30 percent.

16 (g) If the permanent partial disability rating of a claimant
17 seeking compensation pursuant to this section would, when
18 combined with any previous permanent partial disability rating of
19 the claimant that resulted in an award of benefits to the claimant,
20 result in the claimant having a total permanent partial disability
21 rating in excess of 100 percent, the claimant's disability rating upon
22 which compensation is calculated must be reduced by such
23 percentage as required to limit the total permanent partial disability
24 rating of the claimant for all injuries to not more than 100 percent.

25 2. If the claimant elects to receive his or her payment for a
26 permanent partial disability in a lump sum pursuant to subsection 1,
27 all of the claimant's benefits for compensation terminate. The
28 claimant's acceptance of that payment constitutes a final settlement
29 of all factual and legal issues in the case. By so accepting the
30 claimant waives all of his or her rights regarding the claim,
31 including the right to appeal from the closure of the case or the
32 percentage of his or her disability, except:

33 (a) The right of the claimant to:

34 (1) Reopen his or her claim in accordance with the
35 provisions of NRS 616C.390; or

36 (2) Have his or her claim considered by his or her insurer
37 pursuant to NRS 616C.392;

38 (b) Any counseling, training or other rehabilitative services
39 provided by the insurer; and

40 (c) The right of the claimant to receive a benefit penalty in
41 accordance with NRS 616D.120.

42 ➔ The claimant, when he or she demands payment in a lump sum,
43 must be provided with a written notice which prominently displays a
44 statement describing the effects of accepting payment in a lump sum
45 of an entire permanent partial disability award, any portion of such



1 an award or any uncontested portion of such an award, and that the
2 claimant has 20 days after the mailing or personal delivery of the
3 notice within which to retract or reaffirm the demand, before
4 payment may be made and the claimant's election becomes final.

5 3. Any lump-sum payment which has been paid on a claim
6 incurred on or after July 1, 1973, must be supplemented if necessary
7 to conform to the provisions of this section.

8 4. Except as otherwise provided in this subsection, the total
9 lump-sum payment for disablement must not be less than one-half
10 the product of the average monthly wage multiplied by the
11 percentage of disability. If the claimant received compensation in
12 installment payments for his or her permanent partial disability
13 before electing to receive payment for that disability in a lump sum,
14 the lump-sum payment must be calculated for the remaining
15 payment of compensation.

16 5. The lump sum payable must be equal to the present value of
17 the compensation awarded, less any advance payment or lump sum
18 previously paid. The present value must be calculated using monthly
19 payments in the amounts prescribed in subsection ~~f7~~ 8 of NRS
20 616C.490 and actuarial annuity tables adopted by the Division. The
21 tables must be reviewed annually by a consulting actuary and must
22 be adjusted accordingly on July 1 of each year by the Division
23 using:

24 (a) The most recent unisex "Static Mortality Tables for Defined
25 Benefit Pension Plans" published by the Internal Revenue Service;
26 and

27 (b) The average 30-Year Treasury Constant Maturity Rate for
28 March of the current year as reported by the Board of Governors of
29 the Federal Reserve System.

30 6. If a claimant would receive more money by electing to
31 receive compensation in a lump sum than the claimant would if he
32 or she receives installment payments, the claimant may elect to
33 receive the lump-sum payment.

34 **Sec. 28.** NRS 616C.545 is hereby amended to read as follows:
35 616C.545 1. If an employee does not return to work for 28
36 consecutive calendar days as a result of an injury arising out of and
37 in the course of his or her employment or an occupational disease,
38 the insurer shall contact the treating ~~[physician or chiropractor]~~
39 *health care provider* to determine whether:

40 ~~f1~~ (a) There are physical limitations on the injured employee's
41 ability to work; and

42 ~~f2~~ (b) The limitations, if any, are permanent or temporary.

43 2. *As used in this section, "health care provider" has the*
44 *meaning ascribed to it in section 2 of this act.*



1 **Sec. 29.** NRS 616C.550 is hereby amended to read as follows:
2 616C.550 1. If benefits for a temporary total disability will
3 be paid to an injured employee for more than 90 days, the insurer or
4 the injured employee may request a vocational rehabilitation
5 counselor to prepare a written assessment of the injured employee's
6 ability or potential to return to:

7 (a) The position the employee held at the time that he or she was
8 injured; or

9 (b) Any other gainful employment.

10 2. Before completing the written assessment, the counselor
11 shall:

12 (a) Contact the injured employee and:

13 (1) Identify the injured employee's educational background,
14 work experience and career interests; and

15 (2) Determine whether the injured employee has any existing
16 marketable skills.

17 (b) Contact the injured employee's treating ~~physician or~~
18 ~~chiropractor~~ *health care provider* and determine:

19 (1) Whether the employee has any temporary or permanent
20 physical limitations;

21 (2) The estimated duration of the limitations;

22 (3) Whether there is a plan for continued medical treatment;

23 and

24 (4) When the employee may return to the position that the
25 employee held at the time of his or her injury or to any other
26 position. The treating ~~physician or chiropractor~~ *health care*
27 *provider* shall determine whether an employee may return to the
28 position that the employee held at the time of his or her injury.

29 3. Except as otherwise provided in NRS 616C.542 and
30 616C.547, a vocational rehabilitation counselor shall prepare a request
31 for a written assessment not more than 30 days after receiving a request
32 for a written assessment pursuant to subsection 1. The written
33 assessment must contain a determination as to whether the employee
34 is eligible for vocational rehabilitation services pursuant to NRS
35 616C.590. If the insurer, with the assistance of the counselor,
36 determines that the employee is eligible for vocational rehabilitation
37 services, a plan for a program of vocational rehabilitation must be
38 completed pursuant to NRS 616C.555.

39 4. The Division may, by regulation, require a written
40 assessment to include additional information.

41 5. If an insurer determines that a written assessment requested
42 pursuant to subsection 1 is impractical because of the expected
43 duration of the injured employee's total temporary disability, the
44 insurer shall:



1 (a) Complete a written report which specifies the insurer's
2 reasons for the decision; and

3 (b) Review the claim at least once every 60 days.

4 6. The insurer shall deliver a copy of the written assessment or
5 the report completed pursuant to subsection 5 to the injured
6 employee, his or her employer, the treating ~~physician or~~
7 ~~chiropractor~~ *health care provider* and the injured employee's
8 attorney or representative, if applicable.

9 7. For the purposes of this section, "existing marketable skills"
10 include, but are not limited to:

11 (a) Completion of:

12 (1) A program at a trade school;

13 (2) A program which resulted in an associate's degree; or

14 (3) A course of study for certification,

15 ↪ if the program or course of study provided the skills and training
16 necessary for the injured employee to be gainfully employed on a
17 reasonably continuous basis in an occupation that is reasonably
18 available in this State.

19 (b) Completion of a 2-year or 4-year program at a college or
20 university which resulted in a degree.

21 (c) Completion of any portion of a program for a graduate's
22 degree at a college or university.

23 (d) Skills acquired in previous employment, including those
24 acquired during an apprenticeship or a program for on-the-job
25 training.

26 ↪ The skills set forth in paragraphs (a) to (d), inclusive, must have
27 been acquired within the preceding 7 years and be compatible with
28 the physical limitations of the injured employee to be considered
29 existing marketable skills.

30 8. Each written assessment of an injured employee must be
31 signed by a certified vocational rehabilitation counselor.

32 *9. As used in this section, "health care provider" has the*
33 *meaning ascribed to it in section 2 of this act.*

34 **Sec. 30.** NRS 616C.555 is hereby amended to read as follows:

35 616C.555 1. A vocational rehabilitation counselor shall
36 develop a plan for a program of vocational rehabilitation for each
37 injured employee who is eligible for vocational rehabilitation
38 services pursuant to NRS 616C.590. The counselor shall work with
39 the insurer and the injured employee to develop a program that is
40 compatible with the injured employee's age, sex and physical
41 condition.

42 2. If the counselor determines in a written assessment
43 requested pursuant to NRS 616C.550 that the injured employee has
44 existing marketable skills, the plan must consist of job placement
45 assistance only. When practicable, the goal of job placement



1 assistance must be to aid the employee in finding a position which
2 pays a gross wage that is equal to or greater than 80 percent of the
3 gross wage that the employee was earning at the time of his or her
4 injury. An injured employee must not receive job placement
5 assistance for more than 6 months after the date on which the
6 injured employee was notified that he or she is eligible only for job
7 placement assistance because:

8 (a) The injured employee was physically capable of returning to
9 work; or

10 (b) It was determined that the injured employee had existing
11 marketable skills.

12 3. If the counselor determines in a written assessment
13 requested pursuant to NRS 616C.550 that the injured employee does
14 not have existing marketable skills, the plan must consist of a
15 program which trains or educates the injured employee and provides
16 job placement assistance. Except as otherwise provided in NRS
17 616C.560, such a program must not exceed:

18 (a) If the injured employee has incurred a permanent disability
19 as a result of which permanent restrictions on the ability of the
20 injured employee to work have been imposed but no permanent
21 physical impairment rating has been issued, or a permanent
22 disability with a permanent physical impairment of 1 percent or
23 more but less than 6 percent, 9 months.

24 (b) If the injured employee has incurred a permanent physical
25 impairment of 6 percent or more, but less than 11 percent, 1 year.

26 (c) If the injured employee has incurred a permanent physical
27 impairment of 11 percent or more, 18 months.

28 ↪ The percentage of the injured employee's permanent physical
29 impairment must be determined pursuant to NRS 616C.490.

30 4. A plan for a program of vocational rehabilitation must
31 comply with the requirements set forth in NRS 616C.585.

32 5. A plan created pursuant to subsection 2 or 3 must assist the
33 employee in finding a job or train or educate the employee and
34 assist the employee in finding a job that is a part of an employer's
35 regular business operations and from which the employee will gain
36 skills that would generally be transferable to a job with another
37 employer.

38 6. A program of vocational rehabilitation must not commence
39 before the treating ~~[physician or chiropractor,]~~ *health care provider*
40 or an examining physician or chiropractor determines that the
41 injured employee is capable of safely participating in the program.

42 7. If, based upon the opinion of a treating *health care provider*
43 or an examining physician or chiropractor, the counselor determines
44 that an injured employee is not eligible for vocational rehabilitation



1 services, the counselor shall provide a copy of the opinion to the
2 injured employee, the injured employee's employer and the insurer.

3 8. A plan for a program of vocational rehabilitation must be
4 signed by a certified vocational rehabilitation counselor.

5 9. If an initial program of vocational rehabilitation pursuant to
6 this section is unsuccessful, an injured employee may submit a
7 written request for the development of a second program of
8 vocational rehabilitation which relates to the same injury. An insurer
9 shall authorize a second program for an injured employee upon
10 good cause shown.

11 10. If a second program of vocational rehabilitation pursuant to
12 subsection 9 is unsuccessful, an injured employee may submit a
13 written request for the development of a third program of vocational
14 rehabilitation which relates to the same injury. The insurer, with the
15 approval of the employer who was the injured employee's employer
16 at the time of his or her injury, may authorize a third program for the
17 injured employee. If such an employer has terminated operations,
18 the employer's approval is not required for authorization of a third
19 program. An insurer's determination to authorize or deny a third
20 program of vocational rehabilitation may not be appealed.

21 11. The Division shall adopt regulations to carry out the
22 provisions of this section. The regulations must specify the contents
23 of a plan for a program of vocational rehabilitation.

24 *12. As used in this section, "health care provider" has the*
25 *meaning ascribed to it in section 2 of this act.*

26 **Sec. 31.** NRS 616C.590 is hereby amended to read as follows:

27 616C.590 1. Except as otherwise provided in this section, an
28 injured employee is not eligible for vocational rehabilitation
29 services, unless:

30 (a) The treating ~~[physician or chiropractor]~~ *health care provider*
31 approves the return of the injured employee to work but imposes
32 permanent restrictions that prevent the injured employee from
33 returning to the position that the employee held at the time of his or
34 her injury;

35 (b) The injured employee's employer does not offer
36 employment that:

37 (1) The employee is eligible for considering the restrictions
38 imposed pursuant to paragraph (a);

39 (2) Provides a gross wage that is equal to or greater than 80
40 percent of the gross wage that the employee was earning at the time
41 of injury; and

42 (3) Has the same employment benefits as the position of the
43 employee at the time of his or her injury; and

44 (c) The injured employee is unable to return to gainful
45 employment with any other employer at a gross wage that is equal



1 to or greater than 80 percent of the gross wage that the employee
2 was earning at the time of his or her injury.

3 2. If the treating ~~[physician or chiropractor]~~ *health care*
4 *provider* imposes permanent restrictions on the injured employee for
5 the purposes of paragraph (a) of subsection 1, he or she shall specify
6 in writing:

7 (a) The medically objective findings upon which his or her
8 determination is based; and

9 (b) A detailed description of the restrictions.

10 ↪ The treating ~~[physician or chiropractor]~~ *health care provider*
11 shall deliver a copy of the findings and the description of the
12 restrictions to the insurer.

13 3. If there is a question as to whether the restrictions imposed
14 upon the injured employee are permanent, the employee may
15 receive vocational rehabilitation services until a final determination
16 concerning the duration of the restrictions is made.

17 4. Vocational rehabilitation services must cease as soon as the
18 injured employee is no longer eligible for the services pursuant to
19 subsection 1.

20 5. An injured employee is not entitled to vocational
21 rehabilitation services solely because the position that the employee
22 held at the time of his or her injury is no longer available.

23 6. An injured employee or the dependents of the injured
24 employee are not entitled to accrue or be paid any money for
25 vocational rehabilitation services during the time the injured
26 employee is incarcerated.

27 7. Any injured employee eligible for compensation other than
28 accident benefits may not be paid those benefits if the injured
29 employee refuses counseling, training or other vocational
30 rehabilitation services offered by the insurer. Except as otherwise
31 provided in NRS 616B.028 and 616B.029, an injured employee
32 shall be deemed to have refused counseling, training and other
33 vocational rehabilitation services while the injured employee is
34 incarcerated.

35 8. If an insurer cannot locate an injured employee for whom it
36 has ordered vocational rehabilitation services, the insurer may close
37 his or her claim 21 days after the insurer determines that the
38 employee cannot be located. The insurer shall make a reasonable
39 effort to locate the employee.

40 9. The reappearance of the injured employee after his or her
41 claim has been closed does not automatically reinstate his or her
42 eligibility for vocational rehabilitation benefits. If the employee
43 wishes to re-establish his or her eligibility for those benefits, the
44 injured employee must file a written application with the insurer to



1 reinstate the claim. The insurer shall reinstate the employee's claim
2 if good cause is shown for the employee's absence.

3 *10. As used in this section, "health care provider" has the*
4 *meaning ascribed to it in section 2 of this act.*

5 **Sec. 32.** NRS 616D.330 is hereby amended to read as follows:

6 616D.330 1. An insurer, an employer, an organization for
7 managed care, a third-party administrator or the representative of
8 any of those persons, the Nevada Attorney for Injured Workers or
9 an attorney or other compensated representative of an injured
10 employee shall not initiate:

11 (a) Any oral communication relating to the medical disposition
12 of the claim of an injured employee with the injured employee's
13 *treating health care provider or* examining ~~for treating~~ physician
14 or chiropractor unless the initiator of the oral communication:

15 (1) Maintains, in written form or in a form from which a
16 written record may be produced, a log that includes the date, time
17 and subject matter of the communication; and

18 (2) Makes the log available, upon request, to each insurer,
19 organization for managed care and third-party administrator
20 interested in the claim or the representative of each of those persons,
21 the Administrator and the injured employee, the injured employee's
22 representative and the injured employee's employer; or

23 (b) Any written communication relating to the medical
24 disposition of the claim with the injured employee's *treating health*
25 *care provider or* examining ~~for treating~~ physician or chiropractor
26 unless a copy of the communication is submitted to the injured
27 employee or the injured employee's representative in a timely
28 manner.

29 2. If the Administrator determines that a person has violated
30 the provisions of this section, the Administrator shall:

31 (a) For an initial violation, issue a notice of correction.

32 (b) For a second violation, impose an administrative fine of not
33 more than \$250.

34 (c) For a third or subsequent violation, impose an administrative
35 fine of not more than \$1,000.

36 *3. As used in this section, "health care provider" has the*
37 *meaning ascribed to it in section 2 of this act.*

38 **Sec. 33.** NRS 617.352 is hereby amended to read as follows:

39 617.352 1. Except as otherwise provided in this section, a
40 treating ~~physician or chiropractor~~ *health care provider* shall,
41 within 3 working days after first providing treatment to an employee
42 who has incurred an occupational disease, complete and file a claim
43 for compensation with the employer of the employee and the
44 employer's insurer. If the employer is a self-insured employer, the
45 treating ~~physician or chiropractor~~ *health care provider* shall file



1 the claim for compensation with the employer's third-party
2 administrator. If the ~~physician or chiropractor~~ *health care provider*
3 files the claim for compensation by electronic transmission, the
4 ~~physician or chiropractor~~ *health care provider* shall, upon request,
5 mail to the insurer or third-party administrator the form that contains
6 the original signatures of the employee and the ~~physician or~~
7 ~~chiropractor~~ *health care provider*. The form must be mailed within
8 7 days after receiving such a request.

9 2. A ~~physician or chiropractor~~ *health care provider* who has
10 a duty to file a claim for compensation pursuant to subsection 1 may
11 delegate the duty to a medical facility. If the ~~physician or~~
12 ~~chiropractor~~ *health care provider* delegates the duty to a medical
13 facility:

14 (a) The medical facility must comply with the filing
15 requirements set forth in this section; and

16 (b) The delegation must be in writing and signed by:

17 (1) The ~~physician or chiropractor~~ *health care provider*;
18 and

19 (2) An authorized representative of the medical facility.

20 3. A claim for compensation required by subsection 1 must be
21 filed on a form prescribed by the Administrator.

22 4. If a claim for compensation is accompanied by a certificate
23 of disability, the certificate must include a description of any
24 limitation or restrictions on the employee's ability to work.

25 5. Each ~~physician, chiropractor~~ *health care provider* and
26 medical facility that treats employees who have incurred
27 occupational diseases, each insurer, third-party administrator and
28 employer, and the Division shall maintain at their offices a sufficient
29 supply of the forms prescribed by the Administrator for filing a
30 claim for compensation.

31 6. The Administrator may impose an administrative fine of not
32 more than \$1,000 for each violation of subsection 1 on:

33 (a) A ~~physician or chiropractor~~ *health care provider*; or

34 (b) A medical facility if the duty to file the claim for
35 compensation has been delegated to the medical facility pursuant to
36 this section.

37 7. *As used in this section, "health care provider" has the*
38 *meaning ascribed to it in section 2 of this act.*

39 **Sec. 34.** NRS 617.354 is hereby amended to read as follows:

40 617.354 1. Except as otherwise provided in NRS 616B.727,
41 within 6 working days after the receipt of a claim for compensation
42 from a ~~physician or chiropractor~~ *health care provider*, or a
43 medical facility if the duty to file the claim for compensation has
44 been delegated to the medical facility pursuant to NRS 617.352, an
45 employer shall complete and file with the employer's insurer or



1 third-party administrator an employer's report of industrial injury or
2 occupational disease.

3 2. The report must:

4 (a) Be filed on a form prescribed by the Administrator;

5 (b) Be signed by the employer or the employer's designee;

6 (c) Contain specific answers to all questions required by the
7 regulations of the Administrator; and

8 (d) Be accompanied by a statement of the wages of the
9 employee if the claim for compensation received from the treating
10 ~~physician or chiropractor,~~ *health care provider*, or a medical
11 facility if the duty to file the claim for compensation has been
12 delegated to the medical facility pursuant to NRS 617.352, indicates
13 that the employee is expected to be off work for 5 days or more.

14 3. An employer who files the report required by subsection 1
15 by electronic transmission shall, upon request, mail to the insurer or
16 third-party administrator the form that contains the original
17 signature of the employer or the employer's designee. The form
18 must be mailed within 7 days after receiving such a request.

19 4. The Administrator shall impose an administrative fine of not
20 more than \$1,000 against an employer for each violation of this
21 section.

22 *5. As used in this section, "health care provider" has the*
23 *meaning ascribed to it in section 2 of this act.*

24 **Sec. 35.** NRS 617.364 is hereby amended to read as follows:

25 617.364 *1.* If, after a claim for compensation is filed pursuant
26 to NRS 617.344:

27 ~~1-~~ (a) The employee seeks treatment from a ~~physician or~~
28 ~~chiropractor~~ *health care provider* for a newly developed injury or
29 disease; and

30 ~~2-~~ (b) The employee's medical records for the occupational
31 disease reported do not include a reference to the injury or disease
32 for which treatment is being sought,

33 ↪ the injury or disease for which treatment is being sought must not
34 be considered part of the employee's original claim for
35 compensation unless the ~~physician or chiropractor~~ *health care*
36 *provider* establishes by medical evidence a causal relationship
37 between the injury and disease for which treatment is being sought
38 and the occupational disease reported pursuant to NRS 617.344.

39 *2. As used in this section, "health care provider" has the*
40 *meaning ascribed to it in section 2 of this act.*

41 **Sec. 36.** The amendatory provisions of this act apply
42 prospectively with regard to any claim pursuant to chapters 616A to
43 616D, inclusive, or 617 of NRS which is open on the effective date
44 of this act.



1 **Sec. 37.** This act becomes effective upon passage and
2 approval.

⑩

