

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

LCB File No. R167-97

November 24, 1997

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

AUTHORITY: §§1-8, NRS 616A.400 and 616D.330.

Section 1. NAC 616C.088 is hereby amended to read as follows:

616C.088 1. An insurer shall maintain a file of employees' claims concerning injuries and occupational disease, including claims which have been denied. The file must be indexed by claimants' names and social security numbers.

2. The file for each injury or occupational disease must contain:

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

(b) The *[physician's or chiropractor's first report of the injury or occupational disease and every subsequent] claim for compensation and any* medical report *[.] issued after the claim for compensation is completed.*

(c) All applicable orders of the hearings division of the department of administration and *[reports] documents* related to those orders.

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

- (1) Accident benefits;
- (2) Temporary partial disability;
- (3) Temporary total disability;
- (4) Permanent partial disability;
- (5) Permanent total disability;
- (6) Death benefits; and
- (7) [Rehabilitation,] *Vocational rehabilitation,*

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

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

(f) Copies of all correspondence and other documents pertaining to the claim, including copies of:

- (1) All medical bills incurred by the claimant and received by the insurer; and
- (2) Any notices sent to the claimant to inform him of his right to a review or appeal,

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

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

(h) A summary of conversations or oral negotiations, or both, conducted by the insurer with the claimant, [his attorney, his physician] *the claimant's attorney,* or any other party [.] *other than the claimant's physician or chiropractor,* if action is requested or taken.

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

3. Each file of a claim must be retained for 2 years after the death of the claimant.

Sec. 2. Chapter 616D of NAC is hereby amended by adding thereto the provisions set forth as sections 3 to 7, inclusive, of this regulation.

Sec. 3. *“Communication relating to the medical disposition” means any discussion concerning:*

1. The injured employee’s:

(a) Current medical condition; and

(b) Past or predicted future condition if such information is relevant to the determination of the employee’s eligibility for compensation or accident benefits pursuant to chapters 616A to 616D, inclusive, of NRS.

2. The results of any medical treatment, evaluation or test that was conducted to determine whether an injured employee is eligible for compensation or accident benefits pursuant to chapters 616A to 616D, inclusive, of NRS.

Sec. 4. *“Compensated representative of an injured employee” means any person who receives payment for assisting an injured employee to obtain compensation or accident benefits pursuant to chapters 616A to 616D, inclusive, of NRS, regardless of whether the person is paid by the injured employee or a third party.*

Sec. 5. *“Log of oral communications” means a record, in a written form or in a form from which a written record may be produced, maintained by a person specified in subsection 1 of NRS 616D.330 of any oral communication he initiated with an injured employee’s examining or treating physician or chiropractor, or an employee of the examining or treating physician or chiropractor, relating to the medical disposition of a claim of an injured employee.*

Sec. 6. *1. An insurer, employer, organization for managed care, a third-party administrator or the representative of any of those persons, the Nevada attorney for injured workers or an attorney or other compensated representative of an injured employee who initiates an oral communication relating to the medical disposition of a claim shall maintain one log of oral communications for each claim of each injured employee with whom he has had such communications.*

2. The initiator may maintain a log of oral communications in any file that he maintains concerning the injured employee if the log of oral communications is kept in a segregated section of the file so that the log is readily available for production pursuant to the provisions of section 7 of this regulation.

3. A log of oral communications must contain the names of all parties included in each communication and the date, time and subject matter of the communication.

4. For purposes of this section, “subject matter of the communication” means:

(1) Identification of the injury;

(2) The results of any tests, evaluations or treatments ordered for the injured employee;

or

(3) The effect of the injury on the ability of the injured employee to return to work.

Sec. 7. *If a person specified in subparagraph (2) of paragraph (a) of subsection 1 of NRS 616D.330 makes a written request for a log of oral communications and, if requested, proves his status as a person specified in subparagraph (2) of paragraph (a) of subsection 1 of NRS 616D.330, the person who is required to maintain the log pursuant to subsection 1 of NRS 616D.330 shall make the log available within 30 days after receipt of the written request.*

Sec. 8. NAC 616D.005 is hereby amended to read as follows:

616D.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in:

1. NRS 616A.030 to 616A.360, inclusive; and
2. NAC 616A.020 to 616A.280, inclusive, *and sections 3, 4 and 5 of this regulation,*

have the meanings ascribed to them in those sections.