

ASSEMBLY BILL NO. 338—ASSEMBLYMAN BACHE

MARCH 13, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning workers' compensation. (BDR 53-711)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: No.

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

AN ACT relating to workers' compensation; requiring an insurer to reimburse an injured employee for medical expenses paid by the employee under certain circumstances; requiring insurers to provide certain types of notifications concerning an injured employee's right to choose physicians or chiropractors; requiring the administrator of the division of industrial relations of the department of business and industry to design a form notifying injured employees of their right to choose an alternative physician or chiropractor; allowing injured employees to choose under certain circumstances physicians or chiropractors who are not under contract with the managed care organization of the insurer; allowing an injured employee to choose any qualified physician or chiropractor to render a second determination of his percentage of disability; revising certain provisions governing eligibility for compensation for reopening a claim; revising the provisions governing offers of temporary, light-duty employment; revising the provisions governing the determination of a permanent partial disability; revising provisions governing eligibility for and length, goals and amounts of vocational rehabilitation services; and providing other matters properly relating thereto.

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

- 1 **Secs. 1-3.** (Deleted by amendment.)
2 **Sec. 4.** NRS 616B.527 is hereby amended to read as follows:
3 616B.527 ***1.*** A self-insured employer, an association of self-insured
4 public or private employers or a private carrier may:
5 ~~***1-1***~~ ***(a)*** Enter into a contract or contracts with one or more
6 organizations for managed care to provide comprehensive medical and
7 health care services to employees for injuries and diseases that are
8 compensable pursuant to chapters 616A to 617, inclusive, of NRS.
9 ~~***1-2***~~ ***(b)*** Enter into a contract or contracts with providers of health care,
10 including, without limitation, physicians who provide primary care,
11 specialists, pharmacies, physical therapists, radiologists, nurses, diagnostic



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1 facilities, laboratories, hospitals and facilities that provide treatment to
2 outpatients, to provide medical and health care services to employees for
3 injuries and diseases that are compensable pursuant to chapters 616A to
4 617, inclusive, of NRS.

5 ~~3-1~~ (c) Require employees to obtain medical and health care services
6 for their industrial injuries from those organizations and persons with
7 whom the self-insured employer, association or private carrier has
8 contracted pursuant to ~~subsections 1 and 2,~~ paragraphs (a) and (b), or as
9 the self-insured employer, association or private carrier otherwise
10 prescribes.

11 ~~4-1~~ ~~Require~~

12 (d) *Except as otherwise provided in subsection 3 of NRS 616C.090,*
13 *require* employees to obtain the approval of the self-insured employer,
14 association or private carrier before obtaining medical and health care
15 services for their industrial injuries from a provider of health care who has
16 not been previously approved by the self-insured employer, association or
17 private carrier.

18 ~~5-1~~ 2. An organization for managed care with whom a self-insured
19 employer, association of self-insured public or private employers or a
20 private carrier has contracted pursuant to this section shall comply with the
21 provisions of NRS 616B.528, 616B.5285 and 616B.529.

22 **Sec. 5.** Chapter 616C of NRS is hereby amended by adding thereto a
23 new section to read as follows:

24 *If:*

25 1. *An insurer, an organization for managed care, a third-party*
26 *administrator or an employer who provides accident benefits for injured*
27 *employees pursuant to NRS 616C.265 denies authorization or*
28 *responsibility for payment for treatment or other services provided by a*
29 *provider of health care that the injured employee alleges are related to an*
30 *industrial injury or occupational disease;*

31 2. *The injured employee pays in protest for the treatment or other*
32 *services; and*

33 3. *A hearing officer or appeals officer ultimately determines that the*
34 *treatment or other services should have been covered, or the insurer,*
35 *organization for managed care, third-party administrator or employer*
36 *who provides accident benefits subsequently accepts responsibility for*
37 *payment,*
38 *the hearing officer or appeals officer shall order the insurer,*
39 *organization for managed care, third-party administrator or employer*
40 *who provides accident benefits to reimburse the injured employee for the*
41 *amount paid by the injured employee, or the insurer, organization for*
42 *managed care, third-party administrator or employer who provides*
43 *accident benefits shall, as a part of any settlement with the injured*
44 *employee, reimburse the injured employee for the amount paid by the*
45 *injured employee.*

46 **Sec. 6.** NRS 616C.050 is hereby amended to read as follows:

47 616C.050 1. An insurer shall provide to each claimant:

48 (a) Upon written request, one copy of any medical information
49 concerning his injury or illness.



- 1 (b) A statement which contains information concerning the claimant's
2 right to:
- 3 (1) Receive the information and forms necessary to file a claim;
 - 4 (2) Select a treating physician or chiropractor *and an alternative*
5 *treating physician or chiropractor* in accordance with the provisions of
6 NRS 616C.090;
 - 7 (3) Request the appointment of the Nevada attorney for injured
8 workers to represent him before the appeals officer;
 - 9 (4) File a complaint with the administrator;
 - 10 (5) When applicable, receive compensation for:
 - 11 (I) Permanent total disability;
 - 12 (II) Temporary total disability;
 - 13 (III) Permanent partial disability;
 - 14 (IV) Temporary partial disability; or
 - 15 (V) All medical costs related to his injury or disease;
 - 16 (6) Receive services for rehabilitation if his injury prevents him from
17 returning to gainful employment;
 - 18 (7) Review by a hearing officer of any determination or rejection of a
19 claim by the insurer within the time specified by statute; and
 - 20 (8) Judicial review of any final decision within the time specified by
21 statute.
- 22 2. *The insurer's statement must include a copy of the form designed*
23 *by the administrator pursuant to subsection 7 of NRS 616C.090 that*
24 *notifies injured employees of their right to select an alternative treating*
25 *physician or chiropractor.* The administrator shall adopt regulations for
26 the manner of compliance by an insurer with the *other* provisions of
27 subsection 1.
- 28 **Sec. 7.** NRS 616C.090 is hereby amended to read as follows:
29 616C.090 1. The administrator shall establish a panel of physicians
30 and chiropractors who have demonstrated special competence and interest
31 in industrial health to treat injured employees under chapters 616A to
32 616D, inclusive, or chapter 617 of NRS. Every employer whose insurer has
33 not entered into a contract with an organization for managed care or with
34 providers of health care services pursuant to NRS 616B.527 shall maintain
35 a list of those physicians and chiropractors on the panel who are reasonably
36 accessible to his employees.
- 37 2. An injured employee whose employer's insurer has not entered into
38 a contract with an organization for managed care or with providers of
39 health care services pursuant to NRS 616B.527 may choose his treating
40 physician or chiropractor from the panel of physicians and chiropractors. If
41 the injured employee is not satisfied with the first physician or chiropractor
42 he so chooses, he may make an alternative choice of physician or
43 chiropractor from the panel if the choice is made within 90 days after his
44 injury. The insurer shall notify the first physician or chiropractor in
45 writing. The notice must be postmarked within 3 working days after the
46 insurer receives knowledge of the change. The first physician or
47 chiropractor must be reimbursed only for the services he rendered to the
48 injured employee up to and including the date of notification. ~~Any~~ *Except*
49 *as otherwise provided in this subsection, any* further change is subject to



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1 the approval of the insurer, which must be granted or denied within 10 days
2 after a written request for such a change is received from the injured
3 employee. If no action is taken on the request within 10 days, the request
4 shall be deemed granted. Any request for a change of physician or
5 chiropractor must include the name of the new physician or chiropractor
6 chosen by the injured employee. *If the treating physician or chiropractor*
7 *refers the injured employee to a specialist for treatment, the insurer shall,*
8 *in writing, notify the employee whether the name of more than one*
9 *physician or chiropractor with that specialization is on the panel and, if*
10 *so, inform the employee that he has a right to choose any one of those*
11 *specialists.*

12 3. An injured employee whose employer's insurer has entered into a
13 contract with an organization for managed care or with providers of health
14 care services pursuant to NRS 616B.527 must choose his treating physician
15 or chiropractor pursuant to the terms of that contract. If the injured
16 employee is not satisfied with the first physician or chiropractor he so
17 chooses, he may make an alternative choice of physician or chiropractor
18 pursuant to the terms of the contract if the choice is made within 90 days
19 after his injury. If the injured employee, after choosing his treating
20 physician or chiropractor, moves to a county which is not served by the
21 organization for managed care or providers of health care services named
22 in the contract and the insurer determines that it is impractical for the
23 injured employee to continue treatment with the physician or chiropractor,
24 the injured employee must choose a treating physician or chiropractor who
25 has agreed to the terms of that contract unless the insurer authorizes the
26 injured employee to choose another physician or chiropractor. *If the*
27 *treating physician or chiropractor refers the injured employee to a*
28 *specialist for treatment, the insurer shall, in writing, notify the employee*
29 *whether the name of more than one physician or chiropractor with that*
30 *specialization is available pursuant to the terms of the contract with the*
31 *organization for managed care or with providers of health care services*
32 *pursuant to NRS 616B.527, as appropriate, and, if so, inform the*
33 *employee that he has a right to choose any one of those specialists. If a*
34 *choice of physicians or chiropractors within that specialization is not*
35 *available pursuant to the terms of the contract, the injured employee may*
36 *select any physician or chiropractor practicing within that area of*
37 *specialization who agrees to accept the terms of the contract with the*
38 *organization for managed care or with providers of health care pursuant*
39 *to NRS 616B.527, as appropriate.*

40 4. Except when emergency medical care is required and except as
41 otherwise provided in NRS 616C.055, the insurer is not responsible for any
42 charges for medical treatment or other accident benefits furnished or
43 ordered by any physician, chiropractor or other person selected by the
44 injured employee in disregard of the provisions of this section or for any
45 compensation for any aggravation of the injured employee's injury
46 attributable to improper treatments by such physician, chiropractor or other
47 person.



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1 5. The administrator may order necessary changes in a panel of
2 physicians and chiropractors and shall suspend or remove any physician or
3 chiropractor from a panel for good cause shown.

4 6. An injured employee may receive treatment by more than one
5 physician or chiropractor if the insurer provides written authorization for
6 such treatment.

7 *7. The administrator shall design a form that notifies injured*
8 *employees of their right pursuant to subsections 2 and 3 to select an*
9 *alternative treating physician or chiropractor and make the form*
10 *available to insurers for distribution pursuant to subsection 2 of NRS*
11 *616C.050.*

12 **Sec. 8.** NRS 616C.100 is hereby amended to read as follows:

13 616C.100 1. If an injured employee disagrees with the percentage of
14 disability determined by a physician or chiropractor, the injured employee
15 may obtain a second determination of the percentage of disability ~~1. If the~~
16 ~~employee wishes to obtain such a determination, he must select the next~~
17 ~~physician or chiropractor in rotation from the list of qualified physicians or~~
18 ~~chiropractors maintained by the administrator pursuant to subsection 2 of~~
19 ~~NRS 616C.490.1~~ *from any qualified physician or chiropractor.* If a second
20 determination is obtained, the injured employee shall pay for the
21 determination. If the physician or chiropractor selected to make the second
22 determination finds a higher percentage of disability than the first
23 physician or chiropractor, the injured employee may request a hearing
24 officer or appeals officer to order the insurer to reimburse the employee
25 pursuant to the provisions of NRS 616C.330 or 616C.360.

26 2. The results of a second determination made pursuant to subsection 1
27 may be offered at any hearing or settlement conference.

28 **Sec. 9.** NRS 616C.110 is hereby amended to read as follows:

29 616C.110 1. For the purposes of NRS 616B.557, 616C.490 and
30 617.459, the division shall adopt regulations incorporating the American
31 Medical Association's Guides to the Evaluation of Permanent Impairment
32 by reference and may amend those regulations from time to time as it
33 deems necessary. In adopting the Guides to the Evaluation of Permanent
34 Impairment, the division shall consider the edition most recently published
35 by the American Medical Association.

36 2. ~~##~~ *Except as otherwise provided in subsection 6 of NRS*
37 *616C.490, if* the Guides to the Evaluation of Permanent Impairment
38 adopted by the division contain more than one method of determining the
39 rating of an impairment, the administrator shall designate by regulation the
40 method which must be used to rate an impairment pursuant to NRS
41 616C.490.

42 **Sec. 10.** NRS 616C.135 is hereby amended to read as follows:

43 616C.135 1. A provider of health care who accepts a patient as a
44 referral for the treatment of an industrial injury or an occupational disease
45 may not charge the patient for any treatment related to the industrial injury
46 or occupational disease, but must charge the insurer. The provider of health
47 care may charge the patient for any other unrelated services which are
48 requested in writing by the patient.



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1 2. The insurer is liable for the charges for approved services if the
2 charges do not exceed:

3 (a) The fees established in accordance with NRS 616C.260 or the usual
4 fee charged by that person or institution, whichever is less; and

5 (b) The charges provided for by the contract between the provider of
6 health care and the insurer or the contract between the provider of health
7 care and the organization for managed care.

8 3. *A provider of health care may accept payment from an injured*
9 *employee who is paying in protest pursuant to section 5 of this act for*
10 *treatment or other services that the injured employee alleges are related*
11 *to the industrial injury or occupational disease.*

12 4. If a provider of health care, an organization for managed care, an
13 insurer or an employer violates the provisions of this section, the
14 administrator shall impose an administrative fine of not more than \$250 for
15 each violation.

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

17 616C.330 1. The hearing officer shall:

18 (a) Within 5 days after receiving a request for a hearing, set the hearing
19 for a date and time within 30 days after his receipt of the request;

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

22 (c) Conduct hearings expeditiously and informally.

23 2. The notice must include a statement that the injured employee may
24 be represented by a private attorney or seek assistance and advice from the
25 Nevada attorney for injured workers.

26 3. If necessary to resolve a medical question concerning an injured
27 employee's condition or to determine the necessity of treatment for which
28 authorization for payment has been denied, the hearing officer may refer
29 the employee to a physician or chiropractor of his choice who has
30 demonstrated special competence to treat the particular medical condition
31 of the employee. If the medical question concerns the rating of a permanent
32 disability, the hearing officer may refer the employee to a rating physician
33 or chiropractor. The rating physician or chiropractor must be selected in
34 rotation from the list of qualified physicians and chiropractors maintained
35 by the administrator pursuant to subsection 2 of NRS 616C.490, unless the
36 insurer and injured employee otherwise agree to a rating physician or
37 chiropractor. The insurer shall pay the costs of any medical examination
38 requested by the hearing officer.

39 4. If an injured employee has requested payment for the cost of
40 obtaining a second determination of his percentage of disability pursuant to
41 NRS 616C.100, the hearing officer shall decide whether the determination
42 of the higher percentage of disability made pursuant to NRS 616C.100 is
43 appropriate and, if so, may order the insurer to pay to the employee an
44 amount equal to the maximum allowable fee established by the
45 administrator pursuant to NRS 616C.260 for the type of service performed,
46 or the usual fee of that physician or chiropractor for such service,
47 whichever is less.

48 5. *The hearing officer shall order an insurer, organization for*
49 *managed care or employer who provides accident benefits for injured*



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1 *employees pursuant to NRS 616C.265 to reimburse an injured employee*
2 *for the payment of charges of a provider of health care if the conditions*
3 *of section 5 of this act are satisfied.*

4 6. The hearing officer may allow or forbid the presence of a court
5 reporter and the use of a tape recorder in a hearing.

6 ~~16-1~~ 7. The hearing officer shall render his decision within 15 days
7 after:

8 (a) The hearing; or

9 (b) He receives a copy of the report from the medical examination he
10 requested.

11 ~~17-1~~ 8. The hearing officer shall render his decision in the most
12 efficient format developed by the chief of the hearings division of the
13 department of administration.

14 ~~18-1~~ 9. The hearing officer shall give notice of his decision to each
15 party by mail. He shall include with the notice of his decision the necessary
16 forms for appealing from the decision.

17 ~~19-1~~ 10. Except as otherwise provided in NRS 616C.380, the decision
18 of the hearing officer is not stayed if an appeal from that decision is taken
19 unless an application for a stay is submitted by a party. If such an
20 application is submitted, the decision is automatically stayed until a
21 determination is made on the application. A determination on the
22 application must be made within 30 days after the filing of the application.
23 If, after reviewing the application, a stay is not granted by the hearing
24 officer or an appeals officer, the decision must be complied with within 10
25 days after the refusal to grant a stay.

26 **Sec. 12.** NRS 616C.360 is hereby amended to read as follows:

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

30 2. The appeals officer must hear any matter raised before him on its
31 merits, including new evidence bearing on the matter.

32 3. If necessary to resolve a medical question concerning an injured
33 employee's condition or to determine the necessity of treatment for which
34 authorization for payment has been denied, the appeals officer may refer
35 the employee to a physician or chiropractor of his choice who has
36 demonstrated special competence to treat the particular medical condition
37 of the employee. If the medical question concerns the rating of a permanent
38 disability, the appeals officer may refer the employee to a rating physician
39 or chiropractor. The rating physician or chiropractor must be selected in
40 rotation from the list of qualified physicians or chiropractors maintained by
41 the administrator pursuant to subsection 2 of NRS 616C.490, unless the
42 insurer and the injured employee otherwise agree to a rating physician or
43 chiropractor. The insurer shall pay the costs of any examination requested
44 by the appeals officer.

45 4. If an injured employee has requested payment for the cost of
46 obtaining a second determination of his percentage of disability pursuant to
47 NRS 616C.100, the appeals officer shall decide whether the determination
48 of the higher percentage of disability made pursuant to NRS 616C.100 is
49 appropriate and, if so, may order the insurer to pay to the employee an



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1 amount equal to the maximum allowable fee established by the
2 administrator pursuant to NRS 616C.260 for the type of service performed,
3 or the usual fee of that physician or chiropractor for such service,
4 whichever is less.

5 5. *The appeals officer shall order an insurer, organization for*
6 *managed care or employer who provides accident benefits for injured*
7 *employees pursuant to NRS 616C.265 to reimburse an injured employee*
8 *for the payment of charges of a provider of health care if the conditions*
9 *of section 5 of this act are satisfied.*

10 6. Any party to the appeal or the appeals officer may order a transcript
11 of the record of the hearing at any time before the seventh day after the
12 hearing. The transcript must be filed within 30 days after the date of the
13 order unless the appeals officer otherwise orders.

14 ~~16-1~~ 7. The appeals officer shall render his decision:

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

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

19 ~~17-1~~ 8. The appeals officer may affirm, modify or reverse any decision
20 made by the hearing officer and issue any necessary and proper order to
21 give effect to his decision.

22 **Sec. 13.** NRS 616C.390 is hereby amended to read as follows:

23 616C.390 1. If an application to reopen a claim to increase or
24 rearrange compensation is made in writing more than 1 year after the date
25 on which the claim was closed, the insurer shall reopen the claim if:

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

28 (b) ~~The primary~~ *A substantial contributing* cause of the change of
29 circumstances is the injury *or disease* for which the claim was originally
30 made; and

31 (c) The application is accompanied by the certificate of a physician or a
32 chiropractor showing a change of circumstances which would warrant an
33 increase or rearrangement of compensation.

34 2. After a claim has been closed, the insurer, upon receiving an
35 application and for good cause shown, may authorize the reopening of the
36 claim for medical investigation only. The application must be accompanied
37 by a written request for treatment from the physician or chiropractor
38 treating the claimant, certifying that the treatment is indicated by a change
39 in circumstances and is related to the industrial injury sustained *or*
40 *occupational disease contracted* by the claimant.

41 3. If a claimant applies for a claim to be reopened pursuant to
42 subsection 1 or 2 and a final determination denying the reopening is issued,
43 the claimant ~~shall~~ *may* not reapply to reopen the claim until at least 1 year
44 after the date on which the final determination is issued.

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

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



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1 (b) There is clear and convincing evidence that ~~{the primary}~~ *a*
2 *substantial contributing* cause of the change of circumstances is the injury
3 *or disease* for which the claim was originally made.

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

6 (a) The claimant was not off work as a result of the injury ~~H~~ *or disease;*
7 and

8 (b) The claimant did not receive benefits for a permanent partial
9 disability.

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

14 6. If an employee's claim is reopened pursuant to this section, he is not
15 entitled to vocational rehabilitation services or benefits for a temporary
16 total disability if, before his claim was reopened, he:

17 (a) Retired; or

18 (b) Otherwise voluntarily removed himself from the work force,
19 for reasons unrelated to the injury *or disease* for which the claim was
20 originally made.

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

25 8. An increase or rearrangement of compensation is not effective
26 before an application for reopening a claim is made unless good cause is
27 shown. The insurer shall, upon good cause shown, allow the cost of
28 emergency treatment the necessity for which has been certified by a
29 physician or a chiropractor.

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

34 10. The provisions of this section apply to any claim for which an
35 application to reopen the claim or to increase or rearrange compensation is
36 made pursuant to this section, regardless of the date of the injury or
37 accident to the claimant ~~H~~ *or the date the occupational disease is*
38 *contracted by the claimant.* If a claim is reopened pursuant to this section,
39 the amount of any compensation or benefits provided must be determined
40 in accordance with the provisions of NRS 616C.425 ~~H~~ *or 617.445, as*
41 *appropriate.*

42 **Sec. 14.** NRS 616C.475 is hereby amended to read as follows:

43 616C.475 1. Except as otherwise provided in this section, NRS
44 616C.175 and 616C.390, every employee in the employ of an employer,
45 within the provisions of chapters 616A to 616D, inclusive, of NRS, who is
46 injured by accident arising out of and in the course of employment, or his
47 dependents, is entitled to receive for the period of temporary total
48 disability, 66 2/3 percent of the average monthly wage.



- 1 2. Except as otherwise provided in NRS 616B.028 and 616B.029, an
2 injured employee or his dependents are not entitled to accrue or be paid
3 any benefits for a temporary total disability during the time the injured
4 employee is incarcerated. The injured employee or his dependents are
5 entitled to receive such benefits when the injured employee is released
6 from incarceration if he is certified as temporarily totally disabled by a
7 physician or chiropractor.
- 8 3. If a claim for the period of temporary total disability is allowed, the
9 first payment pursuant to this section must be issued by the insurer within
10 14 working days after receipt of the initial certification of disability and
11 regularly thereafter.
- 12 4. Any increase in compensation and benefits effected by the
13 amendment of subsection 1 is not retroactive.
- 14 5. Payments for a temporary total disability must cease when:
- 15 (a) A physician or chiropractor determines that the employee is
16 physically capable of any gainful employment for which the employee is
17 suited, after giving consideration to the employee's education, training and
18 experience;
- 19 (b) The employer offers the employee light-duty employment or
20 employment that is modified according to the limitations or restrictions
21 imposed by a physician or chiropractor pursuant to subsection 7; or
- 22 (c) Except as otherwise provided in NRS 616B.028 and 616B.029, the
23 employee is incarcerated.
- 24 6. Each insurer may, with each check that it issues to an injured
25 employee for a temporary total disability, include a form approved by the
26 division for the injured employee to request continued compensation for
27 the temporary total disability.
- 28 7. A certification of disability issued by a physician or chiropractor
29 must:
- 30 (a) Include the period of disability and a description of any physical
31 limitations or restrictions imposed upon the work of the employee;
- 32 (b) Specify whether the limitations or restrictions are permanent or
33 temporary; and
- 34 (c) Be signed by the treating physician or chiropractor authorized
35 pursuant to NRS 616B.527 ~~or~~ *or appropriately chosen pursuant to*
36 *subsection 3 of NRS 616C.090.*
- 37 8. If the certification of disability specifies that the physical limitations
38 or restrictions are temporary, the employer of the employee at the time of
39 his accident ~~is not required to comply with NRS 616C.545 to 616C.575,~~
40 ~~inclusive, and 616C.590 or the regulations adopted by the division~~
41 ~~governing vocational rehabilitation services if the employer offers~~ *may*
42 *offer the employee temporary, light-duty employment. Any offer of*
43 *temporary, light-duty employment made by the employer must specify* a
44 position that:
- 45 (a) Is substantially similar to the employee's position at the time of his
46 injury in relation to the location of the employment and the hours he is
47 required to work; and
- 48 (b) Provides a gross wage that is:



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

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

6 **Sec. 15.** NRS 616C.490 is hereby amended to read as follows:

7 616C.490 1. Except as otherwise provided in NRS 616C.175, every
8 employee, in the employ of an employer within the provisions of chapters
9 616A to 616D, inclusive, of NRS, who is injured by an accident arising out
10 of and in the course of employment is entitled to receive the compensation
11 provided for permanent partial disability. As used in this section,
12 "disability" and "impairment of the whole man" are equivalent terms.

13 2. Within 30 days after receiving from a physician or chiropractor a
14 report indicating that the injured employee may have suffered a permanent
15 disability and is stable and ratable, the insurer shall schedule an
16 appointment with the rating physician or chiropractor selected pursuant to
17 this subsection to determine the extent of the employee's disability. Unless
18 the insurer and the injured employee otherwise agree to a rating physician
19 or chiropractor:

20 (a) The insurer shall select the rating physician or chiropractor from the
21 list of qualified rating physicians and chiropractors designated by the
22 administrator, to determine the percentage of disability in accordance with
23 the American Medical Association's Guides to the Evaluation of
24 Permanent Impairment as adopted and supplemented by the division
25 pursuant to NRS 616C.110.

26 (b) Rating physicians and chiropractors must be selected in rotation
27 from the list of qualified physicians and chiropractors designated by the
28 administrator, according to their area of specialization and the order in
29 which their names appear on the list ~~+~~ *unless the next physician or*
30 *chiropractor is currently an employee of the insurer making the*
31 *selection, in which case the insurer must select the physician or*
32 *chiropractor who is next on the list and who is not currently an employee*
33 *of the insurer.*

34 3. *If an insurer contacts the treating physician or chiropractor to*
35 *determine whether an injured employee has suffered a permanent*
36 *disability and, thus, whether a rating is necessary, the insurer shall*
37 *deliver to the treating physician or chiropractor that portion of the*
38 *American Medical Association's Guides to the Evaluation of Permanent*
39 *Impairment as adopted by the division pursuant to NRS 616C.110 that is*
40 *relevant to the type of injury incurred by the employee.*

41 4. At the request of the insurer, the injured employee shall, before an
42 evaluation by a rating physician or chiropractor is performed, notify the
43 insurer of:

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

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



1 The notice must be on a form approved by the administrator and provided
2 to the injured employee by the insurer at the time of the insurer's request.

3 ~~14-1~~ 5. Unless the regulations adopted pursuant to NRS 616C.110
4 provide otherwise, a rating evaluation must include an evaluation of the
5 loss of motion, sensation and strength of an injured employee if the injury
6 is of a type that might have caused such a loss. No factors other than the
7 degree of physical *or psychological* impairment of the whole man may be
8 considered in calculating the entitlement to compensation for a permanent
9 partial disability.

10 ~~15-1~~ 6. *A rating evaluation of the spinal region must determine the*
11 *percentage of disability as it existed before any surgical procedures were*
12 *performed on the spinal region, unless the physician or chiropractor*
13 *determines that the injured employee experienced major complications*
14 *from the surgical procedure. If the physician or chiropractor determines*
15 *that an injured employee experienced major complications from a*
16 *surgical procedure performed on the spinal region, the physician or*
17 *chiropractor shall include the effect of the complications when*
18 *determining the percentage of disability of that injured employee. A*
19 *physician or chiropractor may use any method for rating the spinal*
20 *region authorized by the edition of the American Medical Association's*
21 *Guides to the Evaluation of Permanent Impairment that has been most*
22 *recently adopted by the division pursuant to NRS 616C.110.*

23 7. The rating physician or chiropractor shall provide the insurer with
24 his evaluation of the injured employee. After receiving the evaluation, the
25 insurer shall, within 14 days, provide the employee with a copy of the
26 evaluation and notify the employee:

27 (a) Of the compensation to which he is entitled pursuant to this
28 section; or

29 (b) That he is not entitled to benefits for permanent partial disability.

30 ~~16-1~~ 8. Each 1 percent of impairment of the whole man must be
31 compensated by a monthly payment:

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

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

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

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

40 Compensation must commence on the date of the injury or the day
41 following the termination of temporary disability compensation, if any,
42 whichever is later, and must continue on a monthly basis for 5 years or
43 until the claimant is 70 years of age, whichever is later.

44 ~~17-1~~ 9. Compensation benefits may be paid annually to claimants who
45 will be receiving less than \$100 a month.

46 ~~18-1~~ 10. Where there is a previous disability, as the loss of one eye,
47 one hand, one foot, or any other previous permanent disability, the
48 percentage of disability for a subsequent injury must be determined by
49 computing the percentage of the entire disability and deducting therefrom



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1 the percentage of the previous disability as it existed at the time of the
2 subsequent injury.

3 ~~19-1~~ 11. The division may adopt schedules for rating permanent
4 disabilities resulting from injuries sustained before July 1, 1973, and
5 reasonable regulations to carry out the provisions of this section.

6 ~~110-1~~ 12. The increase in compensation and benefits effected by the
7 amendment of this section is not retroactive for accidents which occurred
8 before July 1, 1973.

9 ~~111-1~~ 13. This section does not entitle any person to double payments
10 for the death of an employee and a continuation of payments for a
11 permanent partial disability, or to a greater sum in the aggregate than if the
12 injury had been fatal.

13 **Sec. 16.** NRS 616C.495 is hereby amended to read as follows:

14 616C.495 1. Except as otherwise provided in NRS 616C.380, an
15 award for a permanent partial disability may be paid in a lump sum under
16 the following conditions:

17 (a) A claimant injured on or after July 1, 1973, and before July 1, 1981,
18 who incurs a disability that does not exceed 12 percent may elect to receive
19 his compensation in a lump sum. A claimant injured on or after July 1,
20 1981, and before July 1, 1995, who incurs a disability that does not exceed
21 25 percent may elect to receive his compensation in a lump sum.

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

27 (c) Any claimant injured on or after July 1, 1981, and before July 1,
28 1995, who incurs a disability that exceeds 25 percent may elect to receive
29 his compensation in a lump sum equal to the present value of an award for
30 a disability of 25 percent. If the claimant elects to receive compensation
31 pursuant to this paragraph, the insurer shall pay in installments to the
32 claimant that portion of the claimant's disability in excess of 25 percent.

33 (d) Any claimant injured on or after July 1, 1995, may elect to receive
34 his compensation in a lump sum in accordance with regulations adopted by
35 the administrator and approved by the governor. The administrator shall
36 adopt regulations for determining the eligibility of such a claimant to
37 receive all or any portion of his compensation in a lump sum. Such
38 regulations may include the manner in which an award for a permanent
39 partial disability may be paid to such a claimant in installments.
40 Notwithstanding the provisions of NRS 233B.070, any regulation adopted
41 pursuant to this paragraph does not become effective unless it is first
42 approved by the governor.

43 2. If the claimant elects to receive his payment for a permanent partial
44 disability in a lump sum pursuant to subsection 1, all of his benefits for
45 compensation terminate. His acceptance of that payment constitutes a final
46 settlement of all factual and legal issues in the case. By so accepting he
47 waives all of his rights regarding the claim, including the right to appeal
48 from the closure of the case or the percentage of his disability, except:



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1 (a) His right to reopen his claim according to the provisions of NRS
2 616C.390; and

3 (b) Any counseling, training or other rehabilitative services provided by
4 the insurer.

5 The claimant must be advised in writing of the provisions of this
6 subsection when he demands his payment in a lump sum, and has 20 days
7 after the mailing or personal delivery of this notice within which to retract
8 or reaffirm his demand, before payment may be made and his election
9 becomes final.

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

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

20 5. The lump sum payable must be equal to the present value of the
21 compensation awarded, less any advance payment or lump sum previously
22 paid. The present value must be calculated using monthly payments in the
23 amounts prescribed in subsection ~~16~~ 8 of NRS 616C.490 and actuarial
24 annuity tables adopted by the division. The tables must be reviewed
25 annually by a consulting actuary.

26 6. If a claimant would receive more money by electing to receive
27 compensation in a lump sum than he would if he receives installment
28 payments, he may elect to receive the lump-sum payment.

29 **Sec. 17.** NRS 616C.555 is hereby amended to read as follows:

30 616C.555 1. A vocational rehabilitation counselor shall develop a
31 plan for a program of vocational rehabilitation for each injured employee
32 who is eligible for vocational rehabilitation services pursuant to NRS
33 616C.590. The counselor shall work with the insurer and the injured
34 employee to develop a program that is compatible with the injured
35 employee's age, sex and physical condition.

36 2. If the counselor determined in the written assessment developed
37 pursuant to NRS 616C.550 that the injured employee has existing
38 marketable skills, the plan must consist of job placement assistance only.
39 When practicable, the goal of job placement assistance must be to aid the
40 employee in finding a position which pays a gross wage that is equal to or
41 greater than 80 percent of the gross wage that he was earning at the time of
42 his injury. An injured employee must not receive job placement assistance
43 for more than 6 months after the date on which he was notified that he is
44 eligible only for job placement assistance because:

45 (a) He was physically capable of returning to work; or

46 (b) It was determined that he had existing marketable skills.

47 3. If the counselor determined in the written assessment developed
48 pursuant to NRS 616C.550 that the injured employee does not have
49 existing marketable skills, the plan must consist of a program which trains



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1 or educates the injured employee and provides job placement assistance.
2 Except as otherwise provided in NRS 616C.560, such a program must not
3 exceed:

4 (a) If the injured employee has incurred *a permanent disability as a*
5 *result of which permanent restrictions on his ability to work have been*
6 *imposed but no permanent physical impairment rating has been issued,*
7 *or a permanent disability with* a permanent physical impairment of *1*
8 *percent or more but* less than 6 percent, 9 months.

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

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

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

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

17 5. *A plan created pursuant to subsection 2 or 3 must assist the*
18 *employee in finding a job or train or educate the employee and assist him*
19 *in finding a job that is a part of an employer's regular business*
20 *operations and from which the employee will gain skills that would*
21 *generally be transferable to a job with another employer.*

22 6. A program of vocational rehabilitation must not commence before
23 the treating physician or chiropractor, or an examining physician or
24 chiropractor determines that the injured employee is capable of safely
25 participating in the program.

26 ~~16-1~~ 7. If, based upon the opinion of a treating or an examining
27 physician or chiropractor, the counselor determines that an injured
28 employee is not eligible for vocational rehabilitation services, the
29 counselor shall provide a copy of the opinion to the injured employee, the
30 injured employee's employer and the insurer.

31 ~~17-1~~ 8. A plan for a program of vocational rehabilitation must be
32 signed by a certified vocational rehabilitation counselor.

33 ~~18-1~~ 9. If an initial program of vocational rehabilitation pursuant to this
34 section is unsuccessful, an injured employee may submit a written request
35 for the development of a second program of vocational rehabilitation which
36 relates to the same injury. An insurer shall authorize a second program for
37 an injured employee upon good cause shown.

38 ~~19-1~~ 10. If a second program of vocational rehabilitation pursuant to
39 subsection ~~18-1~~ 9 is unsuccessful, an injured employee may submit a written
40 request for the development of a third program of vocational rehabilitation
41 which relates to the same injury. The insurer, with the approval of the
42 employer who was the injured employee's employer at the time of his
43 injury, may authorize a third program for the injured employee. If such an
44 employer has terminated operations, his approval is not required for
45 authorization of a third program. An insurer's determination to authorize or
46 deny a third program of vocational rehabilitation may not be appealed.

47 ~~110-1~~ 11. The division shall adopt regulations to carry out the
48 provisions of this section. The regulations must specify the contents of a
49 plan for a program of vocational rehabilitation.



1 **Sec. 18.** NRS 616C.580 is hereby amended to read as follows:
2 616C.580 1. Except as otherwise provided in this section, vocational
3 rehabilitation services must not be provided outside of this state. An
4 injured employee who:
5 (a) Lives within 50 miles from any border of this state on the date of
6 injury; or
7 (b) Was injured while temporarily employed in this state by an
8 employer subject to the provisions of chapters 616A to 617, inclusive, of
9 NRS who can demonstrate that, on the date of injury, his permanent
10 residence was outside of this state,
11 may receive vocational rehabilitation services at a location within 50 miles
12 from his residence if such services are available at such location.
13 2. An injured employee, who:
14 (a) Is eligible for vocational rehabilitation services pursuant to NRS
15 616C.590; and
16 (b) Resides outside of this state but does not qualify to receive
17 vocational rehabilitation services outside of this state pursuant to
18 subsection 1,
19 may execute a written agreement with the insurer which provides for the
20 payment of compensation in a lump sum in lieu of the provision of
21 vocational rehabilitation services pursuant to NRS 616C.595. The amount
22 of the lump sum must not exceed ~~+\$15,000+~~ **\$25,000.**
23 3. An injured employee who resides outside of this state but does not
24 qualify to receive vocational rehabilitation services outside of this state
25 pursuant to subsection 1 may receive the vocational rehabilitation services
26 to which he is entitled pursuant to NRS 616C.545 to 616C.575, inclusive,
27 and 616C.590 if he relocates to:
28 (a) This state; or
29 (b) A location within 50 miles from any border of this state,
30 at his own expense, if such services are available at such location.
31 **Sec. 19.** NRS 616C.590 is hereby amended to read as follows:
32 616C.590 1. Except as otherwise provided in this section, an injured
33 employee is not eligible for vocational rehabilitation services, unless:
34 (a) The treating physician or chiropractor approves the return of the
35 injured employee to work but imposes permanent restrictions that prevent
36 the injured employee from returning to the position that he held at the time
37 of his injury;
38 (b) The injured employee's employer does not offer employment that
39 ~~that~~ :
40 **(1) The** employee is eligible for considering the restrictions imposed
41 pursuant to paragraph (a); and
42 **(2) Provides a gross wage that is equal to or greater than 80 percent**
43 **of the gross wage that the employee was earning at the time of his injury;**
44 **and**
45 (c) The injured employee is unable to return to gainful employment
46 **with any other employer** at a gross wage that is equal to or greater than 80
47 percent of the gross wage that ~~the~~ **the employee** was earning at the time of
48 his injury.



1 2. If the treating physician or chiropractor imposes permanent
2 restrictions on the injured employee for the purposes of paragraph (a) of
3 subsection 1, he shall specify in writing:
4 (a) The medically objective findings upon which his determination is
5 based; and
6 (b) A detailed description of the restrictions.
7 The treating physician or chiropractor shall deliver a copy of the findings
8 and the description of the restrictions to the insurer.
9 3. If there is a question as to whether the restrictions imposed upon the
10 injured employee are permanent, the employee may receive vocational
11 rehabilitation services until a final determination concerning the duration
12 of the restrictions is made.
13 4. Vocational rehabilitation services must cease as soon as the injured
14 employee is no longer eligible for the services pursuant to subsection 1.
15 5. An injured employee is not entitled to vocational rehabilitation
16 services solely because the position that he held at the time of his injury is
17 no longer available.
18 6. An injured employee or his dependents are not entitled to accrue or
19 be paid any money for vocational rehabilitation services during the time
20 the injured employee is incarcerated.
21 7. Any injured employee eligible for compensation other than accident
22 benefits may not be paid those benefits if he refuses counseling, training or
23 other vocational rehabilitation services offered by the insurer. Except as
24 otherwise provided in NRS 616B.028 and 616B.029, an injured employee
25 shall be deemed to have refused counseling, training and other vocational
26 rehabilitation services while he is incarcerated.
27 8. If an insurer cannot locate an injured employee for whom it has
28 ordered vocational rehabilitation services, the insurer may close his claim
29 21 days after the insurer determines that the employee cannot be located.
30 The insurer shall make a reasonable effort to locate the employee.
31 9. The reappearance of the injured employee after his claim has been
32 closed does not automatically reinstate his eligibility for vocational
33 rehabilitation benefits. If the employee wishes to reestablish his eligibility
34 for such benefits, he must file a written application with the insurer to
35 reinstate his claim. The insurer shall reinstate the employee's claim if good
36 cause is shown for the employee's absence.

