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AN ACT relating to industrial insurance; setting forth the primary obligation of a vocational rehabilitation counselor; prohibiting a vocational rehabilitation counselor from providing services to an injured employee if the employer of the vocational rehabilitation counselor administers the case of the injured employee; requiring a provider of vocational rehabilitation services to employ certain vocational rehabilitation counselors; requiring a vocational rehabilitation counselor to prepare a written assessment not more than 30 days after it is requested by an insurer or injured employee under certain circumstances; requiring each written assessment of an injured employee to be signed by a certified vocational rehabilitation counselor; and providing other matters properly relating thereto.

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

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

1. The primary obligation of a vocational rehabilitation counselor is to the injured employee.

2. A vocational rehabilitation counselor shall not provide services as a vocational rehabilitation counselor, including, without limitation, completing a written assessment pursuant to NRS 616C.550, if the employer of the vocational rehabilitation counselor administers the case of the injured employee.

Sec. 2. NRS 616C.540 is hereby amended to read as follows:

616C.540 An insurer, or a private person or public agency providing vocational rehabilitation services to an insurer, shall:

1. Ensure that the work of a vocational rehabilitation counselor who is not certified is supervised and reviewed by a certified vocational rehabilitation counselor.

~~2. Ensure that the caseload for a vocational rehabilitation counselor who conducts full vocational assessments does not exceed 35 active claims.~~

~~—3. Employ at least one certified vocational rehabilitation counselor for every four vocational rehabilitation counselors that it employs who are not certified.~~

3. Employ vocational rehabilitation counselors who have knowledge of the labor market within the geographical area where the injured employee resides.

Sec. 3. NRS 616C.550 is hereby amended to read as follows:

616C.550 1. ~~{Except as otherwise provided in this section, if}~~
If benefits for a temporary total disability will be paid to an injured employee for more than 90 days, *the insurer or the injured employee may request* a vocational rehabilitation counselor ~~{shall, within 30 days after being assigned to the claim, make}~~ *to prepare* a written assessment of the injured employee's ability or potential to return to:

- (a) The position he held at the time that he was injured; or
- (b) Any other gainful employment.

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

- (a) Contact the injured employee and:
 - (1) Identify the injured employee's educational background, work experience and career interests; and
 - (2) Determine whether the injured employee has any existing marketable skills.

- (b) Contact the injured employee's treating physician or chiropractor and determine:

- (1) Whether the employee has any temporary or permanent physical limitations;
 - (2) The estimated duration of the limitations;
 - (3) Whether there is a plan for continued medical treatment;
- and

- (4) When the employee may return to the position that he held at the time of his injury or to any other position. The treating physician or chiropractor shall determine whether an employee may return to the position that he held at the time of his injury.

3. *Except as otherwise provided in section 1 of this act, a vocational rehabilitation counselor shall prepare a written assessment not more than 30 days after receiving a request for a written assessment pursuant to subsection 1.* The written assessment must contain a determination as to whether the employee is eligible for vocational rehabilitation services pursuant to NRS 616C.590. If the insurer, with the assistance of the counselor, determines that the employee is eligible for vocational rehabilitation services, a plan for a program of vocational rehabilitation must be completed pursuant to NRS 616C.555.

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

5. If an insurer determines that ~~{the}~~ *a* written assessment ~~{required by this section}~~ *requested pursuant to subsection 1* is impractical because of the expected duration of the *injured* employee's total temporary disability, the insurer shall:

- (a) Complete a written report which specifies his reasons for the decision; and

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

6. The insurer shall deliver a copy of the written assessment or the report completed pursuant to subsection 5 to the injured employee, his employer, the treating physician or chiropractor and the injured employee's attorney or representative, if applicable.

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

(a) Completion of:

(1) A program at a trade school;

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

(3) A course of study for certification,

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

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

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

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

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

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

Sec. 4. This act becomes effective on July 1, 2005.

