

ASSEMBLY BILL NO. 496—COMMITTEE ON COMMERCE AND LABOR

MARCH 22, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning workers' compensation. (BDR 53-897)

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

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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; revising various duties of employers, insurers and claimants under the workers' compensation system; revising certain procedures for accepting, denying and contesting workers' compensation claims; revising certain provisions relating to occupational diseases; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the payment of workers' compensation if, during the course of employment, an employee is injured or killed by a workplace accident or occupational disease. (Chapters 616A-617 of NRS) Existing law authorizes an employer, after a workplace accident, to furnish the injured employee with the name of at least one physician or chiropractor qualified to examine the employee, but the employer may not require the employee to select any particular physician or chiropractor for the examination. The examining physician or chiropractor must report to the employer regarding the character and extent of the injury, but the employer may not require or permit the disclosure of any other information concerning the employee's physical condition. (NRS 616C.010)

Section 1 of this bill requires the employer to furnish the injured employee with the name of at least two physicians or chiropractors qualified to examine the employee. **Section 1** also clarifies that the employer shall not, at any time, require or permit the disclosure of any other information concerning the employee's physical condition that is not directly related to the workplace injury.

Under existing law, if an insurer fails to respond within 30 days to a written request for a determination regarding a workers' compensation claim, a hearing officer must treat the insurer's failure to respond as a denial of the claim. (NRS 616C.315) **Section 2** of this bill provides that the insurer's failure to respond must be treated as an acceptance of the claim.



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Existing law requires the claimant or the employer to notify the insurer of a change of address. (NRS 616C.315) **Section 2** of this bill provides that only the employer has the duty to notify the insurer of a change of address.

Existing law requires an insurer to accept or deny claims involving occupational diseases within a certain period. (NRS 617.356) **Section 3** of this bill requires the insurer to send notice of its determination regarding a claim to the claimant or the person acting on behalf of the claimant by certified or registered mail. **Section 3** also provides that the insurer is responsible for determining and using the correct mailing address when providing such notice.

Existing law establishes certain general requirements which are used to determine whether a disease is compensable as an occupational disease. (NRS 617.440) However, existing law also provides that for some specific diseases, such as certain cancers, lung diseases, heart diseases and contagious diseases, there is a legal presumption that those diseases are compensable under the workers' compensation system when contracted under certain specific circumstances, such as when contracted by firefighters, police officers and emergency medical attendants. (NRS 617.453, 617.455, 617.457, 617.481, 617.485) **Section 4** of this bill provides that the general requirements of NRS 617.440 do not apply to the specific provisions of existing law which create such legal presumptions.

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

Section 1. NRS 616C.010 is hereby amended to read as follows:

616C.010 1. Whenever any accident occurs to any employee, he shall forthwith report the accident and the injury resulting therefrom to his employer.

2. When an employer learns of an accident, whether or not it is reported, the employer may direct the employee to submit to, or the employee may request, an examination by a physician or chiropractor, in order to ascertain the character and extent of the injury and render medical attention which is required immediately. The employer ~~may~~ **shall** furnish the names, addresses and telephone numbers of ~~one~~ **two** or more physicians or chiropractors, but ~~may~~ **shall** not require the employee to select any particular physician or chiropractor. Thereupon, the examining physician or chiropractor shall report forthwith to the employer and to the insurer the character and extent of the injury. The employer shall not, **at any time**, require the employee to disclose or permit the disclosure of any other information concerning his physical condition ~~or~~ **that is not directly related to the injury for which treatment is being sought.**

3. Further medical attention, except as otherwise provided in NRS 616C.265, must be authorized by the insurer.

4. This section does not prohibit an employer from requiring the employee to submit to an examination by a physician or chiropractor specified by the employer at any convenient time after



1 medical attention which is required immediately has been
2 completed.

3 **Sec. 2.** NRS 616C.315 is hereby amended to read as follows:

4 616C.315 1. Any person who is subject to the jurisdiction of
5 the hearing officers pursuant to chapters 616A to 616D, inclusive, or
6 chapter 617 of NRS may request a hearing before a hearing officer
7 of any matter within the hearing officer's authority. The insurer
8 shall provide, without cost, the forms necessary to request a hearing
9 to any person who requests them.

10 2. A hearing must not be scheduled until the following
11 information is provided to the hearing officer:

12 (a) The name of:

13 (1) The claimant;

14 (2) The employer; and

15 (3) The insurer or third-party administrator;

16 (b) The number of the claim; and

17 (c) If applicable, a copy of the letter of determination being
18 appealed or, if such a copy is unavailable, the date of the
19 determination and the issues stated in the determination.

20 3. Except as otherwise provided in NRS 616B.772, 616B.775,
21 616B.787 and 616C.305, a person who is aggrieved by:

22 (a) A written determination of an insurer; or

23 (b) The failure of an insurer to respond within 30 days to a
24 written request mailed to the insurer by the person who is aggrieved,
25 ➤ may appeal from the determination or failure to respond by filing
26 a request for a hearing before a hearing officer. Such a request must
27 include the information required pursuant to subsection 2 and must
28 be filed within 70 days after the date on which the notice of the
29 insurer's determination was mailed by the insurer or the unanswered
30 written request was mailed to the insurer, as applicable. The failure
31 of an insurer to respond to a written request for a determination
32 within 30 days after receipt of such a request shall be deemed by the
33 hearing officer to be ~~a denial of the request.~~ *an acceptance of the*
34 *claim.*

35 4. Failure to file a request for a hearing within the period
36 specified in subsection 3 may be excused if the person aggrieved
37 shows by a preponderance of the evidence that he did not receive
38 the notice of the determination and the forms necessary to request a
39 hearing. The ~~claimant or~~ employer shall notify the insurer of a
40 change of address.

41 5. The hearing before the hearing officer must be conducted as
42 expeditiously and informally as is practicable.

43 6. The parties to a contested claim may, if the claimant is
44 represented by legal counsel, agree to forego a hearing before a



1 hearing officer and submit the contested claim directly to an appeals
2 officer.

3 **Sec. 3.** NRS 617.356 is hereby amended to read as follows:

4 617.356 1. An insurer shall accept or deny responsibility for
5 *the payment of compensation to a claimant* under this chapter
6 ~~[within]~~ *by sending its written determination by certified or*
7 *registered mail to:*

8 (a) *The claimant; or*

9 (b) *The person acting on behalf of the claimant pursuant to*
10 *NRS 617.344,*

11 *↪ not later than* 30 working days after claims for compensation are
12 received pursuant to both NRS 617.344 and 617.352.

13 2. *For the purposes of this section, the insurer is responsible*
14 *for determining and using the correct mailing address of the*
15 *claimant or the person acting on behalf of the claimant pursuant*
16 *to NRS 617.344.*

17 **Sec. 4.** NRS 617.440 is hereby amended to read as follows:

18 617.440 1. An occupational disease defined in this chapter
19 shall be deemed to arise out of and in the course of the employment
20 if:

21 (a) There is a direct causal connection between the conditions
22 under which the work is performed and the occupational disease;

23 (b) It can be seen to have followed as a natural incident of the
24 work as a result of the exposure occasioned by the nature of the
25 employment;

26 (c) It can be fairly traced to the employment as the proximate
27 cause; and

28 (d) It does not come from a hazard to which workmen would
29 have been equally exposed outside of the employment.

30 2. The disease must be incidental to the character of the
31 business and not independent of the relation of the employer and
32 employee.

33 3. The disease need not have been foreseen or expected, but
34 after its contraction must appear to have had its origin in a risk
35 connected with the employment, and to have flowed from that
36 source as a natural consequence.

37 4. In cases of disability resulting from radium poisoning or
38 exposure to radioactive properties or substances, or to roentgen rays
39 (X rays) or ionizing radiation, the poisoning or illness resulting in
40 disability must have been contracted in the State of Nevada.

41 5. *The requirements set forth in this section do not apply to*
42 *claims filed pursuant to NRS 617.453, 617.455, 617.457, 617.481*
43 *or 617.485.*



1 **Sec. 5.** This act becomes effective on July 1, 2007.

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