

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 and denying 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 an employer whose insurer has contracted with certain managed care organizations or providers of health care services to furnish the injured employee with the names of at least two physicians or chiropractors who are qualified to examine the employee and who are available pursuant to the contract, if there are two or more such physicians or chiropractors within 30 miles of the employee's place of employment. If there are not two such physicians or chiropractors within that area, the employer is required to furnish the name of at least one physician who is qualified to examine the employee and available pursuant to the contract. Further, **section 1** imposes similar requirements upon employers whose insurers have not contracted with such managed care organizations or providers of health care services, except that the employers are required to furnish only the names of physicians and chiropractors who are



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qualified to conduct the examinations without regard as to whether they are available pursuant to any particular contract. From among the names furnished by the employer, the employee must select one of those physicians or chiropractors to conduct the examination, but the employee is not required to select a particular physician or chiropractor from among the names furnished. **Section 1** of this bill also clarifies that the employer shall not require or permit the disclosure of any other information concerning the employee's physical condition except as required by NRS 616C.177, which permits an insurer to inquire about and request medical records concerning a preexisting medical condition that is reasonably related to the industrial injury of the injured employee.

Existing law requires an insurer to accept or deny claims involving industrial injuries and occupational diseases within a certain period. (NRS 616C.065, 617.356) **Sections 1.5 and 3** of this bill require the insurer to mail its written determination regarding a claim to the claimant or the person acting on behalf of the claimant within the specified period and, if the insurer denies the claim in whole or in part, to obtain a certificate of mailing at the time the written determination of the denial of the claim is delivered to the United States Postal Service for mailing. The certificate of mailing serves as a receipt that shows the date on which the insurer mailed the written determination of the denial of a claim.

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, 617.485, 617.487) **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**:

(a) If the employer's insurer has entered into a contract with an organization for managed care or with providers of health care pursuant to NRS 616B.527, furnish the names, addresses and telephone numbers of ~~one~~ :



1 (1) Two or more physicians or chiropractors ~~[-]~~ who are
2 qualified to conduct the examination and who are available
3 pursuant to the terms of the contract, if there are two or more such
4 physicians or chiropractors within 30 miles of the employee's
5 place of employment; or

6 (2) One or more physicians or chiropractors who are
7 qualified to conduct the examination and who are available
8 pursuant to the terms of the contract, if there are not two or more
9 such physicians or chiropractors within 30 miles of the employee's
10 place of employment.

11 (b) If the employer's insurer has not entered into a contract
12 with an organization for managed care or with providers of health
13 care pursuant to NRS 616B.527, furnish the names, addresses and
14 telephone numbers of:

15 (1) Two or more physicians or chiropractors who are
16 qualified to conduct the examination, if there are two or more
17 such physicians or chiropractors within 30 miles of the employee's
18 place of employment; or

19 (2) One or more physicians or chiropractors who are
20 qualified to conduct the examination, if there are not two or more
21 such physicians or chiropractors within 30 miles of the employee's
22 place of employment.

23 3. From among the names furnished by the employer
24 pursuant to subsection 2, the employee shall select one of those
25 physicians or chiropractors to conduct the examination, but ~~[may]~~
26 the employer shall not require the employee to select ~~[any]~~ a
27 particular physician or chiropractor ~~[-]~~ from among the names
28 furnished by the employer. Thereupon, the examining physician or
29 chiropractor shall report forthwith to the employer and to the insurer
30 the character and extent of the injury. The employer shall not
31 require the employee to disclose or permit the disclosure of any
32 other information concerning his physical condition ~~[-]~~ except as
33 required by NRS 616C.177.

34 ~~[3-]~~ 4. Further medical attention, except as otherwise provided
35 in NRS 616C.265, must be authorized by the insurer.

36 ~~[4-]~~ 5. This section does not prohibit an employer from
37 requiring the employee to submit to an examination by a physician
38 or chiropractor specified by the employer at any convenient time
39 after medical attention which is required immediately has been
40 completed.

41 **Sec. 1.5.** NRS 616C.065 is hereby amended to read as follows:
42 616C.065 1. Except as otherwise provided in NRS 616C.136,
43 within 30 days after the insurer has been notified of an industrial
44 accident, every insurer shall:



(a) ~~Commence payment of~~ *Accept* a claim for compensation ~~;~~
*, notify the claimant or the person acting on behalf of the claimant
that the claim has been accepted and commence payment of the
claim;* or

(b) Deny the claim and notify the claimant *or the person acting
on behalf of the claimant* and *the* Administrator that the claim has
been denied.

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2. Payments made by an insurer pursuant to this section are not
an admission of liability for the claim or any portion of the claim.

~~{2-}~~ 3. Except as otherwise provided in this subsection, if an
insurer unreasonably delays or refuses to pay the claim within 30
days after the insurer has been notified of an industrial accident, the
insurer shall pay upon order of the Administrator an additional
amount equal to three times the amount specified in the order as
refused or unreasonably delayed. This payment is for the benefit of
the claimant and must be paid to him with the compensation
assessed pursuant to chapters 616A to 617, inclusive, of NRS. The
provisions of this section do not apply to the payment of a bill for
accident benefits that is governed by the provisions of
NRS 616C.136.

4. *The insurer shall notify the claimant or the person acting
on behalf of the claimant that a claim has been accepted or denied
pursuant to subsection 1 by:*

(a) *Mailing its written determination to the claimant or the
person acting on behalf of the claimant; and*

(b) *If the claim has been denied, in whole or in part, obtaining
a certificate of mailing.*

5. *The failure of the insurer to obtain a certificate of mailing
as required by paragraph (b) of subsection 4 shall be deemed to be
a failure of the insurer to mail the written determination of the
denial of a claim as required by this section.*

6. *Upon request, the insurer shall provide a copy of the
certificate of mailing, if any, to the claimant or the person acting
on behalf of the claimant.*

7. *For the purposes of this section, the insurer shall mail the
written determination to:*

(a) *The mailing address of the claimant or the person acting
on behalf of the claimant that is provided on the form prescribed
by the Administrator for filing the claim; or*

(b) *Another mailing address if the claimant or the person
acting on behalf of the claimant provides to the insurer written
notice of another mailing address.*

8. *As used in this section, "certificate of mailing" means a
receipt that provides evidence of the date on which the insurer*



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1 *presented its written determination to the United States Postal*
2 *Service for mailing.*

3 **Sec. 2.** (Deleted by amendment.)

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

5 617.356 **1.** An insurer shall accept or deny ~~responsibility~~ *a*
6 *claim* for compensation under this chapter *and notify the claimant*
7 *or the person acting on behalf of the claimant pursuant to NRS*
8 *617.344 that the claim has been accepted or denied* within 30
9 working days after ~~claims~~ *the forms for filing the claim* for
10 compensation are received pursuant to both NRS 617.344 and
11 617.352.

12 **2.** *The insurer shall notify the claimant or the person acting*
13 *on behalf of the claimant that a claim has been accepted or denied*
14 *pursuant to subsection 1 by:*

15 (a) *Mailing its written determination to the claimant or the*
16 *person acting on behalf of the claimant; and*

17 (b) *If the claim has been denied, in whole or in part, obtaining*
18 *a certificate of mailing.*

19 **3.** *The failure of the insurer to obtain a certificate of mailing*
20 *as required by paragraph (b) of subsection 2 shall be deemed to be*
21 *a failure of the insurer to mail the written determination of the*
22 *denial of a claim as required by this section.*

23 **4.** *Upon request, the insurer shall provide a copy of the*
24 *certificate of mailing, if any, to the claimant or the person acting*
25 *on behalf of the claimant.*

26 **5.** *For the purposes of this section, the insurer shall mail the*
27 *written determination to:*

28 (a) *The mailing address of the claimant or the person acting*
29 *on behalf of the claimant that is provided on the form prescribed*
30 *by the Administrator for filing the claim; or*

31 (b) *Another mailing address if the claimant or the person*
32 *acting on behalf of the claimant provides to the insurer written*
33 *notice of another mailing address.*

34 **6.** *As used in this section, "certificate of mailing" means a*
35 *receipt that provides evidence of the date on which the insurer*
36 *presented its written determination to the United States Postal*
37 *Service for mailing.*

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

39 617.440 **1.** An occupational disease defined in this chapter
40 shall be deemed to arise out of and in the course of the employment
41 if:

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



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

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

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

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

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

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

5. The requirements set forth in this section do not apply to claims filed pursuant to NRS 617.453, 617.455, 617.457, 617.485 or 617.487.

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

