

## Amendment No. 522

Assembly Amendment to Assembly Bill No. 496

(BDR 53-897)

**Proposed by:** Assembly Committee on Commerce and Labor**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

SSH/KCP



Date: 4/20/2007

A.B. No. 496—Makes various changes concerning workers' compensation.  
(BDR 53-897)



## 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]~~ **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 the employer to furnish the injured employee with the ~~[name]~~ **names** of at least two physicians or chiropractors qualified to examine the employee. **From among those names, 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 preferred by the employer from among the names furnished. Section 1 of this bill** 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.~~

~~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.] 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) ~~{Section} Sections 1.5 and 3 of this bill {require} require the insurer to {send notice of} mail its written 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.}~~ **within the specified period and to obtain a certificate of mailing at the time the written determination 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.**

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.

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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 ~~{ } who are qualified to conduct the examination. From among the names furnished by the employer, the employee shall select one of those physicians or chiropractors to conduct the examination,~~ but ~~{may}~~ **the employer shall** not require the employee to select ~~{any}~~ **a** particular physician or chiropractor ~~{ } preferred by the employer from among the names furnished by the employer.~~ 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 ~~{ } that is not directly related to the injury for which treatment is being sought.}~~ **except as required by NRS 616C.177.**

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 medical attention which is required immediately has been completed.

**Sec. 1.5. NRS 616C.065 is hereby amended to read as follows:**

616C.065 1. Except as otherwise provided in NRS 616C.136, within 30 days after the insurer has been notified of an industrial accident, every insurer shall:

(a) ~~Commence payment of~~ Accept a claim for compensation ~~and~~ , 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.

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.

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) Obtaining a certificate of mailing.

5. The failure of the insurer to obtain a certificate of mailing shall be deemed to be a failure of the insurer to mail the written determination as required by this section.

6. Upon request, the insurer shall provide a copy of the certificate of mailing 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 presented its written determination to the United States Postal Service for mailing.

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

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

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

(a) The name of:

(1) The claimant;

(2) The employer; and

(3) The insurer or third-party administrator;

(b) The number of the claim; and

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

~~3. Except as otherwise provided in NRS 616B.772, 616B.775, 616B.787 and 616C.205, a person who is aggrieved by:~~

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

~~(b) The failure of an insurer to respond within 30 days to a written request mailed to the insurer by the person who is aggrieved;~~

~~may appeal from the determination or failure to respond by filing a request for a hearing before a hearing officer. Such a request must include the information required pursuant to subsection 2 and must be filed within 70 days after the date on which the notice of the insurer's determination was mailed by the insurer or the unanswered written request was mailed to the insurer, as applicable. The failure of an insurer to respond to a written request for a determination within 30 days after receipt of such a request shall be deemed by the hearing officer to be a denial of the request. [an acceptance of the claim.]~~

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

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

~~6. The parties to a contested claim may, if the claimant is represented by legal counsel, agree to forego a hearing before a hearing officer and submit the contested claim directly to an appeals officer.] (Deleted by amendment.)~~

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

617.356 1. An insurer shall accept or deny [responsibility] a claim for [the payment of] compensation [to a claimant] under this chapter and notify the claimant or the person acting on behalf of the claimant pursuant to NRS 617.344 that the claim has been accepted or denied within [by sending its written determination by certified or registered mail to:

~~(a) The claimant; or~~

~~(b) The person acting on behalf of the claimant pursuant to NRS 617.344;~~

~~not later than] 30 working days after [claims] the forms for filing the claim for compensation are received pursuant to both NRS 617.344 and 617.352.~~

2. 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) Obtaining a certificate of mailing.

3. The failure of the insurer to obtain a certificate of mailing shall be deemed to be a failure of the insurer to mail the written determination as required by this section.

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

5. For the purposes of this section, the insurer [is responsible for determining and using the correct] shall mail the written determination to:

(a) The mailing address of the claimant or the person acting on behalf of the claimant [pursuant to NRS 617.344] that is provided on the form prescribed by the Administrator for filing the claim; or

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

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

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

7 617.440 1. An occupational disease defined in this chapter shall be deemed  
8 to arise out of and in the course of the employment if:

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

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

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

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

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

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

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

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

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