

ASSEMBLY BILL NO. 429—COMMITTEE
ON COMMERCE AND LABOR

MARCH 25, 2013

Referred to Committee on Commerce and Labor

SUMMARY—Establishes requirements concerning the prescription of certain pain medications to persons covered under policies of industrial insurance. (BDR 53-971)

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

~

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

AN ACT relating to industrial insurance; requiring a physician who treats an injured employee who is covered under a policy of industrial insurance to provide certain information to the employer of the injured employee and the employer's insurer if the physician prescribes certain narcotic drugs to the injured employee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 This bill requires a physician who treats an injured employee who is covered
2 under a policy of industrial insurance to provide certain information to the
3 employer of the injured employee and the employer's insurer if the physician
4 prescribes certain narcotic drugs, opium-based controlled substances, schedule II
5 controlled substances or long-acting or controlled-release opioids to the injured
6 employee. The information includes: (1) the medical justification for the
7 prescription; (2) a treatment plan for the injured employee which includes a
8 description of measures to monitor the injured employee's use of a prescribed drug
9 and to prevent abuse, dependence, addiction or diversion of the prescribed drug; (3)
10 information concerning other prescriptions for controlled substances filled for the
11 injured employee obtained from the database established by the State Board of
12 Pharmacy and the Investigative Division of the Department of Public Safety; (4) a
13 medication contract; (5) the physician's recommendations concerning follow-up
14 visits and drug testing of the injured employee; and (6) documentation that the
15 medication regime is providing relief to the injured employee as demonstrated by
16 improved function. This bill authorizes employers and insurers to: (1) withhold
17 payments from physicians who fail to provide timely the required information; and



* A B 4 2 9 *

18 (2) require injured employees to select a different physician for subsequent
19 treatment under such circumstances.

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

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

3 ***1. A treating physician who prescribes to an injured***
4 ***employee:***

5 ***(a) A narcotic drug, an opium-based controlled substance or a***
6 ***schedule II controlled substance which is prescribed for a use that***
7 ***is different from the use for which that drug or substance has been***
8 ***approved for marketing by the United States Food and Drug***
9 ***Administration;***

10 ***(b) A narcotic drug, an opium-based controlled substance or a***
11 ***schedule II controlled substance, or any combination of narcotic***
12 ***drugs or such controlled substances if the combined dose***
13 ***prescribed per day exceeds the equivalent of 120 milligrams of***
14 ***morphine; or***

15 ***(c) A long-acting or controlled-release opioid for acute pain,***
16 ***↪ shall submit a report to the employer of the injured employee or***
17 ***the employer's insurer concerning the intended use of the***
18 ***prescribed drug by the injured employee. The report must be***
19 ***submitted within 20 days after the date of the prescription.***

20 ***2. A report submitted pursuant to subsection 1 must include,***
21 ***without limitation:***

22 ***(a) The treating physician's medical justification for the***
23 ***prescription; and***

24 ***(b) A treatment plan for the injured employee which includes,***
25 ***without limitation, a description of the measures that the treating***
26 ***physician intends to implement to monitor the injured employee's***
27 ***use of a prescribed drug and to prevent abuse, dependence,***
28 ***addiction or diversion of the prescribed drug.***

29 ***3. The employer of the injured employee or the employer's***
30 ***insurer may require that the treating physician include in the***
31 ***treatment plan submitted pursuant to subsection 2:***

32 ***(a) Information obtained by the treating physician from the***
33 ***database established by the State Board of Pharmacy and the***
34 ***Investigation Division of the Department of Public Safety***
35 ***pursuant to NRS 453.1545 concerning any prescriptions for***
36 ***narcotic drugs or controlled substances filled for the injured***
37 ***employee;***

38 ***(b) A medication contract;***



* A B 4 2 9 *

(c) *The treating physician's recommendations for:*

(1) *Follow-up visits with the injured employee, if any; and*

(2) *Drug testing of the injured employee, if any; and*

(d) *Documentation that the medication regime prescribed by the treating physician is providing relief to the injured employee, as demonstrated by improved function.*

4. *If a treating physician fails to submit the report required pursuant to subsection 1 within 20 days after the date of the prescription as required, the employer of the injured employee or the employer's insurer may:*

(a) *Withhold payment from the treating physician until the treating physician provides the report; and*

(b) *Direct the injured employee to choose another treating physician from the panel of physicians established by the Administrator pursuant to NRS 616C.090.*

5. *An employer or insurer that withholds payment or directs an injured employee to choose a different treating physician based on its determination that the treating physician has not complied with this section must notify the physician and the injured employee of its determination. A treating physician or injured employee aggrieved by such a determination may appeal the determination by filing a notice of appeal with the Administrator within 30 days after the date of the determination. In the conduct of the appeal, there is a rebuttable presumption that the determination of the employer or insurer is correct. The treating physician or the injured employee has the burden of proving that the determination is incorrect. The decision of the Administrator is a final decision for purposes of judicial review.*

6. *An employer, insurer or the Division of Industrial Relations of the Department of Business and Industry may request that a treating physician provide the information required by this section even if a claim for benefits relating to the prescription has been approved or paid before the date of the request.*

7. *An employer or insurer is not liable to an injured employee for bad faith or unfair processing of claims for any action taken in accordance with the provisions of this section.*

8. *As used in this section:*

(a) *"Drug" has the meaning ascribed to it NRS 453.081.*

(b) *"Narcotic drug" has the meaning ascribed to it NRS 453.101.*

(c) *"Opiate" has the meaning ascribed to it NRS 453.106.*

(d) *"Opioid" means a synthetic narcotic which has opium-like effects similar to morphine but which is not derived from opium.*

(e) *"Prescribed drug" means a narcotic drug, an opium-based controlled substance, a schedule II controlled substance or a*



1 *long-acting or controlled-release opioid prescribed as set forth in*
2 *subsection 1.*

3 **Sec. 2.** This act becomes effective:

4 1. Upon passage and approval for the purpose of adopting
5 regulations and performing any preparatory administrative tasks that
6 are necessary to carry out the provisions of this act; and

7 2. On January 1, 2014, for all other purposes.

③⑩



* A B 4 2 9 *