

Amendment No. 487

Senate Amendment to Senate Bill No. 381	(BDR 53-1157)
Proposed by: Senate Committee on Commerce and Labor	
Amends: Summary: No Title: No 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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

DP/WLK



Date: 4/19/2019

S.B. No. 381—Revises provisions relating to workers’ compensation.
(BDR 53-1157)



SENATE BILL NO. 381—SENATOR CANNIZZARO

MARCH 20, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to workers' compensation. (BDR 53-1157)

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 industrial insurance; establishing the substantive right of an injured employee to choose a treating health care provider under the Nevada Industrial Insurance Act or the Nevada Occupational Diseases Act; revising provisions governing the panel of treating physicians and chiropractors established by the Administrator of the Division of Industrial Relations of the Department of Business and Industry to require the inclusion of certain health care providers; authorizing the Administrator to select a rating physician or chiropractor for an injured employee upon request; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

In 2007, the Nevada Supreme Court held that the Nevada Industrial Insurance Act does not entitle a claimant for compensation under that Act to his or her choice of treating physician as a substantive right. (*Valdez v. Employers Ins. Co. of Nev.*, 123 Nev. 170 (2007)) **Section 2** of this bill provides that the choice of a treating health care provider, defined as a physician, osteopathic physician, chiropractor ~~[- physical therapist]~~ or psychologist, is a substantive right of an injured employee who has a claim under the Nevada Industrial Insurance Act (chapters 616A-616D of NRS) or the Nevada Occupational Diseases Act (chapter 617 of NRS). **Section 2** does not revise certain existing provisions to grant an injured employee the choice of physician or chiropractor in the performance of certain examinations or certifications or ratings of disability. **Section 2** requires an insurer to: (1) include in its list of health care providers from which an injured employee may choose to receive treatment a certain ~~percentage of~~ number of health care providers from the panel of health care providers established and maintained by the Administrator of the Division of Industrial Relations of the Department of Business and Industry; and (2) update and file its list of health care providers with the Administrator annually. **Section 2** also requires the Administrator to provide a copy of an insurer's list to any member of the public upon request or post a copy of each such list on an Internet website for viewing, printing or downloading by the public. **Section 2** sets forth procedures and limitations governing the removal of a health care provider from an insurer's list. Finally, **section 2** provides that, except under certain circumstances, an injured employee may continue to receive treatment from a health care provider who has been removed from a list.

Sections 3-7, 9-25 and 28-35 of this bill revise provisions referencing treating physicians or chiropractors to instead reference treating health care providers for consistency with section 2.

Existing law requires the Administrator to establish a panel of physicians and chiropractors to treat injured employees under chapters 616A to 616D, inclusive, or chapter 617 of NRS. Existing law also provides that an injured employee may receive treatment by more than one physician or chiropractor if the insurer provides written authorization. (NRS 616C.090) Section 8 of this bill revises these provisions to: (1) require the Administrator to annually update the panel; (2) require the inclusion of physicians, chiropractors, osteopathic physicians, ~~physical therapists~~ and psychologists on the panel maintained by the Administrator; and (3) provide that an injured employee may change health care providers or receive treatment by more than one health care provider if the insurer provides written authorization or by order of a hearing officer or appeals officer.

Existing law sets forth procedures under which an insurer selects a physician or chiropractor to determine an injured employee's percentage of disability. (NRS 616C.490) Section 26 of this bill additionally authorizes an injured employee or his or her legal representative to request that the Administrator select a rating physician or chiropractor.

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

Section 1. NRS 616B.527 is hereby amended to read as follows:

616B.527 1. A self-insured employer, an association of self-insured public or private employers or a private carrier may:

(a) Except as otherwise provided in NRS 616B.5273, enter into a contract or contracts with one or more organizations for managed care to provide comprehensive medical and health care services to employees for injuries and diseases that are compensable pursuant to chapters 616A to 617, inclusive, of NRS.

(b) Enter into a contract or contracts with providers of health care, including, without limitation, physicians who provide primary care, specialists, pharmacies, physical therapists, radiologists, nurses, diagnostic facilities, laboratories, hospitals and facilities that provide treatment to outpatients, to provide medical and health care services to employees for injuries and diseases that are compensable pursuant to chapters 616A to 617, inclusive, of NRS.

(c) Require employees to obtain medical and health care services for their industrial injuries from those organizations and persons with whom the self-insured employer, association or private carrier has contracted pursuant to paragraphs (a) and (b), or as the self-insured employer, association or private carrier otherwise prescribes.

(d) Except as otherwise provided in subsection ~~3~~ 4 of NRS 616C.090, require employees to obtain the approval of the self-insured employer, association or private carrier before obtaining medical and health care services for their industrial injuries from a provider of health care who has not been previously approved by the self-insured employer, association or private carrier.

2. An organization for managed care with whom a self-insured employer, association of self-insured public or private employers or a private carrier has contracted pursuant to this section shall comply with the provisions of NRS 616B.528, 616B.5285 and 616B.529.

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

1. The Legislature hereby declares that:

1 (a) The choice of a treating health care provider is a substantive right and
2 substantive benefit of an injured employee who has a claim under the Nevada
3 Industrial Insurance Act or the Nevada Occupational Diseases Act.

4 (b) The injured employees of this State have a substantive right to an
5 adequate choice of health care providers to treat their industrial injuries and
6 occupational diseases.

7 2. Except as otherwise provided in this subsection and subsections 3 and 4,
8 an insurer's list of health care providers from which an injured employee may
9 choose pursuant to NRS 616C.090 must include not less than ~~[25 percent of the~~
10 ~~total number of]~~ 12 health care providers in each of the following disciplines and
11 specializations, without limitation, from the panel of health care providers
12 maintained by the Administrator pursuant to NRS 616C.090:

- 13 (a) Orthopedic surgery on spines;
- 14 (b) Orthopedic surgery on shoulders;
- 15 (c) Orthopedic surgery on elbows;
- 16 (d) Orthopedic surgery on wrists;
- 17 (e) Orthopedic surgery on hands;
- 18 (f) Orthopedic surgery on hips;
- 19 (g) Orthopedic surgery on knees;
- 20 (h) Orthopedic surgery on ankles;
- 21 (i) Orthopedic surgery on feet;
- 22 (j) Neurosurgery;
- 23 (k) Neurology;
- 24 (l) Cardiology;
- 25 (m) Pulmonology;
- 26 (n) Psychology;
- 27 (o) Psychiatry;
- 28 (p) Pain management;
- 29 (q) Occupational medicine;
- 30 (r) ~~Physiatry;~~
- 31 ~~(s) Physical or physical medicine;~~
- 32 ~~(t) Physical therapy;~~
- 33 (s) General practice or family medicine; and
- 34 ~~(u) (t) Chiropractic medicine.~~

35 ↪ If the panel of health care providers maintained by the Administrator pursuant
36 to NRS 616C.090 contains fewer than 12 health care providers for a discipline or
37 specialization specifically identified in this subsection, all of the health care
38 providers on the panel for that discipline or specialization must be included on
39 the insurer's list.

40 3. ~~[An insurer's list of health care providers required pursuant to NRS~~
41 ~~616C.090 must include not fewer than 10 health care providers for each~~
42 ~~discipline or specialization set forth in subsection 2.] For any other discipline or~~
43 ~~specialization not specifically identified in subsection 2, the insurer's list must~~
44 ~~include not fewer than [10] 8 health care providers unless the panel of health~~
45 ~~care providers maintained by the Administrator pursuant to NRS 616C.090~~
46 ~~contains fewer than [10] 8 health care providers for that discipline or~~
47 ~~specialization, in which case all of the health care providers on the panel for that~~
48 ~~discipline or specialization must be included on the insurer's list.~~

49 4. For each county whose population is 100,000 or more, ~~[in addition to~~
50 ~~meeting the percentage required by subsection 2,]~~ an insurer's list of health care
51 providers must include for that county ~~[only those]~~ a number of health care
52 providers [who] that is not less than the number required pursuant to subsections
53 2 and 3 and that also maintain in that county:

1 (a) An active practice; and

2 (b) A physical office.

3 5. If an insurer fails to maintain a list of health care providers that complies
4 with the requirements of subsections 2, 3 and 4, an injured employee may choose
5 a health care provider from the panel of health care providers maintained by the
6 Administrator pursuant to NRS 616C.090.

7 6. Each insurer shall, not later than October 1 of each year, update the list
8 of health care providers and file the list with the Administrator. The list must be
9 certified by an adjuster who is licensed pursuant to chapter 684A of NRS.

10 ~~6.7~~ 7. Upon receipt of a list of health care providers that is filed pursuant
11 to subsection ~~5.7~~ 6, the Administrator shall:

12 (a) Stamp the list as having been filed; and

13 (b) Indicate on the list the date on which it was filed.

14 ~~7.7~~ 8. The Administrator shall:

15 (a) Provide a copy of an insurer's list of health care providers to any member
16 of the public who requests a copy; or

17 (b) Post a copy of each insurer's list of health care providers on an Internet
18 website maintained by the Administrator and accessible to the public for viewing,
19 printing or downloading.

20 ~~8.7~~ 9. At any time, a health care provider may request in writing that he or
21 she be removed from an insurer's list of health care providers. The insurer must
22 comply with the request and omit the health care provider from the next list
23 which the insurer files with the Administrator.

24 ~~9.7~~ 10. A health care provider may not be involuntarily removed from an
25 insurer's list of health care providers except for good cause. As used in this
26 subsection, "good cause" means that one or more of the following circumstances
27 apply:

28 (a) The health care provider has died or is disabled.

29 (b) The license of the health care provider has been revoked or suspended.

30 (c) The health care provider has been convicted of:

31 (1) A felony; or

32 (2) A crime for a violation of a provision of chapter 616D of NRS.

33 (d) The health care provider has been removed from the panel of health care
34 providers maintained by the Administrator pursuant to NRS 616C.090 by the
35 Administrator upon a finding ~~[of good cause due to one of the circumstances~~
36 ~~described in paragraph (a), (b) or (c)].~~

37 ~~10.7~~ that the health care provider has failed to comply with the standards for
38 treatment of industrial injuries or occupational diseases as established by the
39 Administrator.

40 11. Unless a health care provider is removed from an insurer's list of health
41 care providers pursuant to subsection ~~9.7~~ 10, an injured employee may continue
42 to receive treatment from that health care provider even if:

43 (a) The employer of the injured employee changes insurers or
44 administrators.

45 (b) The health care provider is no longer included in the applicable insurer's
46 list of health care providers, provided that the health care provider agrees to
47 continue to accept compensation for that treatment at the rates which:

48 (1) Were previously agreed upon when the health care provider was most
49 recently included in the list; or

50 (2) Are newly negotiated but do not exceed the amounts provided under
51 the fee schedule adopted by the Administrator.

52 ~~11.7~~ 12. As used in this section, "health care provider" means:

53 (a) A physician who is licensed pursuant to chapter 630 of NRS;

(b) *An osteopathic physician who is licensed pursuant to chapter 633 of NRS;*

(c) *A chiropractor who is licensed pursuant to chapter 634 of NRS; or*

~~(d) *A physical therapist who is licensed pursuant to chapter 640 of NRS; or*~~

~~(e) *A psychologist who is licensed pursuant to chapter 641 of NRS.*~~

Sec. 3. NRS 616C.040 is hereby amended to read as follows:

616C.040 1. Except as otherwise provided in this section, a treating ~~physician or chiropractor~~ *health care provider* shall, within 3 working days after first providing treatment to an injured employee for a particular injury, complete and file a claim for compensation with the employer of the injured employee and the employer's insurer. If the employer is a self-insured employer, the treating ~~physician or chiropractor~~ *health care provider* shall file the claim for compensation with the employer's third-party administrator. If the ~~physician or chiropractor~~ *health care provider* files the claim for compensation by electronic transmission, the ~~physician or chiropractor~~ *health care provider* shall, upon request, mail to the insurer or third-party administrator the form that contains the original signatures of the injured employee and the ~~physician or chiropractor~~ *health care provider*. The form must be mailed within 7 days after receiving such a request.

2. A ~~physician or chiropractor~~ *health care provider* who has a duty to file a claim for compensation pursuant to subsection 1 may delegate the duty to a medical facility. If the ~~physician or chiropractor~~ *health care provider* delegates the duty to a medical facility:

(a) The medical facility must comply with the filing requirements set forth in this section; and

(b) The delegation must be in writing and signed by:

(1) The ~~physician or chiropractor~~ *health care provider*; and

(2) An authorized representative of the medical facility.

3. A claim for compensation required by subsection 1 must be filed on a form prescribed by the Administrator.

4. If a claim for compensation is accompanied by a certificate of disability, the certificate must include a description of any limitation or restrictions on the injured employee's ability to work.

5. Each ~~physician, chiropractor~~ *health care provider* and medical facility that treats injured employees, each insurer, third-party administrator and employer, and the Division shall maintain at their offices a sufficient supply of the forms prescribed by the Administrator for filing a claim for compensation.

6. The Administrator may impose an administrative fine of not more than \$1,000 for each violation of subsection 1 on:

(a) A ~~physician or chiropractor~~ *health care provider*; or

(b) A medical facility if the duty to file the claim for compensation has been delegated to the medical facility pursuant to this section.

7. As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.

Sec. 4. NRS 616C.045 is hereby amended to read as follows:

616C.045 1. Except as otherwise provided in NRS 616B.727, within 6 working days after the receipt of a claim for compensation from a ~~physician or chiropractor~~ *health care provider*, or a medical facility if the duty to file the claim for compensation has been delegated to the medical facility pursuant to NRS 616C.040, an employer shall complete and file with his or her insurer or third-party administrator an employer's report of industrial injury or occupational disease.

2. The report must:

(a) Be filed on a form prescribed by the Administrator;

(b) Be signed by the employer or the employer's designee;
(c) Contain specific answers to all questions required by the regulations of the Administrator; and

(d) Be accompanied by a statement of the wages of the employee if the claim for compensation received from the treating ~~physician or chiropractor~~ *health care provider*, or a medical facility if the duty to file the claim for compensation has been delegated to the medical facility pursuant to NRS 616C.040, indicates that the injured employee is expected to be off work for 5 days or more.

3. An employer who files the report required by subsection 1 by electronic transmission shall, upon request, mail to the insurer or third-party administrator the form that contains the original signature of the employer or the employer's designee. The form must be mailed within 7 days after receiving such a request.

4. The Administrator shall impose an administrative fine of not more than \$1,000 on an employer for each violation of this section.

5. As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.

Sec. 5. NRS 616C.050 is hereby amended to read as follows:

616C.050 1. An insurer shall provide to each claimant:

(a) Upon written request, one copy of any medical information concerning the claimant's injury or illness.

(b) A statement which contains information concerning the claimant's right to:

(1) Receive the information and forms necessary to file a claim;

(2) Select a treating ~~physician or chiropractor~~ *health care provider* and an alternative treating ~~physician or chiropractor~~ *health care provider* in accordance with the provisions of NRS 616C.090;

(3) Request the appointment of the Nevada Attorney for Injured Workers to represent the claimant before the appeals officer;

(4) File a complaint with the Administrator;

(5) When applicable, receive compensation for:

(I) Permanent total disability;

(II) Temporary total disability;

(III) Permanent partial disability;

(IV) Temporary partial disability;

(V) All medical costs related to the claimant's injury or disease; or

(VI) The hours the claimant is absent from the place of employment to receive medical treatment pursuant to NRS 616C.477;

(6) Receive services for rehabilitation if the claimant's injury prevents him or her from returning to gainful employment;

(7) Review by a hearing officer of any determination or rejection of a claim by the insurer within the time specified by statute; and

(8) Judicial review of any final decision within the time specified by statute.

2. The insurer's statement must include a copy of the form designed by the Administrator pursuant to subsection ~~8~~ 9 of NRS 616C.090 that notifies injured employees of their right to select an alternative treating ~~physician or chiropractor~~ *health care provider*. The Administrator shall adopt regulations for the manner of compliance by an insurer with the other provisions of subsection 1.

3. As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.

Sec. 6. NRS 616C.055 is hereby amended to read as follows:

616C.055 1. The insurer may not, in accepting responsibility for any charges, use fee schedules which unfairly discriminate among ~~physicians and chiropractors~~ *health care providers*.

2. ~~[If a physician or chiropractor]~~ *Except as otherwise provided in section 2 of this act, if a health care provider* is removed from the panel established pursuant to NRS 616C.090 or from participation in a plan for managed care established pursuant to NRS 616B.527, the ~~[physician or chiropractor, as applicable]~~ *health care provider* must not be paid for any services rendered to the injured employee after the date of the removal.

3. *As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.*

Sec. 7. NRS 616C.075 is hereby amended to read as follows:

616C.075 1. If an employee is properly directed to submit to a physical examination and the employee refuses to permit the treating ~~[physician or chiropractor]~~ *health care provider* to make an examination and to render medical attention as may be required immediately, no compensation may be paid for the injury claimed to result from the accident.

2. *As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.*

Sec. 8. NRS 616C.090 is hereby amended to read as follows:

616C.090 1. The Administrator shall establish, *maintain and update not less frequently than annually on or before July 1 of each year*, a panel of ~~[physicians and chiropractors]~~ *health care providers* who have demonstrated special competence and interest in industrial health to treat injured employees under chapters 616A to 616D, inclusive, or chapter 617 of NRS. *The Administrator shall maintain the following information relating to each health care provider on the panel:*

(a) *The name of the health care provider.*

(b) *The title or degree of the health care provider.*

(c) *The legal name of the health care provider's practice and the name under which the practice does business.*

(d) *The street address of the location of every office of the health care provider.*

~~[(d)]~~ (e) *The telephone number of the every office of the health care provider.*

~~[(e)]~~ (f) *The*

Every discipline for and specialization practiced by the health care provider.

(g) *Every condition and part of the body which the health care provider will treat.*

2. Every employer whose insurer has not entered into a contract with an organization for managed care or with providers of health care ~~[services]~~ pursuant to NRS 616B.527 shall maintain a list of those ~~[physicians and chiropractors]~~ *health care providers* on the panel who are reasonably accessible to his or her employees.

~~[2.]~~ 3. An injured employee whose employer's insurer has not entered into a contract with an organization for managed care or with providers of health care ~~[services]~~ pursuant to NRS 616B.527 may choose a treating ~~[physician or chiropractor]~~ *health care provider* from the panel of ~~[physicians and chiropractors]~~ *health care providers*. If the injured employee is not satisfied with the first ~~[physician or chiropractor]~~ *health care provider* he or she so chooses, the injured employee may make an alternative choice of ~~[physician or chiropractor]~~ *health care provider* from the panel if the choice is made within 90 days after his or her injury. The insurer shall notify the first ~~[physician or chiropractor]~~ *health care provider* in writing. The notice must be postmarked within 3 working days after the insurer receives knowledge of the change. The first ~~[physician or chiropractor]~~

1 *health care provider* must be reimbursed only for the services the ~~[physician or~~
2 ~~chiropractor, as applicable.]~~ *health care provider* rendered to the injured employee
3 up to and including the date of notification. Except as otherwise provided in this
4 subsection, any further change is subject to the approval of the insurer ~~[, which]~~ or
5 by order of a hearing officer or appeals officer. A request for a change of health
6 care provider must be granted or denied within 10 days after a written request for
7 such a change is received from the injured employee. If the insurer takes no action
8 ~~[is taken]~~ on the request within 10 days, the request shall be deemed granted. Any
9 request for a change of ~~[physician or chiropractor]~~ *health care provider* must
10 include the name of the new ~~[physician or chiropractor]~~ *health care provider*
11 chosen by the injured employee. If the treating ~~[physician or chiropractor]~~ *health*
12 *care provider* refers the injured employee to a specialist for treatment, the ~~[treating~~
13 ~~physician or chiropractor health care provider]~~ *insurer* shall provide to the injured
14 employee a list that includes the name of each ~~[physician or chiropractor]~~ *health*
15 *care provider* with that specialization who is on the panel. ~~[After]~~ Not later than 14
16 days after receiving the list, the injured employee shall ~~[, at the time the referral is~~
17 ~~made.]~~ select a ~~[physician or chiropractor]~~ *health care provider* from the list.

18 ~~[3.]~~ 4. An injured employee whose employer's insurer has entered into a
19 contract with an organization for managed care or with providers of health care
20 ~~[services]~~ pursuant to NRS 616B.527 must choose a treating ~~[physician or~~
21 ~~chiropractor]~~ *health care provider* pursuant to the terms of that contract. If the
22 injured employee is not satisfied with the first ~~[physician or chiropractor]~~ *health*
23 *care provider* he or she so chooses, the injured employee may make an alternative
24 choice of ~~[physician or chiropractor]~~ *health care provider* pursuant to the terms of
25 the contract without the approval of the insurer if the choice is made within 90 days
26 after his or her injury. Except as otherwise provided in this subsection, any further
27 change is subject to the approval of the insurer or by order of a hearing officer or
28 appeals officer. A request for a change of health care provider must be granted or
29 denied within 10 days after a written request for such a change is received from
30 the injured employee. If the insurer takes no action on the request within 10 days,
31 the request shall be deemed granted. If the injured employee, after choosing a
32 treating ~~[physician or chiropractor]~~ *health care provider*, moves to a county which
33 is not served by the organization for managed care or providers of health care
34 ~~[services]~~ named in the contract and the insurer determines that it is impractical for
35 the injured employee to continue treatment with the ~~[physician or chiropractor]~~ *health*
36 *care provider*, the injured employee must choose a treating ~~[physician or~~
37 ~~chiropractor]~~ *health care provider* who has agreed to the terms of that contract
38 unless the insurer authorizes the injured employee to choose another ~~[physician or~~
39 ~~chiropractor]~~ *health care provider*. If the treating ~~[physician or chiropractor]~~ *health*
40 *care provider* refers the injured employee to a specialist for treatment, the
41 ~~[treating physician or chiropractor health care provider]~~ *insurer* shall provide to
42 the injured employee a list that includes the name of each ~~[physician or~~
43 ~~chiropractor]~~ *health care provider* with that specialization who is available
44 pursuant to the terms of the contract with the organization for managed care or with
45 providers of health care ~~[services]~~ pursuant to NRS 616B.527, as appropriate.
46 ~~[After]~~ Not later than 14 days after receiving the list, the injured employee shall ~~[,~~
47 ~~at the time the referral is made,]~~ select a ~~[physician or chiropractor]~~ *health care*
48 *provider* from the list. If the employee fails to select a ~~[physician or chiropractor]~~ *health*
49 *care provider*, the insurer may select a ~~[physician or chiropractor]~~ *health*
50 *care provider* with that specialization. If a ~~[physician or chiropractor]~~ *health*
51 *care provider* with that specialization is not available pursuant to the terms of the
52 contract, the organization for managed care or the provider of health care ~~[services]~~

may select a ~~{physician or chiropractor}~~ *health care provider* with that specialization.

~~{4.}~~ 5. If the injured employee is not satisfied with the ~~{physician or chiropractor}~~ *health care provider* selected by himself or herself or by the insurer, the organization for managed care or the provider of health care ~~{services}~~ pursuant to subsection ~~{3.}~~ 4, the injured employee may make an alternative choice of ~~{physician or chiropractor}~~ *health care provider* pursuant to the terms of the contract. A change in the treating ~~{physician or chiropractor}~~ *health care provider* may be made at any time but is subject to the approval of the insurer ~~{which}~~ or by order of a hearing officer or appeals officer. A request for a change of health care provider must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If no action is taken on the request within 10 days, the request shall be deemed granted. Any request for a change of ~~{physician or chiropractor}~~ *health care provider* must include the name of the new ~~{physician or chiropractor}~~ *health care provider* chosen by the injured employee. If the insurer denies a request for a change in the treating ~~{physician or chiropractor}~~ *health care provider* under this subsection, the insurer must include in a written notice of denial to the injured employee the specific reason for the denial of the request.

~~{5.}~~ 6. Except when emergency medical care is required and except as otherwise provided in NRS 616C.055, the insurer is not responsible for any charges for medical treatment or other accident benefits furnished or ordered by any ~~{physician, chiropractor}~~ *health care provider* or other person selected by the injured employee in disregard of the provisions of this section or for any compensation for any aggravation of the injured employee's injury attributable to improper treatments by such ~~{physician, chiropractor}~~ *health care provider* or other person.

~~{6.}~~ 7. The Administrator may order necessary changes in a panel of ~~{physicians and chiropractors}~~ *health care providers* and shall suspend or remove any ~~{physician or chiropractor}~~ *health care provider* from a panel for good cause shown ~~{~~

~~— 7.}~~ *in accordance with section 2 of this act.*

8. An injured employee may receive treatment by more than one ~~{physician or chiropractor or}~~ *health care provider*:

(a) If the insurer provides written authorization for such treatment ~~{~~
~~— 8.}~~ *; or*

(b) *By order of a hearing officer or appeals officer.*

9. The Administrator shall design a form that notifies injured employees of their right pursuant to subsections ~~{2.}~~ 3, ~~{and}~~ 4 *and 5* to select an alternative treating ~~{physician or chiropractor}~~ *health care provider* and make the form available to insurers for distribution pursuant to subsection 2 of NRS 616C.050.

10. *As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.*

Sec. 9. NRS 616C.095 is hereby amended to read as follows:

616C.095 1. The ~~{physician or chiropractor}~~ *health care provider* shall inform the injured employee of the injured employee's rights under chapters 616A to 616D, inclusive, or chapter 617 of NRS and lend all necessary assistance in making application for compensation and such proof of other matters as required by the rules of the Division, without charge to the employee.

2. *As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.*

Sec. 10. NRS 616C.098 is hereby amended to read as follows:

616C.098 **1.** Certain phrases relating to a claim for compensation for an industrial injury or occupational disease and used by a ~~[physician or chiropractor]~~ **health care provider** when determining the causation of an industrial injury or occupational disease are deemed to be equivalent and may be used interchangeably. Those phrases are:

~~(1.)~~ **(a)** "Directly connect this injury or occupational disease as job incurred"; and

~~(2.)~~ **(b)** "A degree of reasonable medical probability that the condition in question was caused by the industrial injury."

2. *As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.*

Sec. 11. NRS 616C.130 is hereby amended to read as follows:

616C.130 **1.** The insurer shall not authorize the payment of any money to a ~~[physician or chiropractor]~~ **health care provider** for services rendered by the ~~[physician or chiropractor, as applicable,]~~ **health care provider** in attending an injured employee until an itemized statement for the services has been received by the insurer accompanied by a certificate of the ~~[physician or chiropractor]~~ **health care provider** stating that a duplicate of the itemized statement has been filed with the employer of the injured employee.

2. *As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.*

Sec. 12. NRS 616C.140 is hereby amended to read as follows:

616C.140 **1.** Any employee who is entitled to receive compensation under chapters 616A to 616D, inclusive, of NRS shall, if:

(a) Requested by the insurer or employer; or

(b) Ordered by an appeals officer or a hearing officer,
➤ submit to a medical examination at a time and from time to time at a place reasonably convenient for the employee, and as may be provided by the regulations of the Division.

2. If the insurer has reasonable cause to believe that an injured employee who is receiving compensation for a permanent total disability is no longer disabled, the insurer may request the employee to submit to an annual medical examination to determine whether the disability still exists. The insurer shall pay the costs of the examination.

3. The request or order for an examination must fix a time and place therefor, with due regard for the nature of the medical examination, the convenience of the employee, the employee's physical condition and the employee's ability to attend at the time and place fixed.

4. The employee is entitled to have a ~~[physician or chiropractor]~~ **health care provider**, provided and paid for by the employee, present at any such examination.

5. If the employee refuses to submit to an examination ordered or requested pursuant to subsection 1 or 2 or obstructs the examination, the right of the employee to compensation is suspended until the examination has taken place, and no compensation is payable during or for the period of suspension.

6. Any ~~[physician or chiropractor]~~ **health care provider** who makes or is present at any such examination may be required to testify as to the result thereof.

7. *As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.*

Sec. 13. NRS 616C.145 is hereby amended to read as follows:

616C.145 **1.** An injured employee may obtain an independent medical examination:

(a) Except as otherwise provided in subsections 2 and 3, whenever a dispute arises from a determination issued by the insurer regarding the approval of care, the direction of a treatment plan or the scope of the claim;

(b) Within 30 days after an injured employee receives any report generated pursuant to a medical examination requested by the insurer pursuant to NRS 616C.140; or

(c) At any time by leave of a hearing officer or appeals officer after the denial of any therapy or treatment.

2. An injured employee is entitled to an independent medical examination pursuant to paragraph (a) of subsection 1 only:

(a) For a claim for compensation that is open;

(b) When the closure of a claim for compensation is under dispute pursuant to NRS 616C.235; or

(c) When a hearing or appeal is pending pursuant to NRS 616C.330 or 616C.360.

3. An injured employee is entitled to only one independent medical examination per calendar year pursuant to paragraph (a) of subsection 1.

4. Except as otherwise provided in subsection 5, an independent medical examination must not involve treatment and must be conducted by a physician or chiropractor selected by the injured employee from the panel of ~~{physicians and chiropractors}~~ *health care providers* established pursuant to subsection 1 of NRS 616C.090. *As used in this subsection, "health care provider" has the meaning ascribed to it in section 2 of this act.*

5. If the dispute concerns the rating of a permanent disability, an independent medical examination may be conducted by a rating physician or chiropractor. The injured employee must select the next rating physician or chiropractor in rotation from the list of qualified physicians and chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor.

6. The insurer shall:

(a) Pay the costs of any independent medical examination conducted pursuant to this section in accordance with NRS 616C.260; and

(b) Upon request, receive a copy of any report or other document that is generated as a result of the independent medical examination.

7. The provisions of this section do not apply to an independent medical examination ordered by a hearing officer pursuant to subsection 3 of NRS 616C.330 or by an appeals officer pursuant to subsection 3 of NRS 616C.360.

Sec. 14. NRS 616C.160 is hereby amended to read as follows:

616C.160 **1.** If, after a claim for compensation is filed pursuant to NRS 616C.020:

~~{1-}~~ (a) The injured employee seeks treatment from a ~~{physician or chiropractor}~~ *health care provider* for a newly developed injury or disease; and

~~{2-}~~ (b) The employee's medical records for the injury reported do not include a reference to the injury or disease for which treatment is being sought, or there is no documentation indicating that there was possible exposure to an injury described in paragraph (b), (c) or (d) of subsection 2 of NRS 616A.265,

the injury or disease for which treatment is being sought must not be considered part of the employee's original claim for compensation unless the ~~{physician or chiropractor}~~ *health care provider* establishes by medical evidence a causal relationship between the injury or disease for which treatment is being sought and the original accident.

2. *As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.*

1 **Sec. 15.** NRS 616C.230 is hereby amended to read as follows:

2 616C.230 1. Compensation is not payable pursuant to the provisions of
3 chapters 616A to 616D, inclusive, or chapter 617 of NRS for an injury:

4 (a) Caused by the employee's willful intention to injure himself or herself.

5 (b) Caused by the employee's willful intention to injure another.

6 (c) That occurred while the employee was in a state of intoxication, unless the
7 employee can prove by clear and convincing evidence that his or her state of
8 intoxication was not the proximate cause of the injury. For the purposes of this
9 paragraph, an employee is in a state of intoxication if the level of alcohol in the
10 bloodstream of the employee meets or exceeds the limits set forth in subsection 1 of
11 NRS 484C.110.

12 (d) That occurred while the employee was under the influence of a controlled
13 or prohibited substance, unless the employee can prove by clear and convincing
14 evidence that his or her being under the influence of a controlled or prohibited
15 substance was not the proximate cause of the injury. For the purposes of this
16 paragraph, an employee is under the influence of a controlled or prohibited
17 substance if the employee had an amount of a controlled or prohibited substance in
18 his or her system at the time of his or her injury that was equal to or greater than the
19 limits set forth in subsection 3 or 4 of NRS 484C.110 and for which the employee
20 did not have a current and lawful prescription issued in the employee's name.

21 2. For the purposes of paragraphs (c) and (d) of subsection 1:

22 (a) The affidavit or declaration of an expert or other person described in NRS
23 50.310, 50.315 or 50.320 is admissible to prove the existence of an impermissible
24 quantity of alcohol or the existence, quantity or identity of an impermissible
25 controlled or prohibited substance in an employee's system. If the affidavit or
26 declaration is to be so used, it must be submitted in the manner prescribed in NRS
27 616C.355.

28 (b) When an examination requested or ordered includes testing for the use of
29 alcohol or a controlled or prohibited substance, the laboratory that conducts the
30 testing must be licensed pursuant to the provisions of chapter 652 of NRS.

31 (c) The results of any testing for the use of alcohol or a controlled or prohibited
32 substance, irrespective of the purpose for performing the test, must be made
33 available to an insurer or employer upon request, to the extent that doing so does
34 not conflict with federal law.

35 3. No compensation is payable for the death, disability or treatment of an
36 employee if the employee's death is caused by, or insofar as the employee's
37 disability is aggravated, caused or continued by, an unreasonable refusal or neglect
38 to submit to or to follow any competent and reasonable surgical treatment or
39 medical aid.

40 4. If any employee persists in an unsanitary or injurious practice that imperils
41 or retards his or her recovery, or refuses to submit to such medical or surgical
42 treatment as is necessary to promote his or her recovery, the employee's
43 compensation may be reduced or suspended.

44 5. An injured employee's compensation, other than accident benefits, must be
45 suspended if:

46 (a) A ~~physician or chiropractor~~ *health care provider* determines that the
47 employee is unable to undergo treatment, testing or examination for the industrial
48 injury solely because of a condition or injury that did not arise out of and in the
49 course of employment; and

50 (b) It is within the ability of the employee to correct the nonindustrial condition
51 or injury.

1 ↪ The compensation must be suspended until the injured employee is able to
2 resume treatment, testing or examination for the industrial injury. The insurer may
3 elect to pay for the treatment of the nonindustrial condition or injury.

4 6. As used in this section ~~[-, "prohibited"]~~ :

5 (a) *"Health care provider" has the meaning ascribed to it in section 2 of this*
6 *act.*

7 (b) *"Prohibited substance"* has the meaning ascribed to it in NRS 484C.080.

8 **Sec. 16.** NRS 616C.260 is hereby amended to read as follows:

9 616C.260. 1. All fees and charges for accident benefits must not:

10 (a) Exceed the amounts usually billed and paid in the State for similar
11 treatment.

12 (b) Be unfairly discriminatory as between persons legally qualified to provide
13 the particular service for which the fees or charges are asked.

14 2. The Administrator shall, giving consideration to the fees and charges being
15 billed and paid in the State, establish a schedule of reasonable fees and charges
16 allowable for accident benefits provided to injured employees whose insurers have
17 not contracted with an organization for managed care or with providers of health
18 care ~~[-services-]~~ pursuant to NRS 616B.527. The Administrator shall review and
19 revise the schedule on or before February 1 of each year. In the revision, the
20 Administrator shall adjust the schedule by the corresponding annual change in the
21 Consumer Price Index, Medical Care Component.

22 3. The Administrator shall designate a vendor who compiles data on a
23 national basis concerning fees and charges that are billed and paid for treatment or
24 services similar to the treatment and services that qualify as accident benefits in this
25 State to provide the Administrator with such information as the Administrator
26 deems necessary to carry out the provisions of subsection 2. The designation must
27 be made pursuant to reasonable competitive bidding procedures established by the
28 Administrator. In addition, the Administrator may request a health insurer, health
29 maintenance organization or provider of accident benefits, an agent or employee of
30 such a person, or an agency of the State to provide the Administrator with
31 information concerning fees and charges that are billed and paid in this State for
32 similar services as the Administrator deems necessary to carry out the provisions of
33 subsection 2. The Administrator shall require a health insurer, health maintenance
34 organization or provider of accident benefits, an agent or employee of such a
35 person, or an agency of the State that provides records or reports of fees and
36 charges billed and paid pursuant to this section to provide interpretation and
37 identification concerning the information delivered. The Administrator may impose
38 an administrative fine of \$500 on a health insurer, health maintenance organization
39 or provider of accident benefits, or an agent or employee of such a person for each
40 refusal to provide the information requested pursuant to this subsection.

41 4. The Division may adopt reasonable regulations necessary to carry out the
42 provisions of this section. The regulations must include provisions concerning:

43 (a) Standards for the development of the schedule of fees and charges that are
44 billed and paid; and

45 (b) The monitoring of compliance by providers of benefits with the schedule of
46 fees and charges.

47 5. The Division shall adopt regulations requiring the use of a system of billing
48 codes as recommended by the American Medical Association.

49 **Sec. 17.** NRS 616C.270 is hereby amended to read as follows:

50 616C.270. 1. Every employer who has elected to provide accident benefits
51 for his or her injured employees shall prepare and submit a written report to the
52 Administrator:

(a) Within 6 days after any accident if an injured employee is examined *by a physician or chiropractor* or treated by a ~~[physician or chiropractor;]~~ *health care provider;* and

(b) If the injured employee receives additional medical services.

2. The Administrator shall review each report to determine whether the employer is furnishing the accident benefits required by chapters 616A to 616D, inclusive, of NRS.

3. The content and form of the written reports must be prescribed by the Administrator.

4. As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.

Sec. 18. NRS 616C.275 is hereby amended to read as follows:

616C.275 1. If the Administrator finds that the employer is furnishing the requirements of accident benefits in such a manner that there are reasonable grounds for believing that the health, life or recovery of the employee is being endangered or impaired thereby, or that an employer has failed to provide benefits pursuant to NRS 616C.265 for which he or she has made arrangements, the Administrator may, upon application of the employee, or upon the Administrator's own motion, order a change of ~~[physicians or chiropractors]~~ *health care providers* or of any other requirements of accident benefits.

2. If the Administrator orders a change of ~~[physicians or chiropractors]~~ *health care providers* or of any other accident benefits, the cost of the change must be borne by the insurer.

3. The cause of action of an injured employee against an employer insured by a private carrier must be assigned to the private carrier.

4. As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.

Sec. 19. NRS 616C.280 is hereby amended to read as follows:

616C.280 1. The Administrator may withdraw his or her approval of an employer's providing accident benefits for his or her employees and require the employer to pay the premium collected pursuant to NRS 616C.255 if the employer intentionally:

~~[1.]~~ (a) Determines incorrectly that a claimed injury did not arise out of and in the course of the employee's employment;

~~[2.]~~ (b) Fails to advise an injured employee of the employee's rights under chapters 616A to 616D, inclusive, or chapter 617 of NRS;

~~[3.]~~ (c) Impedes the determination of disability or benefits by delaying a needed change of an injured employee's ~~[physician or chiropractor;~~

~~—4.]~~ *health care provider;*

(d) Causes an injured employee to file a legal action to recover any compensation or other medical benefits due the employee from the employer;

~~[5.]~~ (e) Violates any of the Administrator's or the Division's regulations regarding the provision of accident benefits by employers; or

~~[6.]~~ (f) Discriminates against an employee who claims benefits under chapters 616A to 616D, inclusive, or chapter 617 of NRS.

2. As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.

Sec. 20. NRS 616C.330 is hereby amended to read as follows:

616C.330 1. The hearing officer shall:

(a) Except as otherwise provided in subsection 2 of NRS 616C.315, within 5 days after receiving a request for a hearing, set the hearing for a date and time within 30 days after his or her receipt of the request at a place in Carson City, Nevada, or Las Vegas, Nevada, or upon agreement of one or more of the parties to

1 pay all additional costs directly related to an alternative location, at any other place
2 of convenience to the parties, at the discretion of the hearing officer;

3 (b) Give notice by mail or by personal service to all interested parties to the
4 hearing at least 15 days before the date and time scheduled; and

5 (c) Conduct hearings expeditiously and informally.

6 2. The notice must include a statement that the injured employee may be
7 represented by a private attorney or seek assistance and advice from the Nevada
8 Attorney for Injured Workers.

9 3. If necessary to resolve a medical question concerning an injured
10 employee's condition or to determine the necessity of treatment for which
11 authorization for payment has been denied, the hearing officer may order an
12 independent medical examination, which must not involve treatment, and refer the
13 employee to a physician or chiropractor of his or her choice who has demonstrated
14 special competence to treat the particular medical condition of the employee,
15 whether or not the physician or chiropractor is on the insurer's panel of providers of
16 health care. If the medical question concerns the rating of a permanent disability,
17 the hearing officer may refer the employee to a rating physician or chiropractor.
18 The rating physician or chiropractor must be selected in rotation from the list of
19 qualified physicians and chiropractors maintained by the Administrator pursuant to
20 subsection 2 of NRS 616C.490, unless the insurer and injured employee otherwise
21 agree to a rating physician or chiropractor. The insurer shall pay the costs of any
22 medical examination requested by the hearing officer.

23 4. The hearing officer may consider the opinion of an examining physician or
24 chiropractor, in addition to the opinion of an authorized treating ~~physician or~~
25 ~~chiropractor,~~ *health care provider*, in determining the compensation payable to the
26 injured employee. *As used in this subsection, "health care provider" has the*
27 *meaning ascribed to it in section 2 of this act.*

28 5. If an injured employee has requested payment for the cost of obtaining a
29 second determination of his or her percentage of disability pursuant to NRS
30 616C.100, the hearing officer shall decide whether the determination of the higher
31 percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so,
32 may order the insurer to pay to the employee an amount equal to the maximum
33 allowable fee established by the Administrator pursuant to NRS 616C.260 for the
34 type of service performed, or the usual fee of that physician or chiropractor for such
35 service, whichever is less.

36 6. The hearing officer shall order an insurer, organization for managed care or
37 employer who provides accident benefits for injured employees pursuant to NRS
38 616C.265 to pay to the appropriate person the charges of a provider of health care if
39 the conditions of NRS 616C.138 are satisfied.

40 7. The hearing officer may allow or forbid the presence of a court reporter
41 and the use of a tape recorder in a hearing.

42 8. The hearing officer shall render his or her decision within 15 days after:

43 (a) The hearing; or

44 (b) The hearing officer receives a copy of the report from the medical
45 examination the hearing officer requested.

46 9. The hearing officer shall render a decision in the most efficient format
47 developed by the Chief of the Hearings Division of the Department of
48 Administration.

49 10. The hearing officer shall give notice of the decision to each party by mail.
50 The hearing officer shall include with the notice of the decision the necessary forms
51 for appealing from the decision.

52 11. Except as otherwise provided in NRS 616C.380, the decision of the
53 hearing officer is not stayed if an appeal from that decision is taken unless an

1 application for a stay is submitted by a party. If such an application is submitted,
2 the decision is automatically stayed until a determination is made on the
3 application. A determination on the application must be made within 30 days after
4 the filing of the application. If, after reviewing the application, a stay is not granted
5 by the hearing officer or an appeals officer, the decision must be complied with
6 within 10 days after the refusal to grant a stay.

7 **Sec. 21.** NRS 616C.350 is hereby amended to read as follows:

8 616C.350 1. Any ~~physician or chiropractor~~ *health care provider* who
9 attends an employee within the provisions of chapters 616A to 616D, inclusive, or
10 chapter 617 of NRS in a professional capacity, may be required to testify before an
11 appeals officer. A ~~physician or chiropractor~~ *health care provider* who testifies is
12 entitled to receive the same fees as witnesses in civil cases and, if the appeals
13 officer so orders at his or her own discretion, a fee equal to that authorized for a
14 consultation by the appropriate schedule of fees for ~~physicians or chiropractors.~~
15 *health care providers who practice in that discipline or specialization.* These fees
16 must be paid by the insurer.

17 2. Information gained by the attending ~~physician or chiropractor~~ *health care*
18 *provider* while in attendance on the injured employee is not a privileged
19 communication if:

20 (a) Required by an appeals officer for a proper understanding of the case and a
21 determination of the rights involved; or

22 (b) The information is related to any fraud that has been or is alleged to have
23 been committed in violation of the provisions of this chapter or chapter 616A,
24 616B, 616D or 617 of NRS.

25 **3. *As used in this section, "health care provider" has the meaning ascribed***
26 ***to it in section 2 of this act.***

27 **Sec. 22.** NRS 616C.360 is hereby amended to read as follows:

28 616C.360 1. A stenographic or electronic record must be kept of the hearing
29 before the appeals officer and the rules of evidence applicable to contested cases
30 under chapter 233B of NRS apply to the hearing.

31 2. The appeals officer must hear any matter raised before him or her on its
32 merits, including new evidence bearing on the matter.

33 3. If there is a medical question or dispute concerning an injured employee's
34 condition or concerning the necessity of treatment for which authorization for
35 payment has been denied, the appeals officer may:

36 (a) Order an independent medical examination and refer the employee to a
37 physician or chiropractor of his or her choice who has demonstrated special
38 competence to treat the particular medical condition of the employee, whether or
39 not the physician or chiropractor is on the insurer's panel of providers of health
40 care. If the medical question concerns the rating of a permanent disability, the
41 appeals officer may refer the employee to a rating physician or chiropractor. The
42 rating physician or chiropractor must be selected in rotation from the list of
43 qualified physicians or chiropractors maintained by the Administrator pursuant to
44 subsection 2 of NRS 616C.490, unless the insurer and the injured employee
45 otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs
46 of any examination requested by the appeals officer.

47 (b) If the medical question or dispute is relevant to an issue involved in the
48 matter before the appeals officer and all parties agree to the submission of the
49 matter to an independent review organization, submit the matter to an independent
50 review organization in accordance with NRS 616C.363 and any regulations adopted
51 by the Commissioner.

52 4. The appeals officer may consider the opinion of an examining physician or
53 chiropractor, in addition to the opinion of an authorized treating ~~physician or~~

1 ~~chiropractor;~~ *health care provider*, in determining the compensation payable to the
2 injured employee. *As used in this subsection, "health care provider" has the*
3 *meaning ascribed to it in section 2 of this act.*

4 5. If an injured employee has requested payment for the cost of obtaining a
5 second determination of his or her percentage of disability pursuant to NRS
6 616C.100, the appeals officer shall decide whether the determination of the higher
7 percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so,
8 may order the insurer to pay to the employee an amount equal to the maximum
9 allowable fee established by the Administrator pursuant to NRS 616C.260 for the
10 type of service performed, or the usual fee of that physician or chiropractor for such
11 service, whichever is less.

12 6. The appeals officer shall order an insurer, organization for managed care or
13 employer who provides accident benefits for injured employees pursuant to NRS
14 616C.265 to pay to the appropriate person the charges of a provider of health care if
15 the conditions of NRS 616C.138 are satisfied.

16 7. Any party to the appeal or contested case or the appeals officer may order a
17 transcript of the record of the hearing at any time before the seventh day after the
18 hearing. The transcript must be filed within 30 days after the date of the order
19 unless the appeals officer otherwise orders.

20 8. Except as otherwise provided in subsection 9, the appeals officer shall
21 render a decision:


22 (a) If a transcript is ordered within 7 days after the hearing, within 30 days
23 after the transcript is filed; or

24 (b) If a transcript has not been ordered, within 30 days after the date of the
25 hearing.

26 9. The appeals officer shall render a decision on a contested claim submitted
27 pursuant to subsection 2 of NRS 616C.345 within 15 days after:

28 (a) The date of the hearing; or

29 (b) If the appeals officer orders an independent medical examination, the date
30 the appeals officer receives the report of the examination,

31  unless both parties to the contested claim agree to a later date.

32 10. The appeals officer may affirm, modify or reverse any decision made by a
33 hearing officer and issue any necessary and proper order to give effect to his or her
34 decision.

35 **Sec. 23.** NRS 616C.363 is hereby amended to read as follows:

36 616C.363 1. Not later than 5 business days after the date that an
37 independent review organization receives a request for an external review, the
38 independent review organization shall:

39 (a) Review the documents and materials submitted for the external review; and

40 (b) Notify the injured employee, his or her employer and the insurer whether
41 the independent review organization needs any additional information to conduct
42 the external review.

43 2. The independent review organization shall render a decision on the matter
44 not later than 15 business days after the date that it receives all information that is
45 necessary to conduct the external review.

46 3. In conducting the external review, the independent review organization
47 shall consider, without limitation:

48 (a) The medical records of the insured;

49 (b) Any recommendations of the ~~[physician]~~ *health care provider, as defined*
50 *in section 2 of this act*, of the insured; and

51 (c) Any other information approved by the Commissioner for consideration by
52 an independent review organization.

1 4. In its decision, the independent review organization shall specify the
2 reasons for its decision. The independent review organization shall submit a copy
3 of its decision to:

- 4 (a) The injured employee;
- 5 (b) The employer;
- 6 (c) The insurer; and
- 7 (d) The appeals officer, if any.

8 5. The insurer shall pay the costs of the services provided by the independent
9 review organization.

10 6. The Commissioner may adopt regulations to govern the process of external
11 review and to carry out the provisions of this section. Any regulations adopted
12 pursuant to this section must provide that:

13 (a) All parties must agree to the submission of a matter to an independent
14 review organization before a request for external review may be submitted;

15 (b) A party may not be ordered to submit a matter to an independent review
16 organization; and

17 (c) The findings and decisions of an independent review organization are not
18 binding.

19 **Sec. 24.** NRS 616C.390 is hereby amended to read as follows:

20 616C.390 Except as otherwise provided in NRS 616C.392:

21 1. If an application to reopen a claim to increase or rearrange compensation is
22 made in writing more than 1 year after the date on which the claim was closed, the
23 insurer shall reopen the claim if:

24 (a) A change of circumstances warrants an increase or rearrangement of
25 compensation during the life of the claimant;

26 (b) The primary cause of the change of circumstances is the injury for which
27 the claim was originally made; and

28 (c) The application is accompanied by the certificate of a ~~physician or a~~
29 ~~chiropractor~~ *health care provider* showing a change of circumstances which would
30 warrant an increase or rearrangement of compensation.

31 2. After a claim has been closed, the insurer, upon receiving an application
32 and for good cause shown, may authorize the reopening of the claim for medical
33 investigation only. The application must be accompanied by a written request for
34 treatment from the ~~physician or chiropractor~~ *health care provider* treating the
35 claimant, certifying that the treatment is indicated by a change in circumstances and
36 is related to the industrial injury sustained by the claimant.

37 3. If a claimant applies for a claim to be reopened pursuant to subsection 1 or
38 2 and a final determination denying the reopening is issued, the claimant shall not
39 reapply to reopen the claim until at least 1 year after the date on which the final
40 determination is issued.

41 4. Except as otherwise provided in subsection 5, if an application to reopen a
42 claim is made in writing within 1 year after the date on which the claim was closed,
43 the insurer shall reopen the claim only if:

44 (a) The application is supported by medical evidence demonstrating an
45 objective change in the medical condition of the claimant; and

46 (b) There is clear and convincing evidence that the primary cause of the change
47 of circumstances is the injury for which the claim was originally made.

48 5. An application to reopen a claim must be made in writing within 1 year
49 after the date on which the claim was closed if:

50 (a) The claimant did not meet the minimum duration of incapacity as set forth
51 in NRS 616C.400 as a result of the injury; and

52 (b) The claimant did not receive benefits for a permanent partial disability.

1 ✧ If an application to reopen a claim to increase or rearrange compensation is made
2 pursuant to this subsection, the insurer shall reopen the claim if the requirements set
3 forth in paragraphs (a), (b) and (c) of subsection 1 are met.

4 6. If an employee's claim is reopened pursuant to this section, the employee is
5 not entitled to vocational rehabilitation services or benefits for a temporary total
6 disability if, before the claim was reopened, the employee:

7 (a) Retired; or

8 (b) Otherwise voluntarily removed himself or herself from the workforce,
9 ✧ for reasons unrelated to the injury for which the claim was originally made.

10 7. One year after the date on which the claim was closed, an insurer may
11 dispose of the file of a claim authorized to be reopened pursuant to subsection 5,
12 unless an application to reopen the claim has been filed pursuant to that subsection.

13 8. An increase or rearrangement of compensation is not effective before an
14 application for reopening a claim is made unless good cause is shown. The insurer
15 shall, upon good cause shown, allow the cost of emergency treatment the necessity
16 for which has been certified by a ~~[physician or a chiropractor]~~ **health care**
17 **provider**.

18 9. A claim that closes pursuant to subsection 2 of NRS 616C.235 and is not
19 appealed or is unsuccessfully appealed pursuant to the provisions of NRS 616C.305
20 and 616C.315 to 616C.385, inclusive, may not be reopened pursuant to this section.

21 10. The provisions of this section apply to any claim for which an application
22 to reopen the claim or to increase or rearrange compensation is made pursuant to
23 this section, regardless of the date of the injury or accident to the claimant. If a
24 claim is reopened pursuant to this section, the amount of any compensation or
25 benefits provided must be determined in accordance with the provisions of NRS
26 616C.425.

27 11. As used in this section:

28 (a) "Governmental program" means any program or plan under which a person
29 receives payments from a public form of retirement. Such payments from a public
30 form of retirement include, without limitation:

31 (1) Social security received as a result of the Social Security Act, as
32 defined in NRS 287.120;

33 (2) Payments from the Public Employees' Retirement System, as
34 established by NRS 286.110;

35 (3) Payments from the Retirees' Fund, as defined in NRS 287.04064;

36 (4) A disability retirement allowance, as defined in NRS 1A.040 and
37 286.031;

38 (5) A retirement allowance, as defined in NRS 218C.080; and

39 (6) A service retirement allowance, as defined in NRS 1A.080 and
40 286.080.

41 (b) **"Health care provider" has the meaning ascribed to it in section 2 of this**
42 **act.**

43 (c) "Retired" means a person who, on the date he or she filed for reopening a
44 claim pursuant to this section:

45 (1) Is not employed or earning wages; and

46 (2) Receives benefits or payments for retirement from a:

47 (I) Pension or retirement plan;

48 (II) Governmental program; or

49 (III) Plan authorized by 26 U.S.C. § 401(a), 401(k), 403(b), 457 or

50 3121.

51 ~~(c)~~ (d) "Wages" means any remuneration paid by an employer to an
52 employee for the personal services of the employee, including, without limitation:

53 (1) Commissions and bonuses; and

1 (2) Remuneration payable in any medium other than cash.

2 **Sec. 25.** NRS 616C.475 is hereby amended to read as follows:

3 616C.475 1. Except as otherwise provided in this section, NRS 616C.175
4 and 616C.390, every employee in the employ of an employer, within the provisions
5 of chapters 616A to 616D, inclusive, of NRS, who is injured by accident arising out
6 of and in the course of employment, or his or her dependents, is entitled to receive
7 for the period of temporary total disability, 66 2/3 percent of the average monthly
8 wage.

9 2. Except as otherwise provided in NRS 616B.028 and 616B.029, an injured
10 employee or his or her dependents are not entitled to accrue or be paid any benefits
11 for a temporary total disability during the time the injured employee is incarcerated.
12 The injured employee or his or her dependents are entitled to receive such benefits
13 when the injured employee is released from incarceration if the injured employee is
14 certified as temporarily totally disabled by a physician or chiropractor.

15 3. If a claim for the period of temporary total disability is allowed, the first
16 payment pursuant to this section must be issued by the insurer within 14 working
17 days after receipt of the initial certification of disability and regularly thereafter.

18 4. Any increase in compensation and benefits effected by the amendment of
19 subsection 1 is not retroactive.

20 5. Payments for a temporary total disability must cease when:

21 (a) A physician or chiropractor determines that the employee is physically
22 capable of any gainful employment for which the employee is suited, after giving
23 consideration to the employee's education, training and experience;

24 (b) The employer offers the employee light-duty employment or employment
25 that is modified according to the limitations or restrictions imposed by a physician
26 or chiropractor, *or the employee's treating health care provider*, pursuant to
27 subsection 7; or

28 (c) Except as otherwise provided in NRS 616B.028 and 616B.029, the
29 employee is incarcerated.

30 6. Each insurer may, with each check that it issues to an injured employee for
31 a temporary total disability, include a form approved by the Division for the injured
32 employee to request continued compensation for the temporary total disability.

33 7. A certification of disability issued by a physician or chiropractor *or the*
34 *employee's treating health care provider* must:

35 (a) Include the period of disability and a description of any physical limitations
36 or restrictions imposed upon the work of the employee;

37 (b) Specify whether the limitations or restrictions are permanent or temporary;
38 and

39 (c) Be signed by the ~~treating~~ physician or chiropractor, *or the employee's*
40 *treating health care provider* authorized pursuant to NRS 616B.527 or
41 appropriately chosen pursuant to subsection ~~3 or~~ 4 *or 5* of NRS 616C.090.

42 8. If the certification of disability specifies that the physical limitations or
43 restrictions are temporary, the employer of the employee at the time of the
44 employee's accident may offer temporary, light-duty employment to the employee.
45 If the employer makes such an offer, the employer shall confirm the offer in writing
46 within 10 days after making the offer. The making, acceptance or rejection of an
47 offer of temporary, light-duty employment pursuant to this subsection does not
48 affect the eligibility of the employee to receive vocational rehabilitation services,
49 including compensation, and does not exempt the employer from complying with
50 NRS 616C.545 to 616C.575, inclusive, and 616C.590 or the regulations adopted by
51 the Division governing vocational rehabilitation services. Any offer of temporary,
52 light-duty employment made by the employer must specify a position that:

(a) Is substantially similar to the employee's position at the time of his or her injury in relation to the location of the employment and the hours the employee is required to work;

(b) Provides a gross wage that is:

(1) If the position is in the same classification of employment, equal to the gross wage the employee was earning at the time of his or her injury; or

(2) If the position is not in the same classification of employment, substantially similar to the gross wage the employee was earning at the time of his or her injury; and

(c) Has the same employment benefits as the position of the employee at the time of his or her injury.

9. As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.

Sec. 26. NRS 616C.490 is hereby amended to read as follows:

616C.490 1. Except as otherwise provided in NRS 616C.175, every employee, in the employ of an employer within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by an accident arising out of and in the course of employment is entitled to receive the compensation provided for permanent partial disability. As used in this section, "disability" and "impairment of the whole person" are equivalent terms.

2. ***Except as otherwise provided in subsection 3:***

(a) Within 30 days after receiving from a physician or chiropractor a report indicating that the injured employee may have suffered a permanent disability and is stable and ratable, the insurer shall schedule an appointment with the rating physician or chiropractor selected pursuant to this subsection to determine the extent of the employee's disability.

(b) Unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor:

~~[(a)]~~ (1) The insurer shall select the rating physician or chiropractor from the list of qualified rating physicians and chiropractors designated by the Administrator, to determine the percentage of disability in accordance with the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted and supplemented by the Division pursuant to NRS 616C.110.

~~[(b)]~~ (2) Rating physicians and chiropractors must be selected in rotation from the list of qualified physicians and chiropractors designated by the Administrator, according to their area of specialization and the order in which their names appear on the list unless the next physician or chiropractor is currently an employee of the insurer making the selection, in which case the insurer must select the physician or chiropractor who is next on the list and who is not currently an employee of the insurer.

3. ***Notwithstanding any other provision of law, an injured employee or the legal representative of an injured employee may, at any time, without limitation, request that the Administrator select a rating physician or chiropractor from the list of qualified physicians and chiropractors designated by the Administrator. The Administrator, upon receipt of the request, shall immediately select for the injured employee the rating physician or chiropractor who is next in rotation on the list, according to the area of specialization.***

4. If an insurer contacts ~~[(the)]~~ a treating physician or chiropractor to determine whether an injured employee has suffered a permanent disability, the insurer shall deliver to the treating physician or chiropractor that portion or a summary of that portion of the American Medical Association's Guides to the Evaluation of

1 Permanent Impairment as adopted by the Division pursuant to NRS 616C.110 that
2 is relevant to the type of injury incurred by the employee.

3 ~~[4.]~~ 5. At the request of the insurer, the injured employee shall, before an
4 evaluation by a rating physician or chiropractor is performed, notify the insurer of:

5 (a) Any previous evaluations performed to determine the extent of any of the
6 employee's disabilities; and

7 (b) Any previous injury, disease or condition sustained by the employee which
8 is relevant to the evaluation performed pursuant to this section.

9 ➤ The notice must be on a form approved by the Administrator and provided to the
10 injured employee by the insurer at the time of the insurer's request.

11 ~~[5.]~~ 6. Unless the regulations adopted pursuant to NRS 616C.110 provide
12 otherwise, a rating evaluation must include an evaluation of the loss of motion,
13 sensation and strength of an injured employee if the injury is of a type that might
14 have caused such a loss. Except in the case of claims accepted pursuant to NRS
15 616C.180, no factors other than the degree of physical impairment of the whole
16 person may be considered in calculating the entitlement to compensation for a
17 permanent partial disability.

18 ~~[6.]~~ 7. The rating physician or chiropractor shall provide the insurer with his
19 or her evaluation of the injured employee. After receiving the evaluation, the
20 insurer shall, within 14 days, provide the employee with a copy of the evaluation
21 and notify the employee:

22 (a) Of the compensation to which the employee is entitled pursuant to this
23 section; or

24 (b) That the employee is not entitled to benefits for permanent partial
25 disability.

26 ~~[7.]~~ 8. Each 1 percent of impairment of the whole person must be
27 compensated by a monthly payment:

28 (a) Of 0.5 percent of the claimant's average monthly wage for injuries
29 sustained before July 1, 1981;

30 (b) Of 0.6 percent of the claimant's average monthly wage for injuries
31 sustained on or after July 1, 1981, and before June 18, 1993;

32 (c) Of 0.54 percent of the claimant's average monthly wage for injuries
33 sustained on or after June 18, 1993, and before January 1, 2000; and

34 (d) Of 0.6 percent of the claimant's average monthly wage for injuries
35 sustained on or after January 1, 2000.

36 ➤ Compensation must commence on the date of the injury or the day following the
37 termination of temporary disability compensation, if any, whichever is later, and
38 must continue on a monthly basis for 5 years or until the claimant is 70 years of
39 age, whichever is later.

40 ~~[8.]~~ 9. Compensation benefits may be paid annually to claimants who will be
41 receiving less than \$100 a month.

42 ~~[9.]~~ 10. Except as otherwise provided in subsection ~~[10.]~~ 11, if there is a
43 previous disability, as the loss of one eye, one hand, one foot, or any other previous
44 permanent disability, the percentage of disability for a subsequent injury must be
45 determined by computing the percentage of the entire disability and deducting
46 therefrom the percentage of the previous disability as it existed at the time of the
47 subsequent injury.

48 ~~[10.]~~ 11. If a rating evaluation was completed for a previous disability
49 involving a condition, organ or anatomical structure that is identical to the
50 condition, organ or anatomical structure being evaluated for the present disability,
51 the percentage of disability for a subsequent injury must be determined by
52 deducting the percentage of the previous disability from the percentage of the
53 present disability, regardless of the edition of the American Medical Association's

1 Guides to the Evaluation of Permanent Impairment as adopted by the Division
2 pursuant to NRS 616C.110 used to determine the percentage of the previous
3 disability. The compensation awarded for a permanent disability on a subsequent
4 injury must be reduced only by the awarded or agreed upon percentage of disability
5 actually received by the injured employee for the previous injury regardless of the
6 percentage of the previous disability.

7 ~~11.1~~ **12.** The Division may adopt schedules for rating permanent disabilities
8 resulting from injuries sustained before July 1, 1973, and reasonable regulations to
9 carry out the provisions of this section.

10 ~~11.2~~ **13.** The increase in compensation and benefits effected by the
11 amendment of this section is not retroactive for accidents which occurred before
12 July 1, 1973.

13 ~~11.3~~ **14.** This section does not entitle any person to double payments for the
14 death of an employee and a continuation of payments for a permanent partial
15 disability, or to a greater sum in the aggregate than if the injury had been fatal.

16 **Sec. 27.** NRS 616C.495 is hereby amended to read as follows:

17 616C.495 1. Except as otherwise provided in NRS 616C.380, an award for
18 a permanent partial disability may be paid in a lump sum under the following
19 conditions:

20 (a) A claimant injured on or after July 1, 1973, and before July 1, 1981, who
21 incurs a disability that does not exceed 12 percent may elect to receive his or her
22 compensation in a lump sum. A claimant injured on or after July 1, 1981, and
23 before July 1, 1995, who incurs a disability that does not exceed 30 percent may
24 elect to receive his or her compensation in a lump sum.

25 (b) The spouse, or in the absence of a spouse, any dependent child of a
26 deceased claimant injured on or after July 1, 1973, who is not entitled to
27 compensation in accordance with NRS 616C.505, is entitled to a lump sum equal to
28 the present value of the deceased claimant's undisbursed award for a permanent
29 partial disability.

30 (c) Any claimant injured on or after July 1, 1981, and before July 1, 1995, who
31 incurs a disability that exceeds 30 percent may elect to receive his or her
32 compensation in a lump sum equal to the present value of an award for a disability
33 of 30 percent. If the claimant elects to receive compensation pursuant to this
34 paragraph, the insurer shall pay in installments to the claimant that portion of the
35 claimant's disability in excess of 30 percent.

36 (d) Any claimant injured on or after July 1, 1995, and before January 1, 2016,
37 who incurs a disability that:

38 (1) Does not exceed 25 percent may elect to receive his or her
39 compensation in a lump sum.

40 (2) Exceeds 25 percent may:

41 (I) Elect to receive his or her compensation in a lump sum equal to the
42 present value of an award for a disability of 25 percent. If the claimant elects to
43 receive compensation pursuant to this sub-subparagraph, the insurer shall pay in
44 installments to the claimant that portion of the claimant's disability in excess of 25
45 percent.

46 (II) To the extent that the insurer has offered to provide compensation
47 in a lump sum up to the present value of an award for disability of 30 percent, elect
48 to receive his or her compensation in a lump sum up to the present value of an
49 award for a disability of 30 percent. If the claimant elects to receive compensation
50 pursuant to this sub-subparagraph, the insurer shall pay in installments to the
51 claimant that portion of the claimant's disability in excess of 30 percent.

52 (e) Any claimant injured on or after January 1, 2016, and before July 1, 2017,
53 who incurs a disability that:

1 (1) Does not exceed 30 percent may elect to receive his or her
2 compensation in a lump sum.

3 (2) Exceeds 30 percent may elect to receive his or her compensation in a
4 lump sum equal to the present value of an award for a disability of 30 percent. If the
5 claimant elects to receive compensation pursuant to this subparagraph, the insurer
6 shall pay in installments to the claimant that portion of the claimant's disability in
7 excess of 30 percent.

8 (f) Any claimant injured on or after July 1, 2017, who incurs a disability that
9 exceeds 30 percent may elect to receive his or her compensation in a lump sum
10 equal to the present value of an award for a disability of up to 30 percent. If the
11 claimant elects to receive compensation pursuant to this paragraph, the insurer shall
12 pay in installments to the claimant that portion of the claimant's disability in excess
13 of 30 percent.

14 (g) If the permanent partial disability rating of a claimant seeking
15 compensation pursuant to this section would, when combined with any previous
16 permanent partial disability rating of the claimant that resulted in an award of
17 benefits to the claimant, result in the claimant having a total permanent partial
18 disability rating in excess of 100 percent, the claimant's disability rating upon
19 which compensation is calculated must be reduced by such percentage as required
20 to limit the total permanent partial disability rating of the claimant for all injuries to
21 not more than 100 percent.

22 2. If the claimant elects to receive his or her payment for a permanent partial
23 disability in a lump sum pursuant to subsection 1, all of the claimant's benefits for
24 compensation terminate. The claimant's acceptance of that payment constitutes a
25 final settlement of all factual and legal issues in the case. By so accepting the
26 claimant waives all of his or her rights regarding the claim, including the right to
27 appeal from the closure of the case or the percentage of his or her disability, except:

28 (a) The right of the claimant to:

29 (1) Reopen his or her claim in accordance with the provisions of NRS
30 616C.390; or

31 (2) Have his or her claim considered by his or her insurer pursuant to NRS
32 616C.392;

33 (b) Any counseling, training or other rehabilitative services provided by the
34 insurer; and

35 (c) The right of the claimant to receive a benefit penalty in accordance with
36 NRS 616D.120.

37 ➤ The claimant, when he or she demands payment in a lump sum, must be
38 provided with a written notice which prominently displays a statement describing
39 the effects of accepting payment in a lump sum of an entire permanent partial
40 disability award, any portion of such an award or any uncontested portion of such
41 an award, and that the claimant has 20 days after the mailing or personal delivery of
42 the notice within which to retract or reaffirm the demand, before payment may be
43 made and the claimant's election becomes final.

44 3. Any lump-sum payment which has been paid on a claim incurred on or
45 after July 1, 1973, must be supplemented if necessary to conform to the provisions
46 of this section.

47 4. Except as otherwise provided in this subsection, the total lump-sum
48 payment for disablement must not be less than one-half the product of the average
49 monthly wage multiplied by the percentage of disability. If the claimant received
50 compensation in installment payments for his or her permanent partial disability
51 before electing to receive payment for that disability in a lump sum, the lump-sum
52 payment must be calculated for the remaining payment of compensation.

5. The lump sum payable must be equal to the present value of the compensation awarded, less any advance payment or lump sum previously paid. The present value must be calculated using monthly payments in the amounts prescribed in subsection ~~1~~ 8 of NRS 616C.490 and actuarial annuity tables adopted by the Division. The tables must be reviewed annually by a consulting actuary and must be adjusted accordingly on July 1 of each year by the Division using:

(a) The most recent unisex "Static Mortality Tables for Defined Benefit Pension Plans" published by the Internal Revenue Service; and

(b) The average 30-Year Treasury Constant Maturity Rate for March of the current year as reported by the Board of Governors of the Federal Reserve System.

6. If a claimant would receive more money by electing to receive compensation in a lump sum than the claimant would if he or she receives installment payments, the claimant may elect to receive the lump-sum payment.

Sec. 28. NRS 616C.545 is hereby amended to read as follows:

616C.545 1. If an employee does not return to work for 28 consecutive calendar days as a result of an injury arising out of and in the course of his or her employment or an occupational disease, the insurer shall contact the treating ~~physician or chiropractor~~ *health care provider* to determine whether:

~~1~~ (a) There are physical limitations on the injured employee's ability to work; and

~~2~~ (b) The limitations, if any, are permanent or temporary.

2. *As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.*

Sec. 29. NRS 616C.550 is hereby amended to read as follows:

616C.550 1. 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 to prepare a written assessment of the injured employee's ability or potential to return to:

(a) The position the employee held at the time that he or she 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~~ *health care provider* 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 the employee held at the time of his or her injury or to any other position. The treating ~~physician or chiropractor~~ *health care provider* shall determine whether an employee may return to the position that the employee held at the time of his or her injury.

3. Except as otherwise provided in NRS 616C.542 and 616C.547, 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

1 eligible for vocational rehabilitation services, a plan for a program of vocational
2 rehabilitation must be completed pursuant to NRS 616C.555.

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

5 5. If an insurer determines that a written assessment requested pursuant to
6 subsection 1 is impractical because of the expected duration of the injured
7 employee's total temporary disability, the insurer shall:

8 (a) Complete a written report which specifies the insurer's reasons for the
9 decision; and

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

11 6. The insurer shall deliver a copy of the written assessment or the report
12 completed pursuant to subsection 5 to the injured employee, his or her employer,
13 the treating ~~[physician or chiropractor]~~ *health care provider* and the injured
14 employee's attorney or representative, if applicable.

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

17 (a) Completion of:

18 (1) A program at a trade school;

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

20 (3) A course of study for certification,

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

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

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

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

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

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

35 *9. As used in this section, "health care provider" has the meaning ascribed*
36 *to it in section 2 of this act.*

37 **Sec. 30.** NRS 616C.555 is hereby amended to read as follows:

38 616C.555 1. A vocational rehabilitation counselor shall develop a plan for a
39 program of vocational rehabilitation for each injured employee who is eligible for
40 vocational rehabilitation services pursuant to NRS 616C.590. The counselor shall
41 work with the insurer and the injured employee to develop a program that is
42 compatible with the injured employee's age, sex and physical condition.

43 2. If the counselor determines in a written assessment requested pursuant to
44 NRS 616C.550 that the injured employee has existing marketable skills, the plan
45 must consist of job placement assistance only. When practicable, the goal of job
46 placement assistance must be to aid the employee in finding a position which pays a
47 gross wage that is equal to or greater than 80 percent of the gross wage that the
48 employee was earning at the time of his or her injury. An injured employee must
49 not receive job placement assistance for more than 6 months after the date on which
50 the injured employee was notified that he or she is eligible only for job placement
51 assistance because:

52 (a) The injured employee was physically capable of returning to work; or

53 (b) It was determined that the injured employee had existing marketable skills.

3. If the counselor determines in a written assessment requested pursuant to NRS 616C.550 that the injured employee does not have existing marketable skills, the plan must consist of a program which trains or educates the injured employee and provides job placement assistance. Except as otherwise provided in NRS 616C.560, such a program must not exceed:

(a) If the injured employee has incurred a permanent disability as a result of which permanent restrictions on the ability of the injured employee to work have been imposed but no permanent physical impairment rating has been issued, or a permanent disability with a permanent physical impairment of 1 percent or more but less than 6 percent, 9 months.

(b) If the injured employee has incurred a permanent physical impairment of 6 percent or more, but less than 11 percent, 1 year.

(c) If the injured employee has incurred a permanent physical impairment of 11 percent or more, 18 months.

➤ The percentage of the injured employee's permanent physical impairment must be determined pursuant to NRS 616C.490.

4. A plan for a program of vocational rehabilitation must comply with the requirements set forth in NRS 616C.585.

5. A plan created pursuant to subsection 2 or 3 must assist the employee in finding a job or train or educate the employee and assist the employee in finding a job that is a part of an employer's regular business operations and from which the employee will gain skills that would generally be transferable to a job with another employer.

6. A program of vocational rehabilitation must not commence before the treating ~~{physician or chiropractor,}~~ *health care provider* or an examining physician or chiropractor determines that the injured employee is capable of safely participating in the program.

7. If, based upon the opinion of a treating *health care provider* or an examining physician or chiropractor, the counselor determines that an injured employee is not eligible for vocational rehabilitation services, the counselor shall provide a copy of the opinion to the injured employee, the injured employee's employer and the insurer.

8. A plan for a program of vocational rehabilitation must be signed by a certified vocational rehabilitation counselor.

9. If an initial program of vocational rehabilitation pursuant to this section is unsuccessful, an injured employee may submit a written request for the development of a second program of vocational rehabilitation which relates to the same injury. An insurer shall authorize a second program for an injured employee upon good cause shown.

10. If a second program of vocational rehabilitation pursuant to subsection 9 is unsuccessful, an injured employee may submit a written request for the development of a third program of vocational rehabilitation which relates to the same injury. The insurer, with the approval of the employer who was the injured employee's employer at the time of his or her injury, may authorize a third program for the injured employee. If such an employer has terminated operations, the employer's approval is not required for authorization of a third program. An insurer's determination to authorize or deny a third program of vocational rehabilitation may not be appealed.

11. The Division shall adopt regulations to carry out the provisions of this section. The regulations must specify the contents of a plan for a program of vocational rehabilitation.

12. As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.

1 **Sec. 31.** NRS 616C.590 is hereby amended to read as follows:

2 616C.590 1. Except as otherwise provided in this section, an injured
3 employee is not eligible for vocational rehabilitation services, unless:

4 (a) The treating ~~[physician or chiropractor]~~ **health care provider** approves the
5 return of the injured employee to work but imposes permanent restrictions that
6 prevent the injured employee from returning to the position that the employee held
7 at the time of his or her injury;

8 (b) The injured employee's employer does not offer employment that:

9 (1) The employee is eligible for considering the restrictions imposed
10 pursuant to paragraph (a);

11 (2) Provides a gross wage that is equal to or greater than 80 percent of the
12 gross wage that the employee was earning at the time of injury; and

13 (3) Has the same employment benefits as the position of the employee at
14 the time of his or her injury; and

15 (c) The injured employee is unable to return to gainful employment with any
16 other employer at a gross wage that is equal to or greater than 80 percent of the
17 gross wage that the employee was earning at the time of his or her injury.

18 2. If the treating ~~[physician or chiropractor]~~ **health care provider** imposes
19 permanent restrictions on the injured employee for the purposes of paragraph (a) of
20 subsection 1, he or she shall specify in writing:

21 (a) The medically objective findings upon which his or her determination is
22 based; and

23 (b) A detailed description of the restrictions.

24 ➤ The treating ~~[physician or chiropractor]~~ **health care provider** shall deliver a copy
25 of the findings and the description of the restrictions to the insurer.

26 3. If there is a question as to whether the restrictions imposed upon the
27 injured employee are permanent, the employee may receive vocational
28 rehabilitation services until a final determination concerning the duration of the
29 restrictions is made.

30 4. Vocational rehabilitation services must cease as soon as the injured
31 employee is no longer eligible for the services pursuant to subsection 1.

32 5. An injured employee is not entitled to vocational rehabilitation services
33 solely because the position that the employee held at the time of his or her injury is
34 no longer available.

35 6. An injured employee or the dependents of the injured employee are not
36 entitled to accrue or be paid any money for vocational rehabilitation services during
37 the time the injured employee is incarcerated.

38 7. Any injured employee eligible for compensation other than accident
39 benefits may not be paid those benefits if the injured employee refuses counseling,
40 training or other vocational rehabilitation services offered by the insurer. Except as
41 otherwise provided in NRS 616B.028 and 616B.029, an injured employee shall be
42 deemed to have refused counseling, training and other vocational rehabilitation
43 services while the injured employee is incarcerated.

44 8. If an insurer cannot locate an injured employee for whom it has ordered
45 vocational rehabilitation services, the insurer may close his or her claim 21 days
46 after the insurer determines that the employee cannot be located. The insurer shall
47 make a reasonable effort to locate the employee.

48 9. The reappearance of the injured employee after his or her claim has been
49 closed does not automatically reinstate his or her eligibility for vocational
50 rehabilitation benefits. If the employee wishes to re-establish his or her eligibility
51 for those benefits, the injured employee must file a written application with the
52 insurer to reinstate the claim. The insurer shall reinstate the employee's claim if
53 good cause is shown for the employee's absence.

1 *10. As used in this section, "health care provider" has the meaning ascribed*
2 *to it in section 2 of this act.*

3 **Sec. 32.** NRS 616D.330 is hereby amended to read as follows:

4 616D.330 1. An insurer, an employer, an organization for managed care, a
5 third-party administrator or the representative of any of those persons, the Nevada
6 Attorney for Injured Workers or an attorney or other compensated representative of
7 an injured employee shall not initiate:

8 (a) Any oral communication relating to the medical disposition of the claim of
9 an injured employee with the injured employee's *treating health care provider or*
10 examining ~~for treating~~ physician or chiropractor unless the initiator of the oral
11 communication;

12 (1) Maintains, in written form or in a form from which a written record
13 may be produced, a log that includes the date, time and subject matter of the
14 communication; and

15 (2) Makes the log available, upon request, to each insurer, organization for
16 managed care and third-party administrator interested in the claim or the
17 representative of each of those persons, the Administrator and the injured
18 employee, the injured employee's representative and the injured employee's
19 employer; or

20 (b) Any written communication relating to the medical disposition of the claim
21 with the injured employee's *treating health care provider or* examining ~~for~~
22 ~~treating~~ physician or chiropractor unless a copy of the communication is submitted
23 to the injured employee or the injured employee's representative in a timely
24 manner.

25 2. If the Administrator determines that a person has violated the provisions of
26 this section, the Administrator shall:

27 (a) For an initial violation, issue a notice of correction.

28 (b) For a second violation, impose an administrative fine of not more than
29 \$250.

30 (c) For a third or subsequent violation, impose an administrative fine of not
31 more than \$1,000.

32 *3. As used in this section, "health care provider" has the meaning ascribed*
33 *to it in section 2 of this act.*

34 **Sec. 33.** NRS 617.352 is hereby amended to read as follows:

35 617.352 1. Except as otherwise provided in this section, a treating
36 ~~physician or chiropractor~~ *health care provider* shall, within 3 working days after
37 first providing treatment to an employee who has incurred an occupational disease,
38 complete and file a claim for compensation with the employer of the employee and
39 the employer's insurer. If the employer is a self-insured employer, the treating
40 ~~physician or chiropractor~~ *health care provider* shall file the claim for
41 compensation with the employer's third-party administrator. If the ~~physician or~~
42 ~~chiropractor~~ *health care provider* files the claim for compensation by electronic
43 transmission, the ~~physician or chiropractor~~ *health care provider* shall, upon
44 request, mail to the insurer or third-party administrator the form that contains the
45 original signatures of the employee and the ~~physician or chiropractor~~ *health care*
46 *provider*. The form must be mailed within 7 days after receiving such a request.

47 2. A ~~physician or chiropractor~~ *health care provider* who has a duty to file a
48 claim for compensation pursuant to subsection 1 may delegate the duty to a medical
49 facility. If the ~~physician or chiropractor~~ *health care provider* delegates the duty to
50 a medical facility:

51 (a) The medical facility must comply with the filing requirements set forth in
52 this section; and

53 (b) The delegation must be in writing and signed by:

(1) The ~~physician or chiropractor;~~ *health care provider*; and

(2) An authorized representative of the medical facility.

3. A claim for compensation required by subsection 1 must be filed on a form prescribed by the Administrator.

4. If a claim for compensation is accompanied by a certificate of disability, the certificate must include a description of any limitation or restrictions on the employee's ability to work.

5. Each ~~physician, chiropractor;~~ *health care provider* and medical facility that treats employees who have incurred occupational diseases, each insurer, third-party administrator and employer, and the Division shall maintain at their offices a sufficient supply of the forms prescribed by the Administrator for filing a claim for compensation.

6. The Administrator may impose an administrative fine of not more than \$1,000 for each violation of subsection 1 on:

(a) A ~~physician or chiropractor;~~ *health care provider*; or

(b) A medical facility if the duty to file the claim for compensation has been delegated to the medical facility pursuant to this section.

7. As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.

Sec. 34. NRS 617.354 is hereby amended to read as follows:

617.354 1. Except as otherwise provided in NRS 616B.727, within 6 working days after the receipt of a claim for compensation from a ~~physician or chiropractor;~~ *health care provider*, or a medical facility if the duty to file the claim for compensation has been delegated to the medical facility pursuant to NRS 617.352, an employer shall complete and file with the employer's insurer or third-party administrator an employer's report of industrial injury or occupational disease.

2. The report must:

(a) Be filed on a form prescribed by the Administrator;

(b) Be signed by the employer or the employer's designee;

(c) Contain specific answers to all questions required by the regulations of the Administrator; and

(d) Be accompanied by a statement of the wages of the employee if the claim for compensation received from the treating ~~physician or chiropractor;~~ *health care provider*, or a medical facility if the duty to file the claim for compensation has been delegated to the medical facility pursuant to NRS 617.352, indicates that the employee is expected to be off work for 5 days or more.

3. An employer who files the report required by subsection 1 by electronic transmission shall, upon request, mail to the insurer or third-party administrator the form that contains the original signature of the employer or the employer's designee. The form must be mailed within 7 days after receiving such a request.

4. The Administrator shall impose an administrative fine of not more than \$1,000 against an employer for each violation of this section.

5. As used in this section, "health care provider" has the meaning ascribed to it in section 2 of this act.

Sec. 35. NRS 617.364 is hereby amended to read as follows:

617.364 1. If, after a claim for compensation is filed pursuant to NRS 617.344:

~~(1)~~ (a) The employee seeks treatment from a ~~physician or chiropractor;~~ *health care provider* for a newly developed injury or disease; and

~~(2)~~ (b) The employee's medical records for the occupational disease reported do not include a reference to the injury or disease for which treatment is being sought,

1 ↳ the injury or disease for which treatment is being sought must not be considered
2 part of the employee's original claim for compensation unless the ~~physician or~~
3 ~~chiropractor~~ *health care provider* establishes by medical evidence a causal
4 relationship between the injury and disease for which treatment is being sought and
5 the occupational disease reported pursuant to NRS 617.344.

6 2. *As used in this section, "health care provider" has the meaning ascribed*
7 *to it in section 2 of this act.*

8 **Sec. 36.** The amendatory provisions of this act apply prospectively with
9 regard to any claim pursuant to chapters 616A to 616D, inclusive, or 617 of NRS
10 which is open on the effective date of this act.

11 **Sec. 37.** This act becomes effective upon passage and approval.