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SECOND REPRINT

S.B. 381

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 physician or chiropractor 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 physicians and chiropractors; 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 physician or chiropractor 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** requires an insurer to: (1) include in its list of physicians and chiropractors from which an injured employee may choose to receive treatment a certain number of physicians or chiropractors, as applicable, from the panel of physicians and chiropractors 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 physicians and chiropractors 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



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limitations governing the removal of a physician or chiropractor from an insurer's list. Finally, **section 2** provides that, except under certain circumstances, an injured employee may continue to receive treatment from a physician or chiropractor who has been removed from a list.

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 and chiropractors on the panel maintained by the Administrator; and (3) provide that an injured employee may change a physician or chiropractor or receive treatment by more than one physician or chiropractor 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:

(a) The choice of a treating physician or chiropractor is a substantive right and substantive benefit of an injured employee who has a claim under the Nevada Industrial Insurance Act or the Nevada Occupational Diseases Act.

(b) The injured employees of this State have a substantive right to an adequate choice of physicians and chiropractors to treat their industrial injuries and occupational diseases.

2. Except as otherwise provided in this subsection and subsections 3 and 4, an insurer's list of physicians and chiropractors from which an injured employee may choose pursuant to NRS 616C.090 must include not less than 12 physicians or chiropractors, as applicable, in each of the following disciplines and specializations, without limitation, from the panel of physicians and chiropractors maintained by the Administrator pursuant to NRS 616C.090:

- (a) Orthopedic surgery on spines;*
- (b) Orthopedic surgery on shoulders;*
- (c) Orthopedic surgery on elbows;*
- (d) Orthopedic surgery on wrists;*
- (e) Orthopedic surgery on hands;*
- (f) Orthopedic surgery on hips;*
- (g) Orthopedic surgery on knees;*
- (h) Orthopedic surgery on ankles;*
- (i) Orthopedic surgery on feet;*
- (j) Neurosurgery;*
- (k) Neurology;*
- (l) Cardiology;*
- (m) Pulmonology;*
- (n) Psychiatry;*
- (o) Pain management;*
- (p) Occupational medicine;*
- (q) Physiatry or physical medicine;*
- (r) General practice or family medicine; and*
- (s) Chiropractic medicine.*



1 ➤ If the panel of physicians and chiropractors maintained by the
2 Administrator pursuant to NRS 616C.090 contains fewer than 12
3 physicians or chiropractors, as applicable, for a discipline or
4 specialization specifically identified in this subsection, all of the
5 physicians or chiropractors, as applicable, on the panel for that
6 discipline or specialization must be included on the insurer's list.

7 3. For any other discipline or specialization not specifically
8 identified in subsection 2, the insurer's list must include not fewer
9 than 8 physicians or chiropractors, as applicable, unless the panel
10 of physicians and chiropractors maintained by the Administrator
11 pursuant to NRS 616C.090 contains fewer than 8 physicians or
12 chiropractors, as applicable, for that discipline or specialization,
13 in which case all of the physicians or chiropractors, as applicable,
14 on the panel for that discipline or specialization must be included
15 on the insurer's list.

16 4. For each county whose population is 100,000 or more, an
17 insurer's list of physicians and chiropractors must include for that
18 county a number of physicians and chiropractors, as applicable,
19 that is not less than the number required pursuant to subsections 2
20 and 3 and that also maintain in that county:

21 (a) An active practice; and

22 (b) A physical office.

23 5. If an insurer fails to maintain a list of physicians and
24 chiropractors that complies with the requirements of subsections
25 2, 3 and 4, an injured employee may choose a physician or
26 chiropractor from the panel of physicians and chiropractors
27 maintained by the Administrator pursuant to NRS 616C.090.

28 6. Each insurer shall, not later than October 1 of each year,
29 update the list of physicians and chiropractors and file the list with
30 the Administrator. The list must be certified by an adjuster who is
31 licensed pursuant to chapter 684A of NRS.

32 7. Upon receipt of a list of physicians and chiropractors that
33 is filed pursuant to subsection 6, the Administrator shall:

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

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

36 8. The Administrator shall:

37 (a) Provide a copy of an insurer's list of physicians and
38 chiropractors to any member of the public who requests a copy; or

39 (b) Post a copy of each insurer's list of physicians and
40 chiropractors on an Internet website maintained by the
41 Administrator and accessible to the public for viewing, printing or
42 downloading.

43 9. At any time, a physician or chiropractor may request in
44 writing that he or she be removed from an insurer's list of
45 physicians and chiropractors. The insurer must comply with the



1 *request and omit the physician or chiropractor from the next list*
2 *which the insurer files with the Administrator.*

3 *10. A physician or chiropractor may not be involuntarily*
4 *removed from an insurer's list of physicians and chiropractors*
5 *except for good cause. As used in this subsection, "good cause"*
6 *means that one or more of the following circumstances apply:*

7 *(a) The physician or chiropractor has died or is disabled.*

8 *(b) The license of the physician or chiropractor has been*
9 *revoked or suspended.*

10 *(c) The physician or chiropractor has been convicted of:*

11 *(1) A felony; or*

12 *(2) A crime for a violation of a provision of chapter 616D*
13 *of NRS.*

14 *(d) The physician or chiropractor has been removed from the*
15 *panel of physicians and chiropractors maintained by the*
16 *Administrator pursuant to NRS 616C.090 by the Administrator*
17 *upon a finding that the physician or chiropractor has failed to*
18 *comply with the standards for treatment of industrial injuries or*
19 *occupational diseases as established by the Administrator.*

20 *11. Unless a physician or chiropractor, as applicable, is*
21 *removed from an insurer's list of physicians and chiropractors*
22 *pursuant to subsection 10, an injured employee may continue to*
23 *receive treatment from that physician or chiropractor even if:*

24 *(a) The employer of the injured employee changes insurers or*
25 *administrators.*

26 *(b) The physician or chiropractor is no longer included in the*
27 *applicable insurer's list of physicians and chiropractors, provided*
28 *that the physician or chiropractor agrees to continue to accept*
29 *compensation for that treatment at the rates which:*

30 *(1) Were previously agreed upon when the physician or*
31 *chiropractor was most recently included in the list; or*

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

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

35 **Sec. 4.** (Deleted by amendment.)

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

37 616C.050 1. An insurer shall provide to each claimant:

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

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

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



(2) Select a treating physician or chiropractor and an alternative treating physician or chiropractor 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. The Administrator shall adopt regulations for the manner of compliance by an insurer with the other provisions of subsection 1.

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.

2. ~~HH~~ *Except as otherwise provided in section 2 of this act, if* a physician or chiropractor 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, must not be paid for any services rendered to the injured employee after the date of the removal.

Sec. 7. (Deleted by amendment.)

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 who have demonstrated special competence and interest in industrial health to



1 treat injured employees under chapters 616A to 616D, inclusive, or
2 chapter 617 of NRS. *The Administrator shall maintain the*
3 *following information relating to each physician and chiropractor*
4 *on the panel:*

5 (a) *The name of the physician or chiropractor.*

6 (b) *The title or degree of the physician or chiropractor.*

7 (c) *The legal name of the practice of the physician or*
8 *chiropractor and the name under which the practice does*
9 *business.*

10 (d) *The street address of the location of every office of the*
11 *physician or chiropractor.*

12 (e) *The telephone number of every office of the physician or*
13 *chiropractor.*

14 (f) *Every discipline and specialization practiced by the*
15 *physician or chiropractor.*

16 (g) *Every condition and part of the body which the physician*
17 *or chiropractor will treat.*

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

23 ~~{2-}~~ 3. An injured employee whose employer's insurer has not
24 entered into a contract with an organization for managed care or
25 with providers of health care ~~{services}~~ pursuant to NRS 616B.527
26 may choose a treating physician or chiropractor from the panel of
27 physicians and chiropractors. If the injured employee is not satisfied
28 with the first physician or chiropractor he or she so chooses, the
29 injured employee may make an alternative choice of physician or
30 chiropractor from the panel if the choice is made within 90 days
31 after his or her injury. The insurer shall notify the first physician or
32 chiropractor in writing. The notice must be postmarked within 3
33 working days after the insurer receives knowledge of the change.
34 The first physician or chiropractor must be reimbursed only for the
35 services the physician or chiropractor, as applicable, rendered to the
36 injured employee up to and including the date of notification.
37 Except as otherwise provided in this subsection, any further change
38 is subject to the approval of the insurer ~~{, which}~~ *or by order of a*
39 *hearing officer or appeals officer. A request for a change of*
40 *physician or chiropractor* must be granted or denied within 10 days
41 after a written request for such a change is received from the injured
42 employee. If *the insurer takes* no action ~~{is taken}~~ on the request
43 within 10 days, the request shall be deemed granted. Any request for
44 a change of physician or chiropractor must include the name of the
45 new physician or chiropractor chosen by the injured employee. If



1 the treating physician or chiropractor refers the injured employee to
2 a specialist for treatment, the ~~{treating physician or chiropractor}~~
3 *insurer* shall provide to the injured employee a list that includes the
4 name of each physician or chiropractor with that specialization who
5 is on the panel. ~~{After}~~ *Not later than 14 days after* receiving the
6 list, the injured employee shall ~~{, at the time the referral is made,}~~
7 select a physician or chiropractor from the list.

8 ~~{3-}~~ 4. An injured employee whose employer's insurer has
9 entered into a contract with an organization for managed care or
10 with providers of health care ~~{services}~~ pursuant to NRS 616B.527
11 must choose a treating physician or chiropractor pursuant to the
12 terms of that contract. If the injured employee is not satisfied with
13 the first physician or chiropractor he or she so chooses, the injured
14 employee may make an alternative choice of physician or
15 chiropractor pursuant to the terms of the contract without the
16 approval of the insurer if the choice is made within 90 days after his
17 or her injury. *Except as otherwise provided in this subsection, any*
18 *further change is subject to the approval of the insurer or by order*
19 *of a hearing officer or appeals officer. A request for a change of*
20 *physician or chiropractor must be granted or denied within 10*
21 *days after a written request for such a change is received from the*
22 *injured employee. If the insurer takes no action on the request*
23 *within 10 days, the request shall be deemed granted.* If the injured
24 employee, after choosing a treating physician or chiropractor, moves
25 to a county which is not served by the organization for managed
26 care or providers of health care ~~{services}~~ named in the contract and
27 the insurer determines that it is impractical for the injured employee
28 to continue treatment with the physician or chiropractor, the injured
29 employee must choose a treating physician or chiropractor who has
30 agreed to the terms of that contract unless the insurer authorizes the
31 injured employee to choose another physician or chiropractor. If the
32 treating physician or chiropractor refers the injured employee to a
33 specialist for treatment, the ~~{treating physician or chiropractor}~~
34 *insurer* shall provide to the injured employee a list that includes the
35 name of each physician or chiropractor with that specialization who
36 is available pursuant to the terms of the contract with the
37 organization for managed care or with providers of health care
38 ~~{services}~~ pursuant to NRS 616B.527, as appropriate. ~~{After}~~ *Not*
39 *later than 14 days after* receiving the list, the injured employee
40 shall ~~{, at the time the referral is made,}~~ select a physician or
41 chiropractor from the list. If the employee fails to select a physician
42 or chiropractor, the insurer may select a physician or chiropractor
43 with that specialization. If a physician or chiropractor with that
44 specialization is not available pursuant to the terms of the contract,
45 the organization for managed care or the provider of health care



1 ~~[services]~~ may select a physician or chiropractor with that
2 specialization.

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

22 ~~[5.]~~ 6. Except when emergency medical care is required and
23 except as otherwise provided in NRS 616C.055, the insurer is not
24 responsible for any charges for medical treatment or other accident
25 benefits furnished or ordered by any physician, chiropractor or other
26 person selected by the injured employee in disregard of the
27 provisions of this section or for any compensation for any
28 aggravation of the injured employee's injury attributable to
29 improper treatments by such physician, chiropractor or other person.

30 ~~[6.]~~ 7. The Administrator may order necessary changes in a
31 panel of physicians and chiropractors and shall suspend or remove
32 any physician or chiropractor from a panel for good cause shown ~~[~~
33 ~~—7.]~~ *in accordance with section 2 of this act.*

34 8. An injured employee may receive treatment by more than
35 one physician or chiropractor if :

36 (a) *If* the insurer provides written authorization for such
37 treatment ~~[~~

38 ~~—8.]~~ ; or

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

40 9. The Administrator shall design a form that notifies injured
41 employees of their right pursuant to subsections ~~[2.]~~ 3 , ~~[and]~~ 4 *and*
42 5 to select an alternative treating physician or chiropractor and make
43 the form available to insurers for distribution pursuant to subsection
44 2 of NRS 616C.050.



Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

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

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

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

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

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

3. The Administrator shall designate a vendor who compiles data on a national basis concerning fees and charges that are billed and paid for treatment or services similar to the treatment and services that qualify as accident benefits in this State to provide the Administrator with such information as the Administrator deems necessary to carry out the provisions of subsection 2. The designation must be made pursuant to reasonable competitive bidding procedures established by the Administrator. In addition, the Administrator may request a health insurer, health maintenance organization or provider of accident benefits, an agent or employee of such a person, or an agency of the State to provide the Administrator with information concerning fees and charges that are billed and paid in this State for similar services as the Administrator deems necessary to carry out the provisions of subsection 2. The Administrator shall require a health insurer, health maintenance organization or provider of accident benefits, an agent or employee of such a person, or an agency of the State that provides records or reports of fees and charges billed and paid pursuant to this section to provide interpretation and identification concerning the information delivered. The Administrator may impose an administrative fine of



\$500 on a health insurer, health maintenance organization or provider of accident benefits, or an agent or employee of such a person for each refusal to provide the information requested pursuant to this subsection.

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

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

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

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

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

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

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

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

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

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

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



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

(b) The employer offers the employee light-duty employment or employment that is modified according to the limitations or restrictions imposed by a physician or chiropractor pursuant to subsection 7; or

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

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

7. A certification of disability issued by a physician or chiropractor must:

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

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

(c) Be signed by the treating physician or chiropractor authorized pursuant to NRS 616B.527 or appropriately chosen pursuant to subsection ~~3 or 4~~ 4 or 5 of NRS 616C.090.

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

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

~~4.5.~~ 5. At the request of the insurer, the injured employee shall, before an evaluation by a rating physician or chiropractor is performed, notify the insurer of:

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

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

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

~~5.6.~~ 6. Unless the regulations adopted pursuant to NRS 616C.110 provide otherwise, a rating evaluation must include an evaluation of the loss of motion, sensation and strength of an injured employee if the injury is of a type that might have caused such a loss. Except in the case of claims accepted pursuant to NRS 616C.180, no factors other than the degree of physical impairment of the whole person may be considered in calculating the entitlement to compensation for a permanent partial disability.

~~6.7.~~ 7. The rating physician or chiropractor shall provide the insurer with his or her evaluation of the injured employee. After receiving the evaluation, the insurer shall, within 14 days, provide the employee with a copy of the evaluation and notify the employee:

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

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

~~7.8.~~ 8. Each 1 percent of impairment of the whole person must be compensated by a monthly payment:

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

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



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

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

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

~~§ 9.~~ 9. Compensation benefits may be paid annually to claimants who will be receiving less than \$100 a month.

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

~~§ 11.~~ 11. If a rating evaluation was completed for a previous disability involving a condition, organ or anatomical structure that is identical to the condition, organ or anatomical structure being evaluated for the present disability, the percentage of disability for a subsequent injury must be determined by deducting the percentage of the previous disability from the percentage of the present disability, regardless of the edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted by the Division pursuant to NRS 616C.110 used to determine the percentage of the previous disability. The compensation awarded for a permanent disability on a subsequent injury must be reduced only by the awarded or agreed upon percentage of disability actually received by the injured employee for the previous injury regardless of the percentage of the previous disability.

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

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

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



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

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

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

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

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

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

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

(2) Exceeds 25 percent may:

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

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

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

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



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

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

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

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

(a) The right of the claimant to:

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

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

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

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

➤ The claimant, when he or she demands payment in a lump sum, must be provided with a written notice which prominently displays a statement describing the effects of accepting payment in a lump sum of an entire permanent partial disability award, any portion of such an award or any uncontested portion of such an award, and that the claimant has 20 days after the mailing or personal delivery of the



notice within which to retract or reaffirm the demand, before payment may be made and the claimant's election becomes final.

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

4. Except as otherwise provided in this subsection, the total lump-sum payment for disablement must not be less than one-half the product of the average monthly wage multiplied by the percentage of disability. If the claimant received compensation in installment payments for his or her permanent partial disability before electing to receive payment for that disability in a lump sum, the lump-sum 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 ~~7~~ 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. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

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



1 **Sec. 37.** This act becomes effective on January 1, 2020.

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