

(Reprinted with amendments adopted on June 2, 2023)

SECOND REPRINT

A.B. 441

ASSEMBLY BILL NO. 441—COMMITTEE  
ON COMMERCE AND LABOR

MARCH 27, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to industrial insurance.  
(BDR 53-1002)FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

~

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

AN ACT relating to industrial insurance; revising requirements for the administration of certain insurance claims; revising certain requirements to maintain certain insurance records and make them available for inspection; removing the requirement that certain entities maintain a telephone service to accept collect calls from injured employees; revising the circumstances under which the Administrator of the Division of Industrial Relations of the Department of Business and Industry is authorized to remove a physician or chiropractic physician from a list or panel of physicians and chiropractic physicians who may provide certain medical services relating to the Nevada Industrial Insurance Act; requiring the Administrator to publish annual and quarterly reports; authorizing certain physicians and chiropractic physicians to decline to perform certain evaluations under certain circumstances; revising procedures for the selection of a physician or chiropractic physician to perform certain evaluations and examinations; revising provisions relating to independent medical examinations; revising provisions relating to benefits for a permanent partial disability; revising provisions relating to an appeal of certain determinations of the Administrator; revising procedures for the reimbursement of an insurer that pays for an increase in certain compensation or benefits; and providing other matters properly relating thereto.



**Legislative Counsel's Digest:**

Existing law establishes the Nevada Industrial Insurance Act, which provides for the payment of compensation to employees who are injured or disabled as the result of an occupational injury. (Chapters 616A-616D of NRS)

Existing law requires certain insurers to maintain an office in this State that is operated by the insurer or its third-party administrator and to provide access to files relating to industrial insurance claims at that office. (NRS 616B.021, 616B.027) **Section 1.5** of this bill requires the insurer to make such files available for inspection and reproduction by electronic means or at an office operated by the insurer or its third-party administrator located in this State. **Section 1.5** also authorizes the insurer to keep physical records concerning a claim filed in this State at a location outside this State if those records are made available for inspection and reproduction in certain electronic forms or at offices located in this State.

**Section 2** of this bill permits an office operated by an insurer or its third-party administrator to keep reproductions of certain files rather than the original copies. **Section 2** also removes the requirement that an insurer accept collect calls from injured employees.

Existing law requires a person who acts as a third-party administrator pursuant to the Nevada Industrial Insurance Act or the Nevada Occupational Diseases Act to administer claims arising under each plan of insurance that the person administers from one or more offices located in this State and maintain in those offices all of the records concerning those claims. (NRS 616B.503) **Section 2.3** of this bill removes that requirement. Instead, **section 1** of this bill establishes certain authorizations and requirements concerning the administration of claims arising under the Nevada Industrial Insurance Act or the Nevada Occupational Diseases Act. **Section 1:** (1) authorizes an employee of a private carrier who is licensed as a company adjuster or a third-party administrator for a private carrier to administer such claims from a location in or outside this State; and (2) requires records concerning such claims to be maintained at offices located in this State or in certain electronic forms. **Section 1** also: (1) authorizes an employee of a private carrier who is not licensed as a company adjuster or a third-party administrator for a self-insured employer or an association of self-insured public or private employers to administer such claims only from one or more offices located in this State; and (2) requires records concerning such claims to be maintained at those offices. **Section 2** requires an employee of a private carrier or a third-party administrator who administers a claim from a location outside of this State to make himself or herself available to communicate in real time with a claimant or a representative of a claimant at certain times.

Existing law requires the Commissioner to take certain disciplinary action against a third-party administrator for certain violations. (NRS 616B.506) **Section 2.7** of this bill requires the Commissioner to also take such disciplinary action against a third-party administrator who violates the provisions of **section 1**.

Existing law requires an insurer to keep a list of physicians and chiropractic physicians from which an injured employee may choose to receive treatment and include in that list a certain number of physicians or chiropractic physicians from a panel established and maintained by the Administrator of the Division of Industrial Relations of the Department of Business and Industry. Existing law also sets forth procedures and limitations governing the removal of a physician or chiropractic physician from an insurer's list. (NRS 616C.087, 616C.090) **Section 4** of this bill expands the circumstances under which a physician or chiropractic physician may be involuntarily removed from an insurer's list and requires the Administrator to adopt regulations prescribing the format of the list which insurers must maintain. **Section 5** of this bill revises the reasons for which the Administrator may remove a physician or chiropractic physician from a panel and authorizes certain persons to notify the Administrator if the person believes a physician or chiropractic physician



\* A B 4 4 1 R 2 \*

satisfies certain criteria for removal from a panel. **Section 5** also authorizes a physician or chiropractic physician who is removed from a panel to reapply under certain circumstances for inclusion on the panel.

Existing law provides that an employee who is injured by an accident arising out of and in the course of employment is entitled to receive compensation under the Nevada Industrial Insurance Act for a permanent partial disability which is rated during an evaluation by certain physicians or chiropractic physicians. (NRS 616C.490) **Section 7** of this bill revises the methodology by which those physicians or chiropractic physicians are selected to perform such an evaluation and authorizes such a physician or chiropractic physician to decline to perform an evaluation if the physician or chiropractic physician believes he or she is not qualified to rate the disability at issue. **Sections 3 and 7** of this bill require the Administrator to prepare annual and quarterly reports containing certain information about those physicians and chiropractic physicians and the frequency with which they perform such evaluations and certain other examinations.

Existing law authorizes an injured employee, subject to various requirements and restrictions, to obtain an independent medical examination concerning an injury that is the subject of a claim filed pursuant to the Nevada Industrial Insurance Act. (NRS 616C.145) **Section 6** of this bill provides that such an injured employee is entitled to request such an independent examination for a permanent partial disability to determine if the employee has a ratable impairment or to dispute the initial rating determination of the employee's injury. **Section 6** also identifies the method by which the rate of reimbursement relating to certain independent medical examinations must be determined and authorizes an insurer to recover the cost of a second examination to determine a rating of a permanent partial disability under certain circumstances.

Existing law authorizes an injured employee who disagrees with the percentage of disability determined by a physician or chiropractic physician to obtain a second determination of the percentage of disability by selecting the next physician or chiropractic physician in rotation from the list of qualified physicians and chiropractic physicians maintained by the Administrator. (NRS 616C.100) **Section 5.5** of this bill requires the physician or chiropractic physician to be selected at random from that list.

Existing law authorizes certain persons to request a hearing before a hearing officer of matters relating to the Nevada Industrial Insurance Act or the Nevada Occupational Diseases Act. (NRS 616C.315) If necessary to resolve a medical question concerning the rating of an employee's permanent disability, existing law authorizes a hearing officer to refer the employee for examination by a rating physician or chiropractic physician who, with certain exceptions, must be selected in rotation from the list of physicians and chiropractic physicians maintained by the Administrator. (NRS 616C.330, 616C.360) **Sections 6.8 and 6.9** of this bill instead require the physician or chiropractic physician to be selected at random from the list.

Existing law provides that a claimant under the Nevada Industrial Insurance Act may elect to receive payment for a permanent partial disability in a lump sum under certain circumstances. (NRS 616C.495) **Section 8** of this bill requires an insurer to use the actuarial annuity tables adopted by the Division that are in effect on the date on which the claimant demands payment in a lump sum to calculate the present value of the lump sum payable.

Existing law authorizes the Administrator to order an insurer or certain other persons to pay to a claimant a benefit penalty if the Administrator determines the insurer or other person has refused to process a claim for compensation pursuant to the Nevada Industrial Insurance Act or committed certain other violations. (NRS 616D.120) Existing law authorizes a person to contest a decision of the Administrator to impose or refuse to impose a benefit penalty by filing a notice of



\* A B 4 4 1 R 2 \*

appeal with an appeals officer. (NRS 616D.140) **Section 9** of this bill revises certain procedural requirements relating to such an appeal and authorizes a claimant on whose behalf a benefit penalty is imposed to bring a civil action to recover the amount of the benefit penalty.

Existing law authorizes an insurer or employer who pays an annual increase in compensation for permanent total disability to a claimant or dependent who is entitled to such compensation due to certain industrial injuries or disablements to obtain reimbursement from the Administrator and sets forth the procedure for obtaining such a reimbursement. (NRS 616C.266) Similarly, existing law entitles an insurer who pays an increase in certain death benefits to a widow, widower, surviving child or surviving dependent parent to be reimbursed annually for the amount of that increase and sets forth procedures for obtaining reimbursement. (NRS 616C.268) **Sections 6.3 and 6.7** of this bill revise the procedures governing the issuance of such reimbursement to an insurer and impose various requirements on the Administrator with respect to such reimbursement.

---

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

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

*1. An employee of a private carrier who is licensed as a company adjuster pursuant to chapter 684A of NRS or a person who acts as a third-party administrator pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS for a private carrier may administer claims arising under chapters 616A to 616D, inclusive, or chapter 617 of NRS from a location in or outside of this State. All records concerning a claim administered pursuant to this subsection must be maintained at one or more offices located in this State or by computer in a microphotographic, electronic or other similar format that produces an accurate reproduction of the original.*

*2. An employee of a private carrier who is not licensed as a company adjuster pursuant to chapter 684A of NRS or a person who acts as a third-party administrator pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS for a self-insured employer or an association of self-insured public or private employers may administer claims arising under chapters 616A to 616D, inclusive, or chapter 617 of NRS only from one or more offices located in this State. All records concerning a claim administered pursuant to this subsection must be maintained in those offices.*

*3. The Commissioner may:*

*(a) Under exceptional circumstances, waive the requirements of subsections 1 and 2; and*

*(b) Adopt regulations to carry out the provisions of this section.*



**Sec. 1.5.** NRS 616B.021 is hereby amended to read as follows:

616B.021 1. An insurer shall ~~{provide access to}~~ *make* the files of claims *available for inspection and reproduction:*

(a) *At an office operated by the insurer or its third-party administrator located in ~~{its offices.}~~ this State; or*

(b) *By electronic means.*

2. The physical records in a file concerning a claim filed in this State may be kept at ~~{an office located}~~ *a location* outside this State if all records in the file are ~~{accessible}~~ *made available for inspection and reproduction* at ~~{offices}~~ *an office operated by the insurer or its third-party administrator that is* located in this State ~~{on}~~ *or by* computer in a microphotographic, electronic or other similar format that produces an accurate reproduction of the original. If a claim filed in this State is open, the records in the file must be reproduced and available for inspection during regular business hours within 24 hours after requested by the employee or the employee's designated agent, the employer or the employer's designated agent, or the Administrator or the Administrator's designated agent. If a claim filed in this State is closed, the records in the file must be reproduced and available for inspection during regular business hours within 14 days after requested by such persons.

3. Upon request, the insurer shall make copies or other reproductions of anything in the file and may charge a reasonable fee for this service. Copies or other reproductions of materials in the file which are requested by the Administrator or the Administrator's designated agent, or the Nevada Attorney for Injured Workers or his or her designated agent must be provided free of charge.

4. The Administrator may adopt regulations concerning the:

(a) Maintenance of records in a file on claims that are open or closed; and

(b) Preservation, examination and use of records which have been stored on computer or in a microphotographic, electronic or similar format by an insurer.

5. This section does not require an insurer to allow inspection or reproduction of material regarding which a legal privilege against disclosure has been conferred.

**Sec. 2.** NRS 616B.027 is hereby amended to read as follows:

616B.027 1. Every insurer shall:

(a) Provide an office in this State operated by the insurer or its third-party administrator in which:

(1) A complete file *, or a reproduction of the complete file,* of each claim is accessible, in accordance with the provisions of NRS 616B.021;



(2) Persons authorized to act for the insurer and, if necessary, licensed pursuant to chapter 683A of NRS, may receive information related to a claim and provide the services to an employer and his or her employees required by chapters 616A to 617, inclusive, of NRS; and

(3) An employee or his or her employer, upon request, is provided with information related to a claim filed by the employee or a copy or other reproduction of the information from the file for that claim, in accordance with the provisions of NRS 616B.021.

(b) Provide statewide toll-free telephone service to the office maintained pursuant to paragraph (a) . ~~for accept collect calls from injured employees.]~~

2. Each private carrier shall provide:

(a) Adequate services to its insured employers in controlling losses; and

(b) Adequate information on the prevention of industrial accidents and occupational diseases.

*3. An employee of a private carrier who is licensed as a company adjuster pursuant to chapter 684A of NRS or a person who acts as a third-party administrator pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS for a private carrier who administers a claim arising under chapters 616A to 616D, inclusive, or chapter 617 of NRS from a location outside of this State pursuant to subsection 1 of section 1 of this act shall make himself or herself available to communicate in real time with the claimant or a representative of the claimant Monday through Friday, 9 a.m. to 5 p.m. local time in this State, excluding any day declared to be a legal holiday pursuant to NRS 236.015.*

**Sec. 2.3.** NRS 616B.503 is hereby amended to read as follows:

616B.503 1. A person shall not act as a third-party administrator for an insurer without a certificate issued by the Commissioner pursuant to NRS 683A.08524.

2. A person who acts as a third-party administrator pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS shall:

(a) ~~Administer from one or more offices located in this State all of the claims arising under each plan of insurance that the person administers and maintain in those offices all of the records concerning those claims;~~

~~—(b)—~~ Administer each plan of insurance directly, without subcontracting with another third-party administrator; and

~~[(e)]~~ (b) Upon the termination of the person's contract with an insurer, transfer forthwith to a certified third-party administrator chosen by the insurer all of the records in the person's possession concerning claims arising under the plan of insurance.



3. The Commissioner may, under exceptional circumstances, waive the requirements of subsection 2.

**Sec. 2.7.** NRS 616B.506 is hereby amended to read as follows:

616B.506 The Commissioner shall impose an administrative fine, not to exceed \$1,000 for each violation, and may withdraw the certification of any third-party administrator who:

1. Fails to comply with regulations of the Commissioner regarding reports or other requirements necessary to carry out the purposes of chapters 616A to 616D, inclusive, or chapter 617 of NRS; or

2. Violates any provision of NRS 616B.503, *section 1 of this act* or any regulation adopted by the Commissioner or the Administrator concerning the administration of the plan of insurance.

**Sec. 3.** Chapter 616C of NRS is hereby amended by adding thereto a new section to read as follows:

*1. The Administrator shall, not later than 30 days after the end of each calendar quarter, publish and make publicly available on the Internet website of the Division a report containing:*

*(a) The name of each rating physician or chiropractic physician, listed in alphabetical order by last name, who conducted an examination or evaluation on an injured employee pursuant to NRS 616.100, 616C.145, 616C.330, 616C.360 or 616C.490 in the immediately preceding calendar quarter; and*

*(b) For each rating physician or chiropractic physician identified pursuant to paragraph (a), the number of examinations or evaluations that were conducted by the rating physician or chiropractic physician as result of:*

*(1) The selection of the rating physician or chiropractic physician at random from the list of qualified physicians and chiropractic physicians maintained by the Administrator pursuant to subsection 2 of NRS 616C.490; and*

*(2) An agreement by an insurer and an injured employee.*

*2. The Administrator shall retain an archive which is accessible by the public of each report published pursuant to subsection 1.*

**Sec. 3.5.** 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 chiropractic physician and an alternative treating physician or chiropractic physician 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 ~~9~~ 12 of NRS 616C.090 that notifies injured employees of their right to select an alternative treating physician or chiropractic physician. The Administrator shall adopt regulations for the manner of compliance by an insurer with the other provisions of subsection 1.

**Sec. 4.** NRS 616C.087 is hereby amended to read as follows: 616C.087 1. The Legislature hereby declares that:

(a) The choice of a treating physician or chiropractic physician 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 chiropractic physicians to treat their industrial injuries and occupational diseases.

2. Except as otherwise provided in this subsection and subsections 3 and 4 ~~[-an]~~:

*(a) The panel maintained by the Administrator pursuant to NRS 616C.090 must not include a physician or chiropractic physician in a discipline or specialization if the physician or chiropractic physician does not accept and treat injured employees*





*for industrial injuries or occupational diseases in that discipline or specialization; and*

(b) An insurer's list of physicians and chiropractic physicians from which an injured employee may choose pursuant to NRS 616C.090 must include not less than 12 physicians or chiropractic physicians, as applicable, in each of the following disciplines and specializations, without limitation, from the panel of physicians and chiropractic physicians maintained by the Administrator pursuant to NRS 616C.090:

- ~~[(a)]~~ (1) Orthopedic surgery on spines;
- ~~[(b)]~~ (2) Orthopedic surgery on shoulders;
- ~~[(c)]~~ (3) Orthopedic surgery on elbows;
- ~~[(d)]~~ (4) Orthopedic surgery on wrists;
- ~~[(e)]~~ (5) Orthopedic surgery on hands;
- ~~[(f)]~~ (6) Orthopedic surgery on hips;
- ~~[(g)]~~ (7) Orthopedic surgery on knees;
- ~~[(h)]~~ (8) Orthopedic surgery on ankles;
- ~~[(i)]~~ (9) Orthopedic surgery on feet;
- ~~[(j)]~~ (10) Neurosurgery;
- ~~[(k)]~~ (11) Neurology;
- ~~[(l)]~~ (12) Cardiology;
- ~~[(m)]~~ (13) Pulmonology;
- ~~[(n)]~~ (14) Psychiatry;
- ~~[(o)]~~ (15) Pain management;
- ~~[(p)]~~ (16) Occupational medicine;
- ~~[(q)]~~ (17) Physiatry or physical medicine;
- ~~[(r)]~~ (18) General practice or family medicine; and
- ~~[(s)]~~ (19) Chiropractic medicine.

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

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



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

- (a) An active practice; and
- (b) A physical office.

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

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

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

- (a) Stamp the list as having been filed; and
- (b) Indicate on the list the date on which it was filed.

8. The Administrator shall:

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

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

9. At any time, a physician or chiropractic physician may request in writing that he or she be removed from an insurer's list of physicians and chiropractic physicians. The insurer must comply with the request and omit the physician or chiropractic physician from the next list which the insurer files with the Administrator.

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

(a) The physician or chiropractic physician has died or is disabled.

(b) The license of the physician or chiropractic physician has been revoked or suspended.



(c) The physician or chiropractic physician has been convicted of:

(1) A felony; or

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

(d) The physician or chiropractic physician has been removed from the panel of physicians and chiropractic physicians maintained by the Administrator pursuant to NRS 616C.090 by the Administrator upon a finding that the physician or chiropractic physician ~~has~~:

(1) *Has* failed to comply with the standards for treatment of industrial injuries or occupational diseases as established by the Administrator ~~is~~; or

(2) *Does not accept and treat injured employees under chapters 616A to 616D, inclusive, or chapter 617 of NRS.*

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

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

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

(1) Were previously agreed upon when the physician or chiropractic physician was most recently included in the list; or

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

*12. The Administrator shall adopt regulations prescribing the form in which a list of physicians and chiropractic physicians created by an employer, insurer or third-party administrator pursuant to this section must be maintained. The Administrator shall require that any such list be in a format which is easily searchable, including, without limitation, an indexed database, a portable document format, a spreadsheet with data that may be filtered, a comma-separated values file or any other comparable format.*

**Sec. 5.** 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 chiropractic physicians 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 following  
3 information relating to each physician and chiropractic physician on  
4 the panel:

5 (a) The name of the physician or chiropractic physician.

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

7 (c) The legal name of the practice of the physician or  
8 chiropractic physician 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 chiropractic physician.

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

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

16 (g) Every condition and part of the body which the physician or  
17 chiropractic physician 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 pursuant to NRS 616B.527 shall maintain a list of those  
21 physicians and chiropractic physicians on the panel who are  
22 reasonably accessible to his or her employees.

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



\* A B 4 4 1 R 2 \*

new physician or chiropractic physician chosen by the injured employee. If the treating physician or chiropractic physician refers the injured employee to a specialist for treatment, the insurer shall provide to the injured employee a list that includes the name of each physician or chiropractic physician with that specialization who is on the panel. Not later than 14 days after receiving the list, the injured employee shall select a physician or chiropractic physician from the list.

4. An injured employee whose employer's insurer has entered into a contract with an organization for managed care or with providers of health care pursuant to NRS 616B.527 must choose a treating physician or chiropractic physician pursuant to the terms of that contract. If the injured employee is not satisfied with the first physician or chiropractic physician he or she so chooses, the injured employee may make an alternative choice of physician or chiropractic physician pursuant to the terms of the contract without the approval of the insurer if the choice is made within 90 days after his or her injury. Except as otherwise provided in this subsection, any further change is subject to the approval of the insurer or by order of a hearing officer or appeals officer. A request for a change of physician or chiropractic physician must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If the insurer takes no action on the request within 10 days, the request shall be deemed granted. If the injured employee, after choosing a treating physician or chiropractic physician, moves to a county which is not served by the organization for managed care or providers of health care named in the contract and the insurer determines that it is impractical for the injured employee to continue treatment with the physician or chiropractic physician, the injured employee must choose a treating physician or chiropractic physician who has agreed to the terms of that contract unless the insurer authorizes the injured employee to choose another physician or chiropractic physician. If the treating physician or chiropractic physician refers the injured employee to a specialist for treatment, the insurer shall provide to the injured employee a list that includes the name of each physician or chiropractic physician with that specialization who is available pursuant to the terms of the contract with the organization for managed care or with providers of health care pursuant to NRS 616B.527, as appropriate. Not later than 14 days after receiving the list, the injured employee shall select a physician or chiropractic physician from the list. If the employee fails to select a physician or chiropractic physician, the insurer may select a physician or chiropractic physician with that specialization. If a physician or chiropractic physician with that specialization is not available



pursuant to the terms of the contract, the organization for managed care or the provider of health care may select a physician or chiropractic physician with that specialization.

5. If the injured employee is not satisfied with the physician or chiropractic physician selected by himself or herself or by the insurer, the organization for managed care or the provider of health care pursuant to subsection 4, the injured employee may make an alternative choice of physician or chiropractic physician pursuant to the terms of the contract. A change in the treating physician or chiropractic physician may be made at any time but is subject to the approval of the insurer or by order of a hearing officer or appeals officer. A request for a change of physician or chiropractic physician 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 chiropractic physician must include the name of the new physician or chiropractic physician chosen by the injured employee. If the insurer denies a request for a change in the treating physician or chiropractic physician 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.

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, chiropractic physician 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, chiropractic physician or other person.

7. The Administrator may order necessary changes in a panel of physicians and chiropractic physicians and shall ~~suspend~~:

(a) *Suspend* or remove any physician or chiropractic physician from a panel for good cause shown in accordance with NRS 616C.087 ~~;~~; and

(b) *Remove from being included on a panel as a practitioner of a discipline or specialization any physician or chiropractic physician who does not accept and treat injured employees for industrial injuries or occupational diseases in that discipline or specialization.*

8. *Any interested person may notify the Administrator, on a form prescribed by the Administrator, if the person believes that a physician or chiropractic physician does not accept and treat injured employees:*



(a) Under chapters 616A to 616D, inclusive, or chapter 617 of NRS for industrial injuries or occupational diseases; or

(b) For industrial injuries or occupational diseases in a discipline or specialization for which the physician or chiropractic physician is included on a panel of physicians and chiropractic physicians maintained by the Administrator pursuant to this section.

9. If the Administrator receives notice pursuant to subsection 8, the Administrator shall:

(a) Conduct an investigation to determine whether the physician or chiropractic physician may remain on the panel for a discipline or specialization; and

(b) Publish or cause to be published on the Internet website of the Division not later than 90 days after receiving the notice the results of the investigation.

10. A physician or chiropractic physician who is removed pursuant to paragraph (b) of subsection 7 from a discipline or specialization on a panel may request, on a form prescribed by the Administrator, to be reinstated on a panel for that discipline or specialization if the physician or chiropractic physician demonstrates to the satisfaction of the Administrator that he or she accepts and treats injured employees for that discipline or specialization.

11. An injured employee may receive treatment by more than one physician or chiropractic physician:

(a) If the insurer provides written authorization for such treatment; or

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

~~9.]~~ 12. The Administrator shall design a form that notifies injured employees of their right pursuant to subsections 3, 4 and 5 to select an alternative treating physician or chiropractic physician and make the form available to insurers for distribution pursuant to subsection 2 of NRS 616C.050.

**Sec. 5.5.** NRS 616C.100 is hereby amended to read as follows:

616C.100 1. If an injured employee disagrees with the percentage of disability determined by a physician or chiropractic physician, the injured employee may obtain a second determination of the percentage of disability. If the employee wishes to obtain such a determination, the employee must select the ~~next~~ physician or chiropractic physician ~~in rotation~~ at random from the list of qualified physicians or chiropractic physicians maintained by the Administrator pursuant to subsection 2 of NRS 616C.490. If a second determination is obtained, the injured employee shall pay for the determination. If the physician or chiropractic physician selected to make the second determination finds a higher percentage of



1 disability than the first physician or chiropractic physician, the  
2 injured employee may request a hearing officer or appeals officer to  
3 order the insurer to reimburse the employee pursuant to the  
4 provisions of NRS 616C.330 or 616C.360.

5 2. The results of a second determination made pursuant to  
6 subsection 1 may be offered at any hearing or settlement conference.

7 **Sec. 6.** NRS 616C.145 is hereby amended to read as follows:

8 616C.145 1. An injured employee may obtain an independent  
9 medical examination:

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

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

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

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

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

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

24 (c) When a hearing or appeal is pending pursuant to NRS  
25 616C.330 or 616C.360.

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

29 4. Except as otherwise provided in subsection 5, an  
30 independent medical examination must not involve treatment and  
31 must be conducted by a physician or chiropractic physician selected  
32 by the injured employee from the panel of physicians and  
33 chiropractic physicians established pursuant to subsection 1 of  
34 NRS 616C.090.

35 5. ~~[If the dispute concerns the rating of a permanent disability,]~~  
36 *An injured employee is entitled to request* an independent medical  
37 examination ~~[may be conducted by a rating physician or chiropractic~~  
38 ~~physician.] pursuant to paragraph (a) of subsection 1 for a~~  
39 *permanent partial disability to determine if the injured employee*  
40 *has a ratable impairment or, if the injured employee is seeking to*  
41 *dispute an initial rating determination, to obtain a second rating.*  
42 The injured employee must select the ~~[next]~~ rating physician or  
43 chiropractic physician ~~[in rotation]~~ *at random* from the list of  
44 qualified physicians and chiropractic physicians maintained by the  
45 Administrator pursuant to subsection 2 of NRS 616C.490, unless the





insurer and the injured employee otherwise agree to a rating physician or chiropractic physician. *Nothing in this subsection shall be construed to prohibit an injured employee from obtaining a determination for a permanent partial disability pursuant to NRS 616C.100.*

6. The insurer shall:

(a) Pay the costs of any independent medical examination conducted pursuant to this section in accordance with ~~NRS 616C.260;~~ *subsection 7;* 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 rates of reimbursement for an independent medical examination conducted pursuant to this section must be:*

(a) *For an independent medical examination other than an independent medical examination conducted pursuant to subsection 5, the rates applicable to independent medical examinations, as set forth in the schedule of fees established by the Administrator pursuant to NRS 616C.260.*

(b) *For an independent medical examination conducted pursuant to subsection 5, the rates applicable to a permanent partial disability, as set forth in the schedule of fees established by the Administrator pursuant to NRS 616C.260.*

8. *If an injured employee requests an independent medical examination pursuant to subsection 5 to obtain a second rating and the second rating does not result in a higher percentage of disability than the initial rating determination, the insurer may recover the cost of the independent medical examination, determined in accordance with the rates of reimbursement specified in paragraph (b) of subsection 7, from the amount of the award for permanent partial disability that the injured employee is entitled to be paid for that claim pursuant to NRS 616C.490.*

9. 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. 6.3.** NRS 616C.266 is hereby amended to read as follows:

616C.266 1. An insurer, including an employer who provides accident benefits for injured employees pursuant to NRS 616C.265, who pays an annual increase in compensation for a permanent total disability to a claimant or a dependent of a claimant pursuant to subsection 2 of NRS 616C.473 is entitled to be reimbursed for the amount of that increase in accordance with this section if the insurer provides to the Administrator all of the following:



(a) The name of the claimant or dependent of a claimant to whom the insurer paid the increase in compensation.

(b) The claim number under which the compensation for a permanent total disability was paid to the claimant or dependent of a claimant.

(c) The date of the industrial injury or disablement from an occupational disease which resulted in the permanent total disability of the injured employee.

(d) The date on which the disability of the injured employee was determined or deemed to be total and permanent.

(e) The amount of the compensation for a permanent total disability to which the claimant or dependent of a claimant was entitled as of December 31, 2019.

(f) Proof of the insurer's payment of the increase in compensation for a permanent total disability.

(g) The amount of reimbursement requested by the insurer.

2. An insurer must provide the Administrator with the items required pursuant to subsection 1 not later than March 31 of each year to be eligible for reimbursement for payments of increases in compensation for permanent total disability which were made in the immediately preceding calendar year.

3. ~~[An]~~ *If an insurer ~~[may not be reimbursed pursuant to this section unless the insurer's request for reimbursement is approved by]~~ complies with subsection 2,* the Administrator ~~[.]~~ shall:

*(a) Not later than 60 days after the date on which the Administrator receives the information required by subsection 1, issue a written determination approving or rejecting the insurer's request for reimbursement. If the Administrator fails to issue the written determination within those 60 days, the request for reimbursement is deemed approved.*

*(b) Not later than July 1 of each year, provide the insurer with a detailed list of reimbursements approved or rejected by the Administrator.*

4. ~~[H]~~ *A person who is aggrieved by a written determination of the Administrator ~~[approves an insurer's request for reimbursement.]~~ pursuant to this section may appeal the ~~[Administrator must withdraw from the Uninsured Employers' Claim Account established pursuant to NRS 616A.430 an amount of the income realized from the investment of the assets in that Account that is necessary to reimburse]~~ determination by filing a request for a hearing before an appeals officer. The request must be filed not later than 30 days after the ~~[insurer or employer for]~~ date on which the ~~[cost]~~ insurer receives notice of the ~~[increase in compensation paid to claimants and dependents pursuant to subsection 2 of NRS 616C.473. If the income realized from the~~*



~~investment of the assets in the Account is insufficient to pay such reimbursement, the Administrator must pay the remainder of the reimbursement from the assessments levied by the Administrator pursuant to NRS 232.680.] Administrator's determination.~~

5. *The Administrator shall, not later than May 31 of each year, mail to each insurer an invoice for any assessment levied by the Administrator pursuant to NRS 232.680 to be used to pay reimbursement pursuant to this section. Each insurer shall, not later than July 31 of each year, pay to the Department of Business and Industry the amount of the assessment.*

6. *The Administrator shall make every effort to collect from an insurer the amount of the assessment described in subsection 5. If the Administrator is not able to collect the amount of the assessment within 60 days after July 31, the Administrator shall notify the Commissioner that the insurer is delinquent. An insurer who fails or refuses to pay the amount of an assessment within 60 days after July 31 is subject, after notice and a hearing held pursuant to NRS 679B.310 to 679B.370, inclusive, to revocation of the insurer's certificate of authority to transact insurance in this State.*

7. *The Administrator shall, not later than December 31 of each year, reimburse each insurer that has paid an annual increase in compensation for a permanent total disability pursuant to subsection 1.*

8. *If an insurer fails to pay the amount of the assessment described in subsection 5, the Administrator shall apportion to the insurers that have paid the amount of the assessment an amount of reimbursement calculated in the same manner in which the Administrator determines the assessment rate applied to those insurers pursuant to NRS 232.680. Upon receipt of the amount of the assessment that is paid after July 31, the Administrator shall pay to each insurer, the remaining amount of reimbursement to which the insurer is entitled.*

9. *An insurer may elect to apply any approved reimbursement under this section towards any current or future assessment levied by the Administrator pursuant to NRS 232.680.*

**Sec. 6.7.** NRS 616C.268 is hereby amended to read as follows:

616C.268 1. An insurer, including, without limitation, an employer who provides accident benefits for injured employees pursuant to NRS 616C.265, who pays an increase in death benefits to a widow, widower, surviving child or surviving dependent parent pursuant to NRS 616C.508 is entitled to be reimbursed for the amount of that increase from the Fund for Workers' Compensation and Safety if the insurer provides to the Administrator all of the following:



(a) The name of the widow, widower, surviving child or surviving dependent parent to whom the insurer paid the increase in death benefits.

(b) The claim number under which death benefits were paid to the widow, widower, surviving child or surviving dependent parent.

(c) The date of the industrial injury or disablement from an occupational disease which resulted in the eligibility of the widow, widower, surviving child or surviving dependent parent for death benefits.

(d) The date of the death of the injured employee who is the:

(1) Spouse of the widow or widower;

(2) Parent of the surviving child; or

(3) Child of the surviving dependent parent.

(e) The amount of the death benefit to which the widow, widower, surviving child or surviving dependent parent was entitled as of December 31, 2019.

(f) Proof of the insurer's payment of the increase in death benefits.

(g) The amount of reimbursement requested by the insurer.

2. An insurer must provide the Administrator with the information required pursuant to subsection 1 not later than March 31 of each year to be eligible for reimbursement pursuant to this section for payments of increases in death benefits which were made in the immediately preceding calendar year.

3. ~~{An} If an insurer {may not be reimbursed pursuant to this section unless the insurer's request for reimbursement is approved by}~~ *complies with subsection 2*, the Administrator ~~{-}~~ *shall*:

*(a) Not later than 60 days after the date on which the Administrator receives the information required by subsection 1, issue a written determination approving or rejecting the insurer's request for reimbursement. If the Administrator fails to issue the written determination within those 60 days, the request for reimbursement is deemed approved.*

*(b) Not later than July 1 of each year, provide the insurer with a detailed list of reimbursements approved or rejected by the Administrator.*

4. *A person who is aggrieved by a written determination of the Administrator pursuant to this section may appeal the determination by filing a request for a hearing before an appeals officer. The request must be filed not later than 30 days after the date on which the insurer receives notice of the Administrator's determination.*

5. *The Administrator shall, not later than May 31 of each year, mail to each insurer an invoice for any assessment levied by the Administrator pursuant to NRS 232.680 to be used to pay*



\* A B 4 4 1 R 2 \*

1 *reimbursement pursuant to this section. Each insurer shall, not*  
2 *later than July 31 of each year, pay to the Department of Business*  
3 *and Industry the amount of the assessment.*

4 6. *The Administrator shall make every effort to collect from*  
5 *an insurer the amount of the assessment described in subsection 5.*  
6 *If the Administrator is not able to collect the amount of the*  
7 *assessment within 60 days after July 31, the Administrator shall*  
8 *notify the Commissioner that the insurer is delinquent. An insurer*  
9 *who fails or refuses to pay the amount of an assessment within 60*  
10 *days after July 31 is subject, after notice and a hearing held*  
11 *pursuant to NRS 679B.310 to 679B.370, inclusive, to revocation of*  
12 *the insurer's certificate of authority to transact insurance in this*  
13 *State.*

14 7. *The Administrator shall, not later than December 31 of*  
15 *each year, reimburse each insurer that has paid an annual*  
16 *increase in death benefits pursuant to subsection 1.*

17 8. *If an insurer fails to pay the amount of the assessment*  
18 *described in subsection 5, the Administrator shall apportion to the*  
19 *insurers that have paid the amount of the assessment an amount*  
20 *of reimbursement calculated in the same manner in which the*  
21 *Administrator determines the assessment rate applied to those*  
22 *insurers pursuant to NRS 232.680. Upon receipt of the amount of*  
23 *the assessment that is paid after July 31, the Administrator shall*  
24 *pay to each insurer, the remaining amount of reimbursement to*  
25 *which the insurer is entitled.*

26 9. An insurer may elect to apply any approved reimbursement  
27 made pursuant to this section towards any current or future  
28 assessment levied by the Administrator pursuant to NRS 232.680.

29 **Sec. 6.8.** NRS 616C.330 is hereby amended to read as follows:  
30 616C.330 1. The hearing officer shall:

31 (a) Except as otherwise provided in subsection 2 of NRS  
32 616C.315, within 5 days after receiving a request for a hearing, set  
33 the hearing for a date and time within 30 days after his or her receipt  
34 of the request at a place in Carson City, Nevada, or Las Vegas,  
35 Nevada, or upon agreement of one or more of the parties to pay all  
36 additional costs directly related to an alternative location, at any  
37 other place of convenience to the parties, at the discretion of the  
38 hearing officer;

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

42 (c) Conduct hearings expeditiously and informally.

43 2. The notice must include a statement that the injured  
44 employee may be represented by a private attorney or seek



1 assistance and advice from the Nevada Attorney for Injured  
2 Workers.

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

22 4. The hearing officer may consider the opinion of an  
23 examining physician, chiropractic physician, physician assistant or  
24 advanced practice registered nurse, in addition to the opinion of an  
25 authorized treating physician, chiropractic physician, physician  
26 assistant or advanced practice registered nurse, in determining the  
27 compensation payable to the injured employee.

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

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

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



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

(a) The hearing; or

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

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

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

11. Except as otherwise provided in NRS 616C.380, the decision of the hearing officer is not stayed if an appeal from that decision is taken unless an application for a stay is submitted by a party. If such an application is submitted, the decision is automatically stayed until a determination is made on the application. A determination on the application must be made within 30 days after the filing of the application. If, after reviewing the application, a stay is not granted by the hearing officer or an appeals officer, the decision must be complied with within 10 days after the refusal to grant a stay.

12. References to a physician assistant and an advanced practice registered nurse in this section are for the purposes of the examination and treatment of an injured employee which are authorized to be provided by a physician assistant or advanced practice registered nurse in the exclusive context of an initial examination and treatment pursuant to NRS 616C.010.

**Sec. 6.9.** NRS 616C.360 is hereby amended to read as follows:

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

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

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

(a) Order an independent medical examination and refer the employee to a physician or chiropractic physician of his or her choice who has demonstrated special competence to treat the particular medical condition of the employee, whether or not the physician or chiropractic physician is on the insurer's panel of providers of health care. If the medical question concerns the rating of a permanent disability, the appeals officer may refer the



\* A B 4 4 1 R 2 \*



1 employee to a rating physician or chiropractic physician. The rating  
2 physician or chiropractic physician must be selected ~~[in rotation]~~ **at**  
3 **random** from the list of qualified physicians or chiropractic  
4 physicians maintained by the Administrator pursuant to subsection 2  
5 of NRS 616C.490, unless the insurer and the injured employee  
6 otherwise agree to a rating physician or chiropractic physician. The  
7 insurer shall pay the costs of any examination requested by the  
8 appeals officer.

9 (b) If the medical question or dispute is relevant to an issue  
10 involved in the matter before the appeals officer and all parties agree  
11 to the submission of the matter to an independent review  
12 organization, submit the matter to an independent review  
13 organization in accordance with NRS 616C.363 and any regulations  
14 adopted by the Commissioner.

15 4. The appeals officer may consider the opinion of an  
16 examining physician, chiropractic physician, physician assistant or  
17 advanced practice registered nurse, in addition to the opinion of an  
18 authorized treating physician, chiropractic physician, physician  
19 assistant or advanced practice registered nurse, in determining the  
20 compensation payable to the injured employee.

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

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

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

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

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



\* A B 4 4 1 R 2 \*



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

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

(a) The date of the hearing; or

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

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

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

11. References to a physician assistant and an advanced practice registered nurse in this section are for the purposes of the examination and treatment of an injured employee which are authorized to be provided by a physician assistant or advanced practice registered nurse in the exclusive context of an initial examination and treatment pursuant to NRS 616C.010.

**Sec. 7.** 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 chiropractic physician 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 chiropractic physician 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 chiropractic physician:

(1) The insurer shall select the rating physician or chiropractic physician from the list of qualified rating physicians and chiropractic physicians 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.

(2) Rating physicians and chiropractic physicians must be selected ~~in rotation~~ *at random* from the list of qualified physicians



\* A B 4 4 1 R 2 \*

1 and chiropractic physicians designated by the Administrator ~~[-~~  
2 ~~according to their area of specialization and the order in which their~~  
3 ~~names appear on the list]~~ unless the ~~[next]~~ physician or chiropractic  
4 physician *who is selected* is currently an employee of the insurer  
5 making the selection, in which case ~~[the insurer must select the]~~  
6 *another random selection must be made until a* physician or  
7 chiropractic physician ~~[who is next on the list and]~~ who is not  
8 currently an employee of the insurer ~~[-]~~ *is selected.*

9 *(3) A rating physician or chiropractic physician selected*  
10 *pursuant to subparagraph (1) or (2) may decline the selection if he*  
11 *or she believes he or she does not have the ability to rate the*  
12 *disability at issue.*

13 3. Notwithstanding any other provision of law, an injured  
14 employee or the legal representative of an injured employee may, at  
15 any time, without limitation, request that the Administrator select a  
16 rating physician or chiropractic physician from the list of qualified  
17 physicians and chiropractic physicians designated by the  
18 Administrator. The Administrator, upon receipt of the request, shall  
19 immediately select for the injured employee the rating physician or  
20 chiropractic physician ~~[who is next in rotation on]~~ *at random from*  
21 *the list . [-, according to the area of specialization.]*

22 4. If an insurer contacts a treating physician or chiropractic  
23 physician to determine whether an injured employee has suffered a  
24 permanent disability, the insurer shall deliver to the treating  
25 physician or chiropractic physician that portion or a summary of that  
26 portion of the American Medical Association's Guides to the  
27 Evaluation of Permanent Impairment as adopted by the Division  
28 pursuant to NRS 616C.110 that is relevant to the type of injury  
29 incurred by the employee.

30 5. At the request of the insurer, the injured employee shall,  
31 before an evaluation by a rating physician or chiropractic physician  
32 is performed, notify the insurer of:

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

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

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

41 6. Unless the regulations adopted pursuant to NRS 616C.110  
42 provide otherwise, a rating evaluation must include an evaluation  
43 of the loss of motion, sensation and strength of an injured employee  
44 if the injury is of a type that might have caused such a loss. Except  
45 in the case of claims accepted pursuant to NRS 616C.180, no factors



1 other than the degree of physical impairment of the whole person  
2 may be considered in calculating the entitlement to compensation  
3 for a permanent partial disability.

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

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

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

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

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

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

18 (c) Of 0.54 percent of the claimant's average monthly wage for  
19 injuries sustained on or after June 18, 1993, and before January 1,  
20 2000; and

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

23 ➤ Compensation must commence on the date of the injury or the  
24 day following the termination of temporary disability compensation,  
25 if any, whichever is later, and must continue on a monthly basis for  
26 5 years or until the claimant is 70 years of age, whichever is later.

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

29 10. If there is a previous disability, the percentage of disability  
30 for a subsequent injury must be determined pursuant to  
31 NRS 616C.099.

32 11. In the event of a dispute over an award of compensation for  
33 permanent partial disability, the insurer shall commence making  
34 installment payments to the injured employee for that portion of the  
35 award that is not in dispute:

36 (a) Not later than the date by which such payment is required  
37 pursuant to subsection 8 or 9, as applicable; and

38 (b) Without requiring the injured employee to make an election  
39 whether to receive his or her compensation in installment payments  
40 or in a lump sum.

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



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. 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.

*15. The Administrator shall prepare and publish on the Internet website of the Division an annual report which contains:*

*(a) The name of each rating physician or chiropractic physician who was selected in the immediately preceding year to conduct an evaluation to determine the extent of an employee's disability pursuant to this section; and*

*(b) For each rating physician or chiropractic physician identified pursuant to paragraph (a):*

*(1) The number of times the rating physician or chiropractic physician was selected to conduct an evaluation to determine the extent of an employee's disability; and*

*(2) The number of evaluations that the rating physician or chiropractic physician completed.*

**Sec. 8.** 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. Except as



\* A B 4 4 1 R 2 \*

otherwise provided in paragraph (d), 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;

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

(d) The right of the claimant to conclude or resolve any contested matter which is pending at the time that the claimant executes his or her election to receive his or her payment for a permanent partial disability in a lump sum. The provisions of this paragraph do not apply to:

(1) The scope of the claim;

(2) The claimant's stable and ratable status; and

(3) The claimant's average monthly wage.

3. The claimant, when he or she demands payment in a lump sum pursuant to subsection 2, 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.

4. 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.

5. 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.

6. 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



\* A B 4 4 1 R 2 \*

1 payments in the amounts prescribed in subsection 8 of NRS  
2 616C.490 and actuarial annuity tables adopted by the Division. The  
3 tables must be reviewed annually by a consulting actuary and must  
4 be adjusted accordingly on July 1 of each year by the Division  
5 using:

6 (a) The most recent unisex “Static Mortality Tables for Defined  
7 Benefit Pension Plans” published by the Internal Revenue Service;  
8 and

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

12 7. *To calculate the present value of a lump sum payable to a*  
13 *claimant, the insurer shall use the actuarial annuity tables*  
14 *adopted by the Division that are in effect on the date on which the*  
15 *claimant demands payment in a lump sum.*

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

20 **Sec. 9.** NRS 616D.140 is hereby amended to read as follows:

21 616D.140 1. If a person wishes to contest a decision of the  
22 Administrator to impose or refuse to impose a benefit penalty  
23 pursuant to NRS 616D.120, the person must file a notice of appeal  
24 with an appeals officer in accordance with this section. The notice  
25 of appeal must set forth the reasons the proposed benefit penalty  
26 should or should not be imposed.

27 2. A person who is aggrieved by:

28 (a) A written determination of the Administrator; or

29 (b) The failure of the Administrator to respond within 90 days to  
30 a written request mailed to the Administrator by the person who is  
31 aggrieved,

32 ↪ may appeal from the determination or failure to respond by filing  
33 a request for a hearing before an appeals officer. The request must  
34 be filed within 30 days after the date on which the notice of the  
35 Administrator’s determination was mailed by the Administrator or  
36 within ~~100~~ 120 days after the date on which the unanswered  
37 written request was mailed to the Administrator, as applicable. The  
38 failure of the Administrator to respond to a written request for a  
39 determination within 90 days after receipt of the request shall be  
40 deemed by the appeals officer to be a denial of the request. *After the*  
41 *expiration of the 90-day period after the receipt of the request, the*  
42 *Administrator shall have no further jurisdiction to issue a*  
43 *determination concerning the request, and only the appeals officer*  
44 *shall have jurisdiction over the decision to impose or refuse to*  
45 *impose the benefit penalty.*



3. If a notice of appeal is not filed as required by this section, the imposition of or refusal to impose the benefit penalty shall be deemed a final order and is not subject to review by any court or agency.

4. A hearing held pursuant to this section must be conducted by the appeals officer as a hearing de novo. The appeals officer shall render a written decision on the appeal. Except as otherwise provided in this section, the provisions of NRS 616C.345 to 616C.385, inclusive, apply to an appeal filed pursuant to this section.

5. A benefit penalty imposed pursuant to NRS 616D.120 must be paid to the claimant on whose behalf it is imposed. If such a payment is not made within the period required by NRS 616D.120, the benefit penalty may be recovered in a civil action brought by the Administrator ~~for on behalf of~~ *or* the claimant in a court of competent jurisdiction in the county in which the claimant resides, in which the violation occurred or in which the person who is required to pay the benefit penalty has his or her principal place of business.

6. Any party aggrieved by a decision issued pursuant to this section by an appeals officer may appeal the decision directly to the district court.

**Sec. 10.** (Deleted by amendment.)

**Sec. 10.5.** (Deleted by amendment.)

**Sec. 11.** 1. This section becomes effective upon passage and approval.

2. Sections 1 to 10.5, inclusive, of this act become effective upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on January 1, 2024, for all other purposes.

