

SENATE BILL NO. 168—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE DEPARTMENT OF BUSINESS AND  
INDUSTRY, INDUSTRIAL RELATIONS DIVISION)

FEBRUARY 19, 2003

---

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing industrial insurance.  
(BDR 53-466)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

~

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

---

---

AN ACT relating to industrial insurance; revising certain provisions governing the disclosure of information by the Division of Industrial Relations of the Department of Business and Industry relating to an uninsured employer or proof of industrial insurance coverage; authorizing a physician or chiropractor to delegate to a medical facility the duty to file a claim for compensation within a certain period after the physician or chiropractor provides treatment to an injured employee; authorizing the Administrator of the Division to impose administrative fines against such a medical facility under certain circumstances; authorizing a party who is aggrieved by certain determinations of the Division relating to the Uninsured Employers' Claim Account to appeal those determinations to an appeals officer under certain circumstances; requiring a person who wishes to contest a decision of the Administrator of the Division to impose an administrative fine or benefit penalty to file a notice of an appeal with an appeals officer within a certain period; and providing other matters properly relating thereto.



\* S B 1 6 8 R 1 \*

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

1       **Section 1.** Chapter 616A of NRS is hereby amended by  
2 adding thereto a new section to read as follows:  
3       *“Medical facility” means a hospital, clinic or other facility that*  
4 *provides treatment to an employee who:*  
5       1. *Is injured by an accident; or*  
6       2. *Contracts an occupational disease,*  
7 *arising out of and in the course of his employment.*  
8       **Sec. 2.** NRS 616A.025 is hereby amended to read as follows:  
9       616A.025 As used in chapters 616A to 616D, inclusive, of  
10 NRS, unless the context otherwise requires, the words and terms  
11 defined in NRS 616A.030 to 616A.360, inclusive, *and section 1 of*  
12 *this act* have the meanings ascribed to them in those sections.  
13       **Sec. 3.** NRS 616B.012 is hereby amended to read as follows:  
14       616B.012 1. Except as otherwise provided in this section and  
15 in NRS 616B.015, 616B.021 and 616C.205, information obtained  
16 from any insurer, employer or employee is confidential and may not  
17 be disclosed or be open to public inspection in any manner which  
18 would reveal the person’s identity.  
19       2. Any claimant or his legal representative is entitled to  
20 information from the records of the insurer, to the extent necessary  
21 for the proper presentation of a claim in any proceeding under  
22 chapters 616A to 616D, inclusive, or chapter 617 of NRS.  
23       3. The Division and Administrator are entitled to information  
24 from the records of the insurer which is necessary for the  
25 performance of their duties. The Administrator may, by regulation,  
26 prescribe the manner in which otherwise confidential information  
27 may be made available to:  
28       (a) Any agency of this or any other state charged with the  
29 administration or enforcement of laws relating to industrial  
30 insurance, unemployment compensation, public assistance or labor  
31 law and industrial relations;  
32       (b) Any state or local agency for the enforcement of child  
33 support;  
34       (c) The Internal Revenue Service of the Department of the  
35 Treasury;  
36       (d) The Department of Taxation; and  
37       (e) The State Contractors’ Board in the performance of its duties  
38 to enforce the provisions of chapter 624 of NRS.  
39 Information obtained in connection with the administration of a  
40 program of industrial insurance may be made available to persons or  
41 agencies for purposes appropriate to the operation of a program of  
42 industrial insurance.



1 4. Upon written request made by a public officer of a local  
2 government, an insurer shall furnish from its records the name,  
3 address and place of employment of any person listed in its records.  
4 The request must set forth the social security number of the person  
5 about whom the request is made and contain a statement signed by  
6 proper authority of the local government certifying that the request  
7 is made to allow the proper authority to enforce a law to recover a  
8 debt or obligation owed to the local government. The information  
9 obtained by the local government is confidential and may not be  
10 used or disclosed for any purpose other than the collection of a debt  
11 or obligation owed to ~~that~~ *the* local government. The insurer may  
12 charge a reasonable fee for the cost of providing the requested  
13 information.

14 5. To further a current criminal investigation, the chief  
15 executive officer of any law enforcement agency of this state may  
16 submit to the Administrator a written request for the name, address  
17 and place of employment of any person listed in the records of an  
18 insurer. The request must set forth the social security number of the  
19 person about whom the request is made and contain a statement  
20 signed by the chief executive officer certifying that the request is  
21 made to further a criminal investigation currently being conducted  
22 by the agency. Upon receipt of a request, the Administrator shall  
23 instruct the insurer to furnish the information requested. Upon  
24 receipt of such an instruction, the insurer shall furnish the  
25 information requested. The insurer may charge a reasonable fee to  
26 cover any related administrative expenses.

27 6. Upon request by the Department of Taxation, the  
28 Administrator shall provide:

- 29 (a) Lists containing the names and addresses of employers; and  
30 (b) Other information concerning employers collected and  
31 maintained by the Administrator or the Division to carry out the  
32 purposes of chapters 616A to 616D, inclusive, or chapter 617 of  
33 NRS,  
34 to the Department for its use in verifying returns for the business  
35 tax. The Administrator may charge a reasonable fee to cover any  
36 related administrative expenses.

37 7. Any person who, in violation of this section, discloses  
38 information obtained from files of claimants or policyholders or  
39 obtains a list of claimants or policyholders under chapters 616A to  
40 616D, inclusive, or chapter 617 of NRS and uses or permits the use  
41 of the list for any political purposes, is guilty of a gross  
42 misdemeanor.

43 8. All letters, reports or communications of any kind, oral or  
44 written, from the insurer, or any of its agents, representatives or  
45 employees are privileged and must not be the subject matter or basis



1 for any lawsuit if the letter, report or communication is written, sent,  
2 delivered or prepared pursuant to the requirements of chapters 616A  
3 to 616D, inclusive, or chapter 617 of NRS.

4 *9. The provisions of this section do not prohibit the*  
5 *Administrator or Division from disclosing any nonproprietary*  
6 *information relating to an uninsured employer or proof of*  
7 *industrial insurance.*

8 **Sec. 4.** NRS 616C.040 is hereby amended to read as follows:

9 616C.040 1. ~~[A]~~ *Except as otherwise provided in this*  
10 *section, a* treating physician or chiropractor shall, within 3 working  
11 days after ~~[he first treats]~~ *first providing treatment to* an injured  
12 employee for a particular injury, complete and file *a claim for*  
13 *compensation* with the employer of the injured employee and the  
14 employer's insurer. ~~[a claim for compensation.]~~ If the employer is  
15 a self-insured employer, the treating physician or chiropractor shall  
16 file the claim for compensation with the employer's third-party  
17 administrator. If the physician or chiropractor files the claim for  
18 compensation by electronic transmission, ~~[he]~~ *the physician or*  
19 *chiropractor* shall, upon request, mail to the insurer or third-party  
20 administrator the form that contains the original signatures of the  
21 injured employee and the physician or chiropractor. The form must  
22 be mailed within 7 days after receiving such a request.

23 2. *A physician or chiropractor who has a duty to file a claim*  
24 *for compensation pursuant to subsection 1 may delegate the duty*  
25 *to a medical facility. If the physician or chiropractor delegates the*  
26 *duty to a medical facility:*

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

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

30 (1) *The physician or chiropractor; and*

31 (2) *An authorized representative of the medical facility.*

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

34 ~~[3.]~~ 4. If a claim for compensation is accompanied by a  
35 certificate of disability, the certificate must include a description of  
36 any limitation or restrictions on the injured employee's ability to  
37 work.

38 ~~[4.]~~ 5. Each physician, chiropractor and medical facility that  
39 treats injured employees, each insurer, third-party administrator and  
40 employer, and the Division shall maintain at their offices a sufficient  
41 supply of the forms prescribed by the Administrator for filing a  
42 claim for compensation.

43 ~~[5.]~~ 6. The Administrator ~~[shall]~~ *may* impose an administrative  
44 fine of not more than \$1,000 ~~[on a physician or chiropractor]~~  
45 for each violation of subsection 1 ~~[.]~~ *on:*



- 1       (a) *A physician or chiropractor; or*
- 2       (b) *A medical facility if the duty to file the claim for*
- 3       *compensation has been delegated to the medical facility pursuant*
- 4       *to this section.*

5       **Sec. 5.** NRS 616C.045 is hereby amended to read as follows:  
6       616C.045 1. Except as otherwise provided in NRS 616B.727,  
7       within 6 working days after the receipt of a claim for compensation  
8       from a physician or chiropractor, *or a medical facility if the duty to*  
9       *file the claim for compensation has been delegated to the medical*  
10       *facility pursuant to NRS 616C.040*, an employer shall complete and  
11       file with his insurer or third-party administrator an employer's  
12       report of industrial injury or occupational disease.

- 13       2. The report must:
  - 14       (a) Be *filed* on a form prescribed by the Administrator;
  - 15       (b) Be signed by the employer or his designee;
  - 16       (c) Contain specific answers to all questions required by the
  - 17       regulations of the Administrator; and
  - 18       (d) Be accompanied by a statement of the wages of the
  - 19       employee if the claim for compensation received from the treating
  - 20       physician or chiropractor , *or a medical facility if the duty to file*  
21       *the claim for compensation has been delegated to the medical*  
22       *facility pursuant to NRS 616C.040*, indicates that the injured  
23       employee is expected to be off work for 5 days or more.

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

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

31       **Sec. 6.** NRS 616C.220 is hereby amended to read as follows:  
32       616C.220 1. The Division shall designate one:  
33       (a) Third-party administrator who has a valid certificate issued  
34       by the Commissioner pursuant to NRS 683A.085; or  
35       (b) Insurer, other than a self-insured employer or association of  
36       self-insured public or private employers,  
37       to administer claims against the Uninsured Employers' Claim  
38       Account. The designation must be made pursuant to reasonable  
39       competitive bidding procedures established by the Administrator.

- 40       2. Except as otherwise provided in this subsection, an  
41       employee may receive compensation from the Uninsured  
42       Employers' Claim Account if:
  - 43       (a) He was hired in this state or he is regularly employed in this
  - 44       state;



- 1 (b) He suffers an accident or injury which arises out of and in
- 2 the course of his employment:
- 3 (1) In this state; or
- 4 (2) While on temporary assignment outside the State for ~~fa~~
- 5 ~~period of~~ not more than 12 months;
- 6 (c) He files a claim for compensation with the Division; and
- 7 (d) He makes an irrevocable assignment to the Division of a
- 8 right to be subrogated to the rights of the injured employee pursuant
- 9 to NRS 616C.215.
- 10 An employee who suffers an accident or injury while on temporary
- 11 assignment outside the State is not eligible to receive compensation
- 12 from the Uninsured Employers' Claim Account unless he has been
- 13 denied workers' compensation in the state in which the accident or
- 14 injury occurred.
- 15 3. If the Division receives a claim pursuant to subsection 2, the
- 16 Division shall immediately notify the employer of the claim.
- 17 4. For the purposes of this section, the employer has the burden
- 18 of proving that he provided mandatory industrial insurance coverage
- 19 for the employee or that he was not required to maintain industrial
- 20 insurance for the employee.
- 21 5. Any employer who has failed to provide mandatory
- 22 coverage required by the provisions of chapters 616A to 616D,
- 23 inclusive, of NRS is liable for all payments made on his behalf,
- 24 including any benefits, administrative costs or attorney's fees paid
- 25 from the Uninsured Employers' Claim Account or incurred by the
- 26 Division.
- 27 6. The Division:
- 28 (a) May recover from the employer the payments made by the
- 29 Division that are described in subsection 5 and any accrued interest
- 30 by bringing a civil action in district court.
- 31 (b) In any civil action brought against the employer, is not
- 32 required to prove that negligent conduct by the employer was the
- 33 cause of the employee's injury.
- 34 (c) May enter into a contract with any person to assist in the
- 35 collection of any liability of an uninsured employer.
- 36 (d) In lieu of a civil action, may enter into an agreement or
- 37 settlement regarding the collection of any liability of an uninsured
- 38 employer.
- 39 7. The Division shall:
- 40 (a) Determine whether the employer was insured within 30 days
- 41 after receiving notice of the claim from the employee.
- 42 (b) Assign the claim to the third-party administrator or insurer
- 43 designated pursuant to subsection 1 for administration and payment
- 44 of compensation.



1 Upon determining whether the claim is accepted or denied, the  
2 designated third-party administrator or insurer shall notify the  
3 injured employee, the named employer and the Division of its  
4 determination.

5 8. Upon demonstration of the:

6 (a) Costs incurred by the designated third-party administrator or  
7 insurer to administer the claim or pay compensation to the injured  
8 employee; or

9 (b) Amount that the designated third-party administrator or  
10 insurer will pay for administrative expenses or compensation to the  
11 injured employee and that such amounts are justified by the  
12 circumstances of the claim,  
13 the Division shall authorize payment from the Uninsured  
14 Employers' Claim Account.

15 9. Any party aggrieved by a determination ~~regarding the~~  
16 ~~administration of an assigned claim or a determination~~ made by the  
17 Division ~~for by the designated third party administrator or insurer~~  
18 regarding *the assignment of* any claim made pursuant to this section  
19 may appeal that determination *by filing a notice of appeal with an*  
20 *appeals officer* within ~~{60}~~ 30 days after the determination is  
21 rendered. *The provisions of NRS 616C.345 to 616C.385, inclusive,*  
22 *apply to an appeal filed pursuant to this subsection.*

23 10. *Any party aggrieved by a determination to accept or to*  
24 *deny any claim made pursuant to this section or by a*  
25 *determination to pay or to deny the payment of compensation*  
26 *regarding any claim made pursuant to this section may appeal that*  
27 *determination, within 70 days after the determination is rendered,*  
28 *to the Hearings Division of the Department of Administration in the*  
29 *manner provided by NRS 616C.305 and 616C.315 . ~~to 616C.385,~~*  
30 *inclusive.*

31 ~~—10.~~ 11. All insurers shall bear a proportionate amount of a  
32 claim made pursuant to chapters 616A to 616D, inclusive, of NRS,  
33 and are entitled to a proportionate amount of any collection made  
34 pursuant to this section as an offset against future liabilities.

35 ~~{11.}~~ 12. An uninsured employer is liable for the interest on  
36 any amount paid on his claims from the Uninsured Employers'  
37 Claim Account. The interest must be calculated at a rate equal to the  
38 prime rate at the largest bank in Nevada, as ascertained by the  
39 Commissioner of Financial Institutions, on January 1 or July 1, as  
40 the case may be, immediately preceding the date of the claim, plus 3  
41 percent, compounded monthly, from the date the claim is paid from  
42 the Account until payment is received by the Division from the  
43 employer.

44 ~~{12.}~~ 13. Attorney's fees recoverable by the Division pursuant  
45 to this section must be:





1 (a) If a private attorney is retained by the Division, paid at the  
2 usual and customary rate for that attorney.

3 (b) If the attorney is an employee of the Division, paid at the  
4 rate established by regulations adopted by the Division.

5 Any money collected must be deposited to the Uninsured  
6 Employers' Claim Account.

7 ~~{13.}~~ 14. In addition to any other liabilities provided for in this  
8 section, the Administrator may impose an administrative fine of not  
9 more than \$10,000 against an employer if the employer fails to  
10 provide mandatory coverage required by the provisions of chapters  
11 616A to 616D, inclusive, of NRS.

12 **Sec. 7.** NRS 616C.340 is hereby amended to read as follows:

13 616C.340 1. The Governor shall appoint one or more appeals  
14 officers to conduct hearings ~~fin-contested claims for compensation~~  
15 ~~pursuant to NRS 616C.360.~~ *and appeals as required pursuant to*  
16 *chapters 616A to 617, inclusive, of NRS.* Each appeals officer shall  
17 hold office for 2 years ~~from~~ *after* the date of his appointment and  
18 until his successor is appointed and has qualified. Each appeals  
19 officer is entitled to receive an annual salary in an amount provided  
20 by law and is in the unclassified service of the State.

21 2. Each appeals officer must be an attorney who has been  
22 licensed to practice law before all the courts of this state for at least  
23 2 years. Except as otherwise provided in NRS 7.065, an appeals  
24 officer shall not engage in the private practice of law.

25 3. If an appeals officer determines that he has a personal  
26 interest or a conflict of interest, directly or indirectly, in any case  
27 which is before him, he shall disqualify himself from hearing the  
28 case.

29 4. The Governor may appoint one or more special appeals  
30 officers to conduct hearings ~~fin-contested claims for compensation~~  
31 ~~pursuant to NRS 616C.360.~~ *and appeals as required pursuant to*  
32 *chapters 616A to 617, inclusive, of NRS.* The Governor shall not  
33 appoint an attorney who represents persons in actions related to  
34 claims for compensation to serve as a special appeals officer.

35 5. A special appeals officer appointed pursuant to subsection 4  
36 is vested with the same powers as a regular appeals officer. A  
37 special appeals officer may hear any case in which a regular appeals  
38 officer has a conflict, or any case assigned to him by the Senior  
39 Appeals Officer to assist with a backlog of cases. A special appeals  
40 officer is entitled to be paid at an hourly rate, as determined by the  
41 Department of Administration.

42 6. The decision of an appeals officer is the final and binding  
43 administrative determination of a claim for compensation under  
44 chapters 616A to 616D, inclusive, or chapter 617 of NRS, and the  
45 whole record consists of all evidence taken at the hearing before the





1 appeals officer and any findings of fact and conclusions of law  
2 based thereon.

3 **Sec. 8.** NRS 616C.345 is hereby amended to read as follows:

4 616C.345 1. Any party aggrieved by a decision of the  
5 hearing officer relating to a claim for compensation may appeal  
6 from the decision by filing a notice of appeal with an appeals officer  
7 within 30 days after the date of the decision.

8 2. If a dispute is required to be submitted to a procedure for  
9 resolving complaints pursuant to NRS 616C.305 and:

10 (a) A final determination was rendered pursuant to that  
11 procedure; or

12 (b) The dispute was not resolved pursuant to that procedure  
13 within 14 days after it was submitted,

14 any party to the dispute may file a notice of appeal within 70 days  
15 after the date on which the final determination was mailed to the  
16 employee, or his dependent, or the unanswered request for  
17 resolution was submitted. Failure to render a written determination  
18 within 30 days after receipt of such a request shall be deemed by the  
19 appeals officer to be a denial of the request.

20 3. Except as otherwise provided in NRS 616C.380, the filing of  
21 a notice of appeal does not automatically stay the enforcement of the  
22 decision of a hearing officer or a determination rendered pursuant to  
23 NRS 616C.305. The appeals officer may order a stay, when  
24 appropriate, upon the application of a party. If such an application is  
25 submitted, the decision is automatically stayed until a determination  
26 is made concerning the application. A determination on the  
27 application must be made within 30 days after the filing of  
28 the application. If a stay is not granted by the officer after reviewing  
29 the application, the decision must be complied with within 10 days  
30 after the date of the refusal to grant a stay.

31 4. Except as otherwise provided in this subsection, ~~the appeals~~  
32 ~~officer shall,~~ within 10 days after receiving a notice of appeal  
33 pursuant to this section *or NRS 616C.220 or 617.401*, or *within 10*  
34 *days after receiving a notice of* a contested claim pursuant to  
35 subsection 5 of NRS 616C.315, *the appeals officer shall* schedule a  
36 hearing on the merits of the appeal or contested claim for a date and  
37 time within 90 days after his receipt of the notice and give notice by  
38 mail or by personal service to all parties to the matter and their  
39 attorneys or agents at least 30 days before the date and time  
40 scheduled. A request to schedule the hearing for a date and time  
41 which is:

42 (a) Within 60 days after the receipt of the notice of appeal or  
43 contested claim; or

44 (b) More than 90 days after the receipt of the notice or  
45 claim,



1 may be submitted to the appeals officer only if all parties to the  
2 appeal or contested claim agree to the request.

3 5. An appeal or contested claim may be continued upon written  
4 stipulation of all parties, or upon good cause shown.

5 6. Failure to file a notice of appeal within the period specified  
6 in subsection 1 or 2 may be excused if the party aggrieved shows by  
7 a preponderance of the evidence that he did not receive the notice of  
8 the determination and the forms necessary to appeal the  
9 determination. The claimant, employer or insurer shall notify the  
10 hearing officer of a change of address.

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

12 616D.140 1. If a person wishes to contest a decision of the  
13 Administrator to impose an administrative fine or benefit penalty  
14 pursuant to this chapter or chapter 616A, 616B, 616C or 617 of  
15 NRS, he must file a notice of appeal with ~~the Division within 10~~  
16 *an appeals officer within 30* days after receipt of the  
17 Administrator's decision, showing why the proposed fine or benefit  
18 penalty should not be imposed.

19 2. If a notice of appeal is filed as required by subsection 1, the  
20 ~~Administrator~~ *appeals officer* shall, in accordance with the  
21 provisions of NRS 233B.121, issue a notice of hearing that must  
22 include a date for a hearing on the matter, which must be no sooner  
23 than 30 days after the notice of appeal is filed. The ~~Administrator~~  
24 *appeals officer* may grant a continuance of the hearing upon a  
25 showing of good cause.

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

29 4. ~~Except as otherwise provided in NRS 616A.467, a~~ A  
30 hearing held pursuant to this section must be conducted by the  
31 ~~Administrator or a person designated by him.~~ *appeals officer*. A  
32 record of the hearing must be kept, but it need not be transcribed  
33 unless it is requested by the person against whom the order or notice  
34 of violation has been issued and that person pays the cost of  
35 transcription. The ~~Administrator~~ *appeals officer* shall render a  
36 written decision on the appeal.

37 5. An administrative fine imposed pursuant to this chapter or  
38 chapter 616A, 616B, 616C or 617 of NRS must be paid to the  
39 Division. If the violation for which the fine is levied was committed  
40 by a person while acting within the course and scope of his agency  
41 or employment, the fine must be paid by his principal or employer.  
42 The fine may be recovered in a civil action brought in the name of  
43 the Division in a court of competent jurisdiction in the county in  
44 which the violation occurred or in which the person against whom  
45 the fine is levied has his principal place of business.



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

9 7. Any party aggrieved by a decision of ~~the Administrator~~ *an*  
10 *appeals officer* rendered pursuant to this section may appeal the  
11 decision directly to the district court.

12 **Sec. 10.** NRS 617.352 is hereby amended to read as follows:

13 617.352 1. ~~A~~ *Except as otherwise provided in this section,*  
14 *a* treating physician or chiropractor shall, within 3 working days  
15 after ~~he first treats~~ *first providing treatment to* an employee who  
16 has incurred an occupational disease, complete and file *a claim for*  
17 *compensation* with the employer of the employee and the  
18 employer's insurer. ~~[- a claim for compensation.]~~ If the employer is  
19 a self-insured employer, the treating physician or chiropractor shall  
20 file the claim for compensation with the employer's third-party  
21 administrator. If the physician or chiropractor files the claim for  
22 compensation by electronic transmission, ~~he~~ *the physician or*  
23 *chiropractor* shall, upon request, mail to the insurer or third-party  
24 administrator the form that contains the original signatures of the  
25 employee and the physician or chiropractor. The form must be  
26 mailed within 7 days after receiving such a request.

27 2. *A physician or chiropractor who has a duty to file a claim*  
28 *for compensation pursuant to subsection 1 may delegate the duty*  
29 *to a medical facility. If the physician or chiropractor delegates the*  
30 *duty to a medical facility:*

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

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

34 *(1) The physician or chiropractor; and*

35 *(2) An authorized representative of the medical facility.*

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

38 ~~3.~~ 4. If a claim for compensation is accompanied by a  
39 certificate of disability, the certificate must include a description of  
40 any limitation or restrictions on the injured employee's ability to  
41 work.

42 ~~4.~~ 5. Each physician, chiropractor and medical facility that  
43 treats injured employees who have incurred occupational diseases,  
44 each insurer, third-party administrator and employer, and the  
45 Division shall maintain at their offices a sufficient supply of the



1 forms prescribed by the Administrator for filing a claim for  
2 compensation.

3 ~~[5.]~~ 6. The Administrator ~~[shall]~~ *may* impose an administrative  
4 fine of not more than \$1,000 ~~[against a physician or chiropractor]~~  
5 for each violation of subsection 1 ~~[.]~~ *on:*

- 6 (a) *A physician or chiropractor; or*
- 7 (b) *A medical facility if the duty to file the claim for*  
8 *compensation has been delegated to the medical facility pursuant*  
9 *to this section.*

10 **Sec. 11.** NRS 617.354 is hereby amended to read as follows:

11 617.354 1. Except as otherwise provided in NRS 616B.727,  
12 within 6 working days after the receipt of a claim for compensation  
13 from a physician or chiropractor, *or a medical facility if the duty to*  
14 *file the claim for compensation has been delegated to the medical*  
15 *facility pursuant to NRS 617.352*, an employer shall complete and  
16 file with his insurer or third-party administrator an employer's  
17 report of industrial injury or occupational disease.

18 2. The report must:

- 19 (a) Be *filed* on a form prescribed by the Administrator;
- 20 (b) Be signed by the employer or his designee;
- 21 (c) Contain specific answers to all questions required by the  
22 regulations of the Department; and
- 23 (d) Be accompanied by a statement of the wages of the  
24 employee if the claim for compensation received from the treating  
25 physician or chiropractor, *or a medical facility if the duty to file*  
26 *the claim for compensation has been delegated to the medical*  
27 *facility pursuant to NRS 617.352*, indicates that the employee is  
28 expected to be off work for 5 days or more.

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

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

37 **Sec. 12.** NRS 617.401 is hereby amended to read as follows:

38 617.401 1. The Division shall designate one:

- 39 (a) Third-party administrator who has a valid certificate issued  
40 by the Commissioner pursuant to NRS 683A.085; or
- 41 (b) Insurer, other than a self-insured employer or association of  
42 self-insured public or private employers,  
43 to administer claims against the Uninsured Employers' Claim  
44 Account. The designation must be made pursuant to reasonable  
45 competitive bidding procedures established by the Administrator.



1 2. Except as otherwise provided in this subsection, an  
2 employee may receive compensation from the Uninsured  
3 Employers' Claim Account if:

4 (a) He was hired in this state or he is regularly employed in this  
5 state;

6 (b) He contracts an occupational disease that arose out of and in  
7 the course of employment:

8 (1) In this state; or

9 (2) While on temporary assignment outside the State for ~~fa~~  
10 ~~period of~~ not more than 12 months;

11 (c) He files a claim for compensation with the Division; and

12 (d) He makes an irrevocable assignment to the Division of a  
13 right to be subrogated to the rights of the employee pursuant to  
14 NRS 616C.215.

15 An employee who contracts an occupational disease that arose out  
16 of and in the course of employment while on temporary assignment  
17 outside the State is not entitled to receive compensation from the  
18 Uninsured Employers' Claim Account unless he has been denied  
19 workers' compensation in the state in which the disease was  
20 contracted.

21 3. If the Division receives a claim pursuant to subsection 2, the  
22 Division shall immediately notify the employer of the claim.

23 4. For the purposes of this section, the employer has the burden  
24 of proving that he provided mandatory coverage for occupational  
25 diseases for the employee or that he was not required to maintain  
26 industrial insurance for the employee.

27 5. Any employer who has failed to provide mandatory  
28 coverage required by the provisions of this chapter is liable for all  
29 payments made on his behalf, including, but not limited to, any  
30 benefits, administrative costs or attorney's fees paid from the  
31 Uninsured Employers' Claim Account or incurred by the Division.

32 6. The Division:

33 (a) May recover from the employer the payments made by the  
34 Division that are described in subsection 5 and any accrued interest  
35 by bringing a civil action in district court.

36 (b) In any civil action brought against the employer, is not  
37 required to prove that negligent conduct by the employer was the  
38 cause of the occupational disease.

39 (c) May enter into a contract with any person to assist in the  
40 collection of any liability of an uninsured employer.

41 (d) In lieu of a civil action, may enter into an agreement or  
42 settlement regarding the collection of any liability of an uninsured  
43 employer.

44 7. The Division shall:



1 (a) Determine whether the employer was insured within 30 days  
2 after receiving the claim from the employee.

3 (b) Assign the claim to the third-party administrator or insurer  
4 designated pursuant to subsection 1 for administration and payment  
5 of compensation.

6 Upon determining whether the claim is accepted or denied, the  
7 designated third-party administrator or insurer shall notify the  
8 injured employee, the named employer and the Division of its  
9 determination.

10 8. Upon demonstration of the:

11 (a) Costs incurred by the designated third-party administrator or  
12 insurer to administer the claim or pay compensation to the injured  
13 employee; or

14 (b) Amount that the designated third-party administrator or  
15 insurer will pay for administrative expenses or compensation to the  
16 injured employee and that such amounts are justified by the  
17 circumstances of the claim,  
18 the Division shall authorize payment from the Uninsured  
19 Employers' Claim Account.

20 9. Any party aggrieved by a determination ~~regarding the~~  
21 ~~administration of an assigned claim or a determination~~ made by the  
22 Division ~~for by the designated third party administrator or insurer~~  
23 regarding *the assignment of* any claim made pursuant to this section  
24 may appeal that determination *by filing a notice of appeal with an*  
25 *appeals officer* within ~~60~~ 30 days after the determination is  
26 rendered. *The provisions of NRS 616C.345 to 616C.385, inclusive,*  
27 *apply to an appeal filed pursuant to this subsection.*

28 *10. Any party aggrieved by a determination to accept or to*  
29 *deny any claim made pursuant to this section or by a*  
30 *determination to pay or to deny the payment of compensation*  
31 *regarding any claim made pursuant to this section may appeal that*  
32 *determination, within 70 days after the determination is rendered,*  
33 *to the Hearings Division of the Department of Administration in the*  
34 *manner provided by NRS 616C.305 and 616C.315 . ~~to 616C.385,~~*  
35 *inclusive.*

36 ~~10.]~~ *11.* All insurers shall bear a proportionate amount of a  
37 claim made pursuant to this chapter, and are entitled to a  
38 proportionate amount of any collection made pursuant to this section  
39 as an offset against future liabilities.

40 ~~11.]~~ *12.* An uninsured employer is liable for the interest on  
41 any amount paid on his claims from the Uninsured Employers'  
42 Claim Account. The interest must be calculated at a rate equal to the  
43 prime rate at the largest bank in Nevada, as ascertained by the  
44 Commissioner of Financial Institutions, on January 1 or July 1, as  
45 the case may be, immediately preceding the date of the claim, plus 3



1 percent, compounded monthly, from the date the claim is paid from  
2 the Account until payment is received by the Division from the  
3 employer.

4 ~~12.~~ **13.** Attorney's fees recoverable by the Division pursuant  
5 to this section must be:

6 (a) If a private attorney is retained by the Division, paid at the  
7 usual and customary rate for that attorney.

8 (b) If the attorney is an employee of the Division, paid at the  
9 rate established by regulations adopted by the Division.

10 Any money collected must be deposited to the Uninsured  
11 Employers' Claim Account.

12 ~~13.~~ **14.** In addition to any other liabilities provided for in this  
13 section, the Administrator may impose an administrative fine of not  
14 more than \$10,000 against an employer if the employer fails to  
15 provide mandatory coverage required by the provisions of this  
16 chapter.

17 **Sec. 13.** This act becomes effective on July 1, 2003.

