

SENATE BILL NO. 289—SENATOR D. HARRIS

MARCH 22, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to workers' compensation. (BDR 53-713)

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

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

AN ACT relating to workers' compensation; establishing provisions relating to the apportionment of percentages for present and previous disabilities; requiring an insurer to send a written determination regarding an industrial insurance claim by facsimile or other electronic transmission under certain circumstances; making compensation for an industrial injury or occupational disease subject to an attorney's lien; providing for the tolling of certain periods to request a hearing or appeal under certain circumstances; providing for an award of certain costs to a claimant who prevails in a contested claim; providing for the reservation of certain additional rights of a claimant who accepts a lump sum payment for a permanent partial disability; revising provisions governing the appointment of a vocational rehabilitation counselor for an injured employee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires, in a case where an injured employee is determined to
2 have a permanent partial disability and there is a previous disability, an
3 apportionment to be made by subtracting the percentage of previous disability as it
4 existed at the time of the previous disability from the percentage of present
5 disability as it existed at the time of the present disability. (NRS 616C.490)
6 **Sections 1 and 7** of this bill revise these provisions to prohibit: (1) an
7 apportionment of percentages of disabilities where no rating evaluation was
8 performed for the previous disability unless the insurer proves by a preponderance
9 of the evidence that certain specific medical evidence supports a specific



percentage of previous disability; and (2) any reduction of the percentage of present impairment if no medical documentation or health care records of a preexisting impairment exist, unless certain other evidentiary requirements are satisfied. **Section 7** also requires an insurer to commence making installment payments to an injured employee, within a specified period of time and without requiring the employee to elect a method of payment, for that portion of an award of compensation for permanent partial disability which is not in dispute.

Existing law requires an injured employee to submit to an examination and any necessary immediate medical attention by a physician or chiropractor and requires the physician or chiropractor to complete and file a claim for compensation. (NRS 616C.010, 616C.040, 616C.075, 616C.095) **Sections 1.4, 1.6, 2.2 and 2.4** of this bill authorize the examination and treatment to be provided by a physician assistant or advanced practice registered nurse and, if so provided, require the physician assistant or advanced practice registered nurse to file a claim for compensation and provide a copy of the claim form to the injured employee.

Existing law requires an insurer to mail a written determination regarding a claim for compensation under industrial insurance. (NRS 616C.065, 617.356) **Sections 2 and 10** of this bill require the insurer to send its determination by facsimile or other electronic transmission, if so requested, to the claimant or the person acting on behalf of the claimant and retain proof of successful transmission of the facsimile.

Existing law provides that, except in matters relating to child support, compensation payable or paid for an industrial injury or occupational disease is not assignable and is exempt from attachment, garnishment and execution. (NRS 616C.205) **Section 3** of this bill provides that such compensation may also be subject to an attorney's lien.

Existing law sets forth certain limits on the period of time in which an aggrieved party may request a hearing before a hearing officer or appeal from a decision of a hearing officer. (NRS 616C.315, 616C.345) **Sections 4 and 6** of this bill provide that periods within which a request for a hearing or an appeal may be filed may be tolled if the insurer fails to mail or, if so requested, send by facsimile or other electronic transmission a determination regarding a claim for compensation.

Existing law provides that if a contested claim for compensation is decided in favor of the claimant, he or she is entitled to an award of interest. (NRS 616C.335) **Section 5** of this bill provides that the claimant is also entitled to an award of certain costs and sets forth the procedure for requesting costs and adjudicating disputes for such costs.

Existing law provides that a claimant who elects to receive and accepts payment for a permanent partial disability in a lump sum terminates the claimant's benefits and waives certain rights regarding his or her claim, except the right to reopen his or her claim, have the claim considered by his or her insurer, certain rehabilitative services and the right to receive a benefit penalty. (NRS 616C.495) **Section 8** of this bill provides that the claimant also reserves the right to conclude or resolve any contested matter, with certain exceptions, which is pending at the time of the election of payment for a permanent partial disability in a lump sum.

Existing law authorizes an insurer or injured employee to request a vocational rehabilitation counselor to prepare a written assessment of the injured employee. (NRS 616C.550) Existing law requires the vocational rehabilitation counselor to develop a plan for a program of vocational rehabilitation for each eligible injured employee. (NRS 616C.555) Existing law further provides that where a written assessment is requested or a plan for a program of vocational rehabilitation is required and the insurer or injured employee or personal or legal representative of the injured employee are unable to agree on the appointment of a vocational rehabilitation counselor, the insurer shall submit a list of at least three vocational



65 rehabilitation counselors to the injured employee or personal or legal representative
66 of the injured employee. (NRS 616C.541) **Section 9** of this bill requires the
67 counselors listed to be employed by at least three different organizations or entities.

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

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

3 1. *If a rating evaluation was completed for a previous*
4 *disability involving a condition, occupational disease, organ,*
5 *anatomical structure or other part of the body that is identical to*
6 *the condition, occupational disease, organ, anatomical structure*
7 *or other part of the body being evaluated for the present disability,*
8 *the percentage of disability for a subsequent injury must be*
9 *determined by deducting the percentage of the previous disability*
10 *from the percentage of the present disability, regardless of the*
11 *edition of the American Medical Association's Guides to the*
12 *Evaluation of Permanent Impairment as adopted by the Division*
13 *pursuant to NRS 616C.110 used to determine the percentage of*
14 *the previous disability. The compensation awarded for a*
15 *permanent disability on a subsequent injury must be reduced only*
16 *by the awarded or agreed upon percentage of disability actually*
17 *received by the injured employee for the previous injury regardless*
18 *of the percentage of the previous disability.*

19 2. *If no rating evaluation performed before the date of injury*
20 *or onset of the occupational disease exists for apportionment of*
21 *percentage of present and previous disabilities pursuant to*
22 *subsection 1, the percentage of the present disability must not be*
23 *reduced unless:*

24 (a) *The insurer proves by a preponderance of the evidence that*
25 *medical documentation or health care records that existed before*
26 *the date of the injury or onset of the occupational disease that*
27 *resulted in the present disability demonstrate evidence that the*
28 *injured employee had an actual impairment or disability involving*
29 *the condition, occupational disease, organ, anatomical structure*
30 *or other part of the body that is the subject of the present*
31 *disability; and*

32 (b) *The rating physician or chiropractor states to a reasonable*
33 *degree of medical or chiropractic probability that, based upon the*
34 *specific information in the preexisting medical documentation or*
35 *health care records, the injured employee would have had a*
36 *specific percentage of disability immediately before the date of the*
37 *injury or the onset of the occupational disease if, in the instant*
38 *before the injury or the onset of the occupational disease, the*



1 *injured employee had been evaluated under the edition of the*
2 *American Medical Association's Guides to the Evaluation of*
3 *Permanent Impairment that had been adopted by the Division*
4 *pursuant to NRS 616C.110.*

5 3. *The documentation or records relied upon pursuant to*
6 *subsection 2 must provide specific references to one or more of the*
7 *following:*

- 8 (a) *Diagnoses;*
- 9 (b) *Measurements;*
- 10 (c) *Imaging studies;*
- 11 (d) *Laboratory testing; or*

12 (e) *Other commonly relied upon medical evidence that*
13 *supports the finding of a preexisting ratable impairment under the*
14 *specific provisions of the edition of the American Medical*
15 *Association's Guides to the Evaluation of Permanent Impairment*
16 *that had been adopted by the Division pursuant to NRS 616C.110*
17 *at the time of that rating evaluation.*

18 4. *If there is physical evidence of a prior surgery to the same*
19 *organ, anatomical structure or other part of the body being*
20 *evaluated for the present disability but no medical documentation*
21 *or health care records regarding that organ, anatomical structure*
22 *or other part of the body can be obtained, the rating physician or*
23 *chiropractor may apportion the rating provided that the applicable*
24 *requirements of subsection 2, other than any requirement to:*

- 25 (a) *Have medical documentation or health care records; or*
- 26 (b) *Base a rating upon medical documentation or health care*
27 *records,*

28 *↪ are satisfied.*

29 5. *If there is no physical evidence of a prior surgery to the*
30 *same organ, anatomical structure or other part of the body being*
31 *evaluated for the present disability and no medical documentation*
32 *or health care records of a preexisting whole person impairment*
33 *for the identical condition, occupational disease, organ,*
34 *anatomical structure or other part of the body being evaluated for*
35 *the present disability exist for the purposes of subsection 1 or 2,*
36 *the percentage of present impairment must not be reduced by any*
37 *percentage for the previous impairment.*

38 **Sec. 1.2.** NRS 616C.005 is hereby amended to read as follows:

39 616C.005 On or before September 1 of each year:

40 1. An insurer shall distribute to each employer that it insures
41 any form for reporting injuries that has been revised within the
42 previous 12 months.

43 2. The Administrator shall make available to physicians , ~~and~~
44 chiropractors , *physician assistants and advanced practice*



1 *registered nurses* any form for reporting injuries that has been
2 revised within the previous 12 months.

3 **Sec. 1.4.** NRS 616C.010 is hereby amended to read as follows:

4 616C.010 1. Whenever any accident occurs to any employee,
5 the employee shall forthwith report the accident and the injury
6 resulting therefrom to his or her employer.

7 2. When an employer learns of an accident, whether or not it is
8 reported, the employer may direct the employee to submit to, or the
9 employee may request, an examination by a physician, ~~or~~
10 chiropractor, *physician assistant or advanced practice registered*
11 *nurse*, in order to ascertain the character and extent of the injury and
12 render medical attention which is required immediately. The
13 employer shall:

14 (a) If the employer's insurer has entered into a contract with an
15 organization for managed care or with providers of health care
16 pursuant to NRS 616B.527, furnish the names, addresses and
17 telephone numbers of:

18 (1) Two or more physicians, ~~or~~ chiropractors, *physician*
19 *assistants or advanced practice registered nurses* who are qualified
20 to conduct the examination and who are available pursuant to the
21 terms of the contract, if there are two or more such physicians, ~~or~~
22 chiropractors, *physician assistants or advanced practice registered*
23 *nurses* within 30 miles of the employee's place of employment; or

24 (2) One or more physicians, ~~or~~ chiropractors, *physician*
25 *assistants or advanced practice registered nurses* who are qualified
26 to conduct the examination and who are available pursuant to the
27 terms of the contract, if there are not two or more such physicians,
28 ~~or~~ chiropractors, *physician assistants or advanced practice*
29 *registered nurses* within 30 miles of the employee's place of
30 employment.

31 (b) If the employer's insurer has not entered into a contract with
32 an organization for managed care or with providers of health care
33 pursuant to NRS 616B.527, furnish the names, addresses and
34 telephone numbers of:

35 (1) Two or more physicians, ~~or~~ chiropractors, *physician*
36 *assistants or advanced practice registered nurses* who are qualified
37 to conduct the examination, if there are two or more such physicians
38, ~~or~~ chiropractors, *physician assistants or advanced practice*
39 *registered nurses* within 30 miles of the employee's place of
40 employment; or

41 (2) One or more physicians, ~~or~~ chiropractors, *physician*
42 *assistants or advanced practice registered nurses* who are qualified
43 to conduct the examination, if there are not two or more such
44 physicians, ~~or~~ chiropractors, *physician assistants or advanced*



1 *practice registered nurses* within 30 miles of the employee's place
2 of employment.

3 3. From among the names furnished by the employer pursuant
4 to subsection 2, the employee shall select one of those physicians ,
5 ~~or~~ chiropractors , *physician assistants or advanced practice*
6 *registered nurses* to conduct the examination, but the employer
7 shall not require the employee to select a particular physician , ~~or~~
8 chiropractor , *physician assistant or advanced practice registered*
9 *nurse* from among the names furnished by the employer.
10 Thereupon, the examining physician , ~~or~~ chiropractor , *physician*
11 *assistant or advanced practice registered nurse, as applicable*, shall
12 report forthwith to the employer and to the insurer the character and
13 extent of the injury. The employer shall not require the employee to
14 disclose or permit the disclosure of any other information
15 concerning the employee's physical condition except as required by
16 NRS 616C.177.

17 4. Further medical attention, except as otherwise provided in
18 NRS 616C.265, must be authorized by the insurer.

19 5. This section does not prohibit an employer from requiring
20 the employee to submit to an examination by a physician or
21 chiropractor specified by the employer at any convenient time after
22 medical attention which is required immediately has been
23 completed.

24 6. An employee leasing company must provide to each
25 employee covered under an employee leasing contract instructions
26 on how to notify the leasing company supervisor and client
27 company of an injury in plain, clear language placed in conspicuous
28 type in a specifically labeled area of instructions given to the
29 employee.

30 **Sec. 1.6.** NRS 616C.040 is hereby amended to read as follows:

31 616C.040 1. Except as otherwise provided in this section, a
32 treating physician , ~~or~~ chiropractor , *physician assistant or*
33 *advanced practice registered nurse* shall, within 3 working days
34 after first providing treatment to an injured employee for a particular
35 injury, complete and file a claim for compensation with the
36 employer of the injured employee and the employer's insurer. If the
37 employer is a self-insured employer, the treating physician , ~~or~~
38 chiropractor , *physician assistant or advanced practice registered*
39 *nurse* shall file the claim for compensation with the employer's
40 third-party administrator. If the physician , ~~or~~ chiropractor ,
41 *physician assistant or advanced practice registered nurse* files the
42 claim for compensation by electronic transmission, the physician ,
43 ~~or~~ chiropractor , *physician assistant or advanced practice*
44 *registered nurse* shall, upon request, mail to the insurer or third-
45 party administrator the form *prescribed by the Administrator for a*



1 *claim for compensation* that ~~contains the original signatures of~~ *is*
2 *signed by* the injured employee and the physician, ~~or~~ chiropractor
3 *, or physician assistant or advanced practice registered nurse.* The
4 form must be mailed within 7 days after receiving such a request.

5 2. A physician, ~~or~~ chiropractor, *physician assistant or*
6 *advanced practice registered nurse* who has a duty to file a claim
7 for compensation pursuant to subsection 1 may delegate the duty to
8 *a physician assistant or an advanced practice registered nurse at a*
9 *medical facility.* If the physician, ~~or~~ chiropractor, *physician*
10 *assistant or advanced practice registered nurse* delegates the duty
11 to *a physician assistant or an advanced practice registered nurse*
12 *at* a medical facility:

13 (a) The *physician assistant or advanced practice registered*
14 *nurse, as applicable, at the* medical facility must comply with the
15 filing requirements set forth in this section; and

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

17 (1) The *delegating* physician, ~~or~~ chiropractor ~~or~~,
18 *physician assistant or advanced practice registered nurse;* and

19 (2) An authorized representative of the medical facility.

20 3. A claim for compensation required by subsection 1 must
21 ~~be~~:

22 (a) *Be* filed on a form prescribed by the Administrator ~~or~~; and

23 (b) *Be signed with the original or electronic signatures of the*
24 *injured employee and:*

25 (1) *The physician, chiropractor, physician assistant or*
26 *advanced practice registered nurse who treated the injured*
27 *employee; or*

28 (2) *The physician assistant or advanced practice registered*
29 *nurse to whom the duty to file a claim for compensation is*
30 *delegated pursuant to subsection 2.*

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

34 5. *A copy of the completed form that is required to be filed*
35 *pursuant to subsection 3 and which is fully executed with the*
36 *required original or electronic signatures must be provided to the*
37 *injured employee at the time of discharge.*

38 6. Each physician, chiropractor ~~and~~, *physician assistant,*
39 *advanced practice registered nurse and* medical facility that treats
40 injured employees, each insurer, third-party administrator and
41 employer, and the Division shall maintain at their offices a sufficient
42 supply of the forms prescribed by the Administrator for filing a
43 claim for compensation.

44 ~~6.~~ 7. The Administrator may impose an administrative fine
45 of not more than \$1,000 for each violation of subsection 1 on:



1 (a) A *treating* physician , ~~chiropractor~~ , *physician*
2 *assistant or advanced practice registered nurse*; or

3 (b) A *physician assistant or advanced practice registered nurse*
4 *at a* medical facility if the duty to file the claim for compensation
5 has been delegated to ~~[the medical facility]~~ *him or her* pursuant to
6 this section.

7 **Sec. 1.8.** NRS 616C.045 is hereby amended to read as follows:

8 616C.045 1. Except as otherwise provided in NRS 616B.727,
9 within 6 working days after the receipt of a claim for compensation
10 from a physician , ~~chiropractor~~ , *physician assistant or*
11 *advanced practice registered nurse*, or a medical facility if the duty
12 to file the claim for compensation has been delegated to the medical
13 facility pursuant to NRS 616C.040, an employer shall complete and
14 file with his or her insurer or third-party administrator an
15 employer's report of industrial injury or occupational disease.

16 2. The report must:

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

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

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

21 (d) Be accompanied by a statement of the wages of the
22 employee if the claim for compensation received from the treating
23 physician , ~~chiropractor~~ , *physician assistant or advanced*
24 *practice registered nurse*, or a medical facility if the duty to file the
25 claim for compensation has been delegated to the medical facility
26 pursuant to NRS 616C.040, indicates that the injured employee is
27 expected to be off work for 5 days or more.

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

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

35 **Sec. 2.** NRS 616C.065 is hereby amended to read as follows:

36 616C.065 1. Except as otherwise provided in NRS 616C.136,
37 within 30 days after the insurer has been notified of an industrial
38 accident, every insurer shall:

39 (a) Accept a claim for compensation, notify the claimant or the
40 person acting on behalf of the claimant that the claim has been
41 accepted and commence payment of the claim; or

42 (b) Deny the claim and notify the claimant or the person acting
43 on behalf of the claimant and the Administrator that the claim has
44 been denied.



1 2. If an insurer is ordered by the Administrator, a hearing
2 officer, an appeals officer, a district court, the Court of Appeals or
3 the Supreme Court of Nevada to make a new determination,
4 including, without limitation, a new determination regarding the
5 acceptance or denial of a claim for compensation, the insurer shall
6 make the new determination within 30 days after the date on which
7 the insurer has been ordered to do so.

8 3. Payments made by an insurer pursuant to this section are not
9 an admission of liability for the claim or any portion of the claim.

10 4. Except as otherwise provided in this subsection, if an insurer
11 unreasonably delays or refuses to pay the claim within 30 days after
12 the insurer has been notified of an industrial accident, the insurer
13 shall pay upon order of the Administrator an additional amount
14 equal to three times the amount specified in the order as refused or
15 unreasonably delayed. This payment is for the benefit of the
16 claimant and must be paid to the claimant with the compensation
17 assessed pursuant to chapters 616A to 617, inclusive, of NRS. The
18 provisions of this section do not apply to the payment of a bill for
19 accident benefits that is governed by the provisions of
20 NRS 616C.136.

21 5. The insurer shall notify the claimant or the person acting on
22 behalf of the claimant that a claim has been accepted or denied
23 pursuant to subsection 1 or 2 by:

24 (a) Mailing its written determination to the claimant or the
25 person acting on behalf of the claimant ~~[(b)]~~ and

26 ~~[(b)]~~, if the claim has been denied, in whole or in part,
27 obtaining a certificate of mailing ~~[(b)]~~; or

28 (b) *If and as requested by the claimant or the person acting on*
29 *behalf of the claimant, sending its written determination to the*
30 *claimant or the person acting on behalf of the claimant by*
31 *facsimile or other electronic transmission the proof of sending and*
32 *receipt of which is readily verifiable and retaining proof of a*
33 *successful transmission and receipt of the facsimile or other*
34 *electronic transmission, as applicable.*

35 6. The failure of the insurer to ~~[obtain]~~, as applicable:

36 (a) *Obtain* a certificate of mailing as required by paragraph ~~[(b)]~~
37 (a) of subsection 5 shall be deemed to be a failure of the insurer to
38 mail the written determination of the denial of a claim as required
39 by this section ~~[(b)]~~; or

40 (b) *Retain proof of a successful transmission and receipt of the*
41 *facsimile or other electronic transmission the proof of sending and*
42 *receipt of which is readily verifiable as required by paragraph (b)*
43 *of subsection 5 shall be deemed to be a failure of the insurer to*
44 *send by facsimile or other electronic transmission the written*
45 *determination regarding a claim as required by this section.*



1 7. The failure of the insurer to indicate the acceptance or denial
2 of a claim for a part of the body or condition does not constitute a
3 denial or acceptance thereof.

4 8. Upon request, the insurer shall provide a copy of the
5 certificate of mailing, if any, *or proof of a successful transmission*
6 *and receipt of the facsimile or other electronic transmission, as*
7 *applicable*, to the claimant or the person acting on behalf of the
8 claimant.

9 9. For the purposes of this section, the insurer shall ~~mail~~
10 *either:*

11 (a) *Mail* the written determination to:

12 ~~(a)~~ (1) The mailing address of the claimant or the person
13 acting on behalf of the claimant that is provided on the form
14 prescribed by the Administrator for filing the claim; or

15 ~~(b)~~ (2) Another mailing address if the claimant or the person
16 acting on behalf of the claimant provides to the insurer written
17 notice of another mailing address ~~;~~; *or*

18 (b) *If and as requested by the claimant or the person acting on*
19 *behalf of the claimant, send the written determination by facsimile*
20 *or other electronic transmission the proof of sending and receipt*
21 *of which is readily verifiable to the claimant or the person acting*
22 *on behalf of the claimant.*

23 10. As used in this section, “certificate of mailing” means a
24 receipt that provides evidence of the date on which the insurer
25 presented its written determination to the United States Postal
26 Service for mailing.

27 **Sec. 2.2.** NRS 616C.075 is hereby amended to read as follows:

28 616C.075 1. If an employee is properly directed to submit to
29 a physical examination and the employee refuses to permit the
30 treating physician, ~~or~~ chiropractor, *physician assistant or*
31 *advanced practice registered nurse* to make an examination and to
32 render medical attention as may be required immediately, no
33 compensation may be paid for the injury claimed to result from the
34 accident.

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

41 **Sec. 2.4.** NRS 616C.095 is hereby amended to read as follows:

42 616C.095 1. The physician, ~~or~~ chiropractor, *physician*
43 *assistant or advanced practice registered nurse* shall inform the
44 injured employee of the injured employee’s rights under chapters
45 616A to 616D, inclusive, or chapter 617 of NRS and lend all



1 necessary assistance in making application for compensation and
2 such proof of other matters as required by the rules of the Division,
3 without charge to the employee.

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

10 **Sec. 2.6.** NRS 616C.098 is hereby amended to read as follows:

11 616C.098 *1.* Certain phrases relating to a claim for
12 compensation for an industrial injury or occupational disease and
13 used by a physician , ~~or~~ chiropractor , *physician assistant or
14 advanced practice registered nurse* when determining the causation
15 of an industrial injury or occupational disease are deemed to be
16 equivalent and may be used interchangeably. Those phrases are:

17 ~~1.~~ (a) “Directly connect this injury or occupational disease as
18 job incurred”; and

19 ~~2.~~ (b) “A degree of reasonable medical probability that the
20 condition in question was caused by the industrial injury.”

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

27 **Sec. 2.8.** NRS 616C.130 is hereby amended to read as follows:

28 616C.130 *1.* The insurer shall not authorize the payment of
29 any money to a physician , ~~or~~ chiropractor , *physician assistant or
30 advanced practice registered nurse* for services rendered by the
31 physician , ~~or~~ chiropractor, *physician assistant or advanced
32 practice registered nurse*, as applicable, in attending an injured
33 employee until an itemized statement for the services has been
34 received by the insurer accompanied by a certificate of the physician
35 , ~~or~~ chiropractor , *physician assistant or advanced practice
36 registered nurse* stating that a duplicate of the itemized statement
37 has been filed with the employer of the injured employee.

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



1 **Sec. 3.** NRS 616C.205 is hereby amended to read as follows:
2 616C.205 Except as otherwise provided in this section and
3 NRS **18.015**, 31A.150 and 31A.330, compensation payable or paid
4 under chapters 616A to 616D, inclusive, or chapter 617 of NRS,
5 whether determined or due, or not:

6 1. Is not assignable before the issuance and delivery of the
7 check or the deposit of any payment for compensation pursuant to
8 NRS 616C.409;

9 2. Is exempt from attachment, garnishment and execution; and

10 3. Does not pass to any other person by operation of law.

11 ➤ In the case of the death of an injured employee covered by
12 chapters 616A to 616D, inclusive, or chapter 617 of NRS from
13 causes independent from the injury for which compensation is
14 payable, any compensation due the employee which was awarded or
15 accrued but for which a check was not issued or delivered or for
16 which payment was not made pursuant to NRS 616C.409 at the date
17 of death of the employee is payable to the dependents of the
18 employee as defined in NRS 616C.505.

19 **Sec. 3.3.** NRS 616C.265 is hereby amended to read as follows:

20 616C.265 1. Except as otherwise provided in NRS 616C.280,
21 every employer operating under chapters 616A to 616D, inclusive,
22 of NRS, alone or together with other employers, may make
23 arrangements to provide accident benefits as defined in those
24 chapters for injured employees.

25 2. Employers electing to make such arrangements shall notify
26 the Administrator of the election and render a detailed statement of
27 the arrangements made, which arrangements do not become
28 effective until approved by the Administrator.

29 3. Every employer who maintains a hospital of any kind for his
30 or her employees, or who contracts for the hospital care of injured
31 employees, shall, on or before January 30 of each year, make a
32 written report to the Administrator for the preceding year, which
33 must contain a statement showing:

34 (a) The total amount of hospital fees collected, showing
35 separately the amount contributed by the employees and the amount
36 contributed by the employers;

37 (b) An itemized account of the expenditures, investments or
38 other disposition of such fees; and

39 (c) What balance, if any, remains.

40 4. Every employer who provides accident benefits pursuant to
41 this section:

42 (a) Shall, in accordance with regulations adopted by the
43 Administrator, make a written report to the Division of that
44 employer's actual and expected annual expenditures for claims and
45 such other information as the Division deems necessary to calculate



1 an estimated or final annual assessment and shall, to the extent that
2 the regulations refer to the responsibility of insurers to make such
3 reports, be deemed to be an insurer.

4 (b) Shall pay the assessments collected pursuant to NRS
5 232.680 and 616A.430.

6 5. The reports required by the provisions of subsections 3 and 4
7 must be verified:

8 (a) If the employer is a natural person, by the employer;

9 (b) If the employer is a partnership, by one of the partners;

10 (c) If the employer is a corporation, by the secretary, president,
11 general manager or other executive officer of the corporation; or

12 (d) If the employer has contracted with a physician or
13 chiropractor for the hospital care of injured employees, by the
14 physician or chiropractor.

15 6. No employee is required to accept the services of a
16 physician , ~~or~~ chiropractor , *physician assistant or advanced*
17 *practice registered nurse* provided by his or her employer, but may
18 seek professional medical services of the employee's choice as
19 provided in NRS 616C.090. Expenses arising from such medical
20 services must be paid by the employer who has elected to provide
21 benefits, pursuant to the provisions of this section, for the
22 employer's injured employees.

23 7. Every employer who fails to notify the Administrator of
24 such election and arrangements, or who fails to render the financial
25 reports required, is liable for accident benefits as provided by
26 NRS 616C.255.

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

33 **Sec. 3.7.** NRS 616C.270 is hereby amended to read as follows:

34 616C.270 1. Every employer who has elected to provide
35 accident benefits for his or her injured employees shall prepare and
36 submit a written report to the Administrator:

37 (a) Within 6 days after any accident if an injured employee is
38 examined or treated by a physician , ~~or~~ chiropractor ~~;~~ , *physician*
39 *assistant or advanced practice registered nurse;* and

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

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

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



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

7 **Sec. 4.** NRS 616C.315 is hereby amended to read as follows:

8 616C.315 1. Any person who is subject to the jurisdiction of
9 the hearing officers pursuant to chapters 616A to 616D, inclusive, or
10 chapter 617 of NRS may request a hearing before a hearing officer
11 of any matter within the hearing officer's authority. The insurer
12 shall provide, without cost, the forms necessary to request a hearing
13 to any person who requests them.

14 2. A hearing must not be scheduled until the following
15 information is provided to the hearing officer:

16 (a) The name of:

17 (1) The claimant;

18 (2) The employer; and

19 (3) The insurer or third-party administrator;

20 (b) The number of the claim; and

21 (c) If applicable, a copy of the letter of determination being
22 appealed or, if such a copy is unavailable, the date of the
23 determination and the issues stated in the determination.

24 3. Except as otherwise provided in NRS 616B.772, 616B.775,
25 616B.787, 616C.305 and 616C.427, a person who is aggrieved by:

26 (a) A written determination of an insurer; or

27 (b) The failure of an insurer to respond within 30 days to a
28 written request mailed to the insurer by the person who is aggrieved,
29 ↪ may appeal from the determination or failure to respond by filing
30 a request for a hearing before a hearing officer. Such a request must
31 include the information required pursuant to subsection 2 and,
32 except as otherwise provided in subsections 4 and 5, must be filed
33 within 70 days after the date on which the notice of the insurer's
34 determination was mailed **or, if requested by the claimant or the**
35 **person acting on behalf of the claimant, sent by facsimile or other**
36 **electronic transmission the proof of sending and receipt of which**
37 **is readily verifiable** by the insurer or the unanswered written request
38 was mailed to the insurer, as applicable. The failure of an insurer to
39 respond to a written request for a determination within 30 days after
40 receipt of such a request shall be deemed by the hearing officer to be
41 a denial of the request.

42 4. The period specified in subsection 3 within which a request
43 for a hearing must be filed may be **[extended]** :

44 (a) **Extended** for an additional 90 days if the person aggrieved
45 shows by a preponderance of the evidence that the person was



1 diagnosed with a terminal illness or was informed of the death or
2 diagnosis of a terminal illness of his or her spouse, parent or child.

3 *(b) Tolloed if the insurer fails to mail or, if requested by the*
4 *claimant or the person acting on behalf of the claimant, send by*
5 *facsimile or other electronic transmission the proof of sending and*
6 *receipt of which is readily verifiable a determination.*

7 5. Failure to file a request for a hearing within the period
8 specified in subsection 3 may be excused if the person aggrieved
9 shows by a preponderance of the evidence that the person did not
10 receive the notice of the determination and the forms necessary to
11 request a hearing. The claimant or employer shall notify the insurer
12 of a change of address.

13 6. The hearing before the hearing officer must be conducted as
14 expeditiously and informally as is practicable.

15 7. The parties to a contested claim may, if the claimant is
16 represented by legal counsel, agree to forego a hearing before a
17 hearing officer and submit the contested claim directly to an appeals
18 officer.

19 8. A claimant may, with regard to a contested claim arising
20 from the provisions of NRS 617.453, 617.455, 617.457, 617.485 or
21 617.487 as described in subsection 2 of NRS 616C.345, submit the
22 contested claim directly to an appeals officer pursuant to subsection
23 2 of NRS 616C.345 without the agreement of any other party.

24 **Sec. 4.5.** NRS 616C.330 is hereby amended to read as follows:

25 616C.330 1. The hearing officer shall:

26 (a) Except as otherwise provided in subsection 2 of NRS
27 616C.315, within 5 days after receiving a request for a hearing, set
28 the hearing for a date and time within 30 days after his or her receipt
29 of the request at a place in Carson City, Nevada, or Las Vegas,
30 Nevada, or upon agreement of one or more of the parties to pay all
31 additional costs directly related to an alternative location, at any
32 other place of convenience to the parties, at the discretion of the
33 hearing officer;

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

37 (c) Conduct hearings expeditiously and informally.

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

42 3. If necessary to resolve a medical question concerning an
43 injured employee's condition or to determine the necessity of
44 treatment for which authorization for payment has been denied, the
45 hearing officer may order an independent medical examination,



1 which must not involve treatment, and refer the employee to a
2 physician or chiropractor of his or her choice who has demonstrated
3 special competence to treat the particular medical condition of the
4 employee, whether or not the physician or chiropractor is on the
5 insurer's panel of providers of health care. If the medical question
6 concerns the rating of a permanent disability, the hearing officer
7 may refer the employee to a rating physician or chiropractor. The
8 rating physician or chiropractor must be selected in rotation from
9 the list of qualified physicians and chiropractors maintained by the
10 Administrator pursuant to subsection 2 of NRS 616C.490, unless the
11 insurer and injured employee otherwise agree to a rating physician
12 or chiropractor. The insurer shall pay the costs of any medical
13 examination requested by the hearing officer.

14 4. The hearing officer may consider the opinion of an
15 examining physician, ~~{or}~~ chiropractor, *physician assistant or*
16 *advanced practice registered nurse*, in addition to the opinion of an
17 authorized treating physician, ~~{or}~~ chiropractor, *physician assistant*
18 *or advanced practice registered nurse*, in determining the
19 compensation payable to the injured employee.

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

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

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

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

38 (a) The hearing; or

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

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



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

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

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

20 **Sec. 5.** NRS 616C.335 is hereby amended to read as follows:

21 616C.335 *1.* If a contested claim for compensation is decided
22 in favor of the claimant, he or she is entitled to ~~fees~~ :

23 *(a) An* award of interest at the rate of 9 percent on the amount of
24 compensation due the claimant from the date the payment on the
25 claim would be due until the date that payment is made.

26 *(b) As limited by subsection 2, an award of costs against the
27 opposing party as follows:*

28 *(1) Clerks' fees.*

29 *(2) Reporters' fees for depositions, including a reporter's
30 fee for one copy of each deposition.*

31 *(3) Fees for witnesses at an appeals hearing and deposing
32 witnesses, unless the appeals officer finds that the witness was
33 called at the instance of the prevailing party without reason or
34 necessity.*

35 *(4) Reasonable fees of not more than five expert witnesses
36 in an amount of not more than the fee allowable for an
37 independent medical examination as set forth in the schedule of
38 fees established by the Administrator pursuant to NRS 616C.260
39 for each witness, unless the appeals officer allows a fee in a
40 greater amount after determining that the circumstances
41 surrounding the expert's testimony were of such necessity as to
42 require the greater amount of the fee.*

43 *(5) The fee of any sheriff or licensed process server for the
44 delivery or service of any summons or subpoena used in the*



1 *action, unless the appeals officer determines that the service was*
2 *not necessary.*

3 *(6) Compensation for the official reporter or reporter pro*
4 *tempore.*

5 *(7) Reasonable costs for photocopies.*

6 *(8) Reasonable costs for postage.*

7 *(9) Reasonable costs for travel and lodging incurred taking*
8 *depositions and conducting discovery.*

9 *(10) Any other reasonable and necessary expense incurred*
10 *in connection with the action, including reasonable and necessary*
11 *expenses for computerized services for legal research.*

12 *2. Costs awarded pursuant to subsection 1 must be limited to*
13 *the costs incurred as a result of the litigation of those issues which*
14 *were decided in favor of the claimant.*

15 *3. If a claimant is awarded costs pursuant to subsection 1, the*
16 *claimant shall serve on the insurer and the claimant's employer,*
17 *not later than 15 calendar days after the decision of an appeals*
18 *officer, district court, the Court of Appeals or the Supreme Court,*
19 *a memorandum of the costs in the action or proceeding, which*
20 *memorandum must be verified by the oath of the claimant, or the*
21 *claimant's attorney or agent, or by the clerk of the claimant's*
22 *attorney, stating that to the best of his or her knowledge and belief*
23 *the costs are correct, and that the costs have been necessarily*
24 *incurred in the action or proceeding.*

25 *4. Not later than 15 calendar days after receipt of service of a*
26 *copy of a memorandum pursuant to subsection 3, the insurer shall*
27 *issue to the claimant a determination letter regarding the*
28 *requested costs, specifically stating in detail:*

29 *(a) The costs which are allowed pursuant to paragraph (b) of*
30 *subsection 1 and subsection 2; and*

31 *(b) The costs which are disallowed pursuant to paragraph (b)*
32 *of subsection 1 and subsection 2, along with specific reasons for*
33 *the disallowance of those costs.*

34 *5. Costs which are allowed by the insurer pursuant to*
35 *subsection 4, must be paid along with the determination letter to*
36 *the claimant or, if the claimant is represented, to the claimant's*
37 *counsel.*

38 *6. Any party aggrieved by the determination may file a*
39 *request for appeal directly to an appeals officer not later than 30*
40 *days after receipt of the determination letter.*

41 **Sec. 6.** NRS 616C.345 is hereby amended to read as follows:

42 616C.345 1. Any party aggrieved by a decision of the
43 hearing officer relating to a claim for compensation may appeal
44 from the decision by, except as otherwise provided in subsections 9 ,



1 ~~and~~ 10 ~~;~~ **and 11**, filing a notice of appeal with an appeals officer
2 within 30 days after the date of the decision.

3 2. A claimant aggrieved by a written determination of the
4 denial of a claim, in whole or in part, by an insurer, or the failure of
5 an insurer to respond in writing within 30 days to a written request
6 of the claimant mailed to the insurer, concerning a claim arising
7 from the provisions of NRS 617.453, 617.455, 617.457, 617.485 or
8 617.487 may file a notice of a contested claim with an appeals
9 officer. The notice must include the information required pursuant
10 to subsection 3 and, except as otherwise provided in subsections 9
11 ~~and 11,~~ **to 12, inclusive**, must be filed within 70 days after the date
12 on which the notice of the insurer's determination was mailed **or, if**
13 **requested by the claimant or the person acting on behalf of the**
14 **claimant, sent by facsimile or other electronic transmission the**
15 **proof of sending and receipt of which is readily verifiable** by the
16 insurer or the unanswered written request was mailed to the insurer,
17 as applicable. The failure of an insurer to respond in writing to a
18 written request for a determination within 30 days after receipt of
19 such a request shall be deemed by the appeals officer to be a denial
20 of the request. The insurer shall provide, without cost, the forms
21 necessary to file a notice of a contested claim to any person who
22 requests them.

23 3. A hearing must not be scheduled until the following
24 information is provided to the appeals officer:

25 (a) The name of:

- 26 (1) The claimant;
27 (2) The employer; and
28 (3) The insurer or third-party administrator;

29 (b) The number of the claim; and

30 (c) If applicable, a copy of the letter of determination being
31 appealed or, if such a copy is unavailable, the date of the
32 determination and the issues stated in the determination.

33 4. If a dispute is required to be submitted to a procedure for
34 resolving complaints pursuant to NRS 616C.305 and:

35 (a) A final determination was rendered pursuant to that
36 procedure; or

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

39 ↪ any party to the dispute may, except as otherwise provided in
40 subsections 9 ~~and 10,~~ **to 12, inclusive**, file a notice of appeal
41 within 70 days after the date on which the final determination was
42 mailed to the employee, or the dependent of the employee, or the
43 unanswered request for resolution was submitted. Failure to render a
44 written determination within 30 days after receipt of such a request
45 shall be deemed by the appeals officer to be a denial of the request.



1 5. Except as otherwise provided in NRS 616C.380, the filing of
2 a notice of appeal does not automatically stay the enforcement of the
3 decision of a hearing officer or a determination rendered pursuant to
4 NRS 616C.305. The appeals officer may order a stay, when
5 appropriate, upon the application of a party. If such an application is
6 submitted, the decision is automatically stayed until a determination
7 is made concerning the application. A determination on the
8 application must be made within 30 days after the filing of
9 the application. If a stay is not granted by the officer after reviewing
10 the application, the decision must be complied with within 10 days
11 after the date of the refusal to grant a stay.

12 6. Except as otherwise provided in subsections 3 and 7, within
13 10 days after receiving a notice of appeal pursuant to this section or
14 NRS 616C.220, 616D.140 or 617.401, or within 10 days after
15 receiving a notice of a contested claim pursuant to subsection 7 of
16 NRS 616C.315, the appeals officer shall:

17 (a) Schedule a hearing on the merits of the appeal or contested
18 claim for a date and time within 90 days after receipt of the notice at
19 a place in Carson City, Nevada, or Las Vegas, Nevada, or upon
20 agreement of one or more of the parties to pay all additional costs
21 directly related to an alternative location, at any other place of
22 convenience to the parties, at the discretion of the appeals officer;
23 and

24 (b) Give notice by mail or by personal service to all parties to
25 the matter and their attorneys or agents at least 30 days before the
26 date and time scheduled.

27 7. Except as otherwise provided in subsection ~~12~~ 13, a
28 request to schedule the hearing for a date and time which is:

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

31 (b) More than 90 days after the receipt of the notice or claim,
32 ↪ may be submitted to the appeals officer only if all parties to the
33 appeal or contested claim agree to the request.

34 8. An appeal or contested claim may be continued upon written
35 stipulation of all parties, or upon good cause shown.

36 9. The period specified in subsection 1, 2 or 4 within which a
37 notice of appeal or a notice of a contested claim must be filed may
38 be extended for an additional 90 days if the person aggrieved shows
39 by a preponderance of the evidence that the person was diagnosed
40 with a terminal illness or was informed of the death or diagnosis of a
41 terminal illness of the person's spouse, parent or child.

42 10. *The period specified in subsection 2 within which a notice*
43 *of appeal or a notice of a contested claim must be filed may be*
44 *tolled if the insurer fails to mail or, if requested by the claimant or*
45 *the person acting on behalf of the claimant, send a determination*



1 *by facsimile or other electronic transmission the proof of sending*
2 *and receipt of which is readily verifiable.*

3 **11.** Failure to file a notice of appeal within the period specified
4 in subsection 1 or 4 may be excused if the party aggrieved shows by
5 a preponderance of the evidence that he or she did not receive the
6 notice of the determination and the forms necessary to appeal
7 the determination. The claimant, employer or insurer shall notify the
8 hearing officer of a change of address.

9 ~~11.1~~ **12.** Failure to file a notice of a contested claim within the
10 period specified in subsection 2 may be excused if the claimant
11 shows by a preponderance of the evidence that he or she did not
12 receive the notice of the determination and the forms necessary to
13 file the notice. The claimant or employer shall notify the insurer of a
14 change of address.

15 ~~12.2~~ **13.** Within 10 days after receiving a notice of a contested
16 claim pursuant to subsection 2, the appeals officer shall:

17 (a) Schedule a hearing on the merits of the contested claim for a
18 date and time within 60 days after his or her receipt of the notice at a
19 place in Carson City, Nevada, or Las Vegas, Nevada, or upon
20 agreement of one or more of the parties to pay all additional costs
21 directly related to an alternative location, at any other place of
22 convenience to the parties, at the discretion of the appeals officer;
23 and

24 (b) Give notice by mail or by personal service to all parties to
25 the matter and their attorneys or agents within 10 days after
26 scheduling the hearing.

27 ↪ The scheduled date must allow sufficient time for full disclosure,
28 exchange and examination of medical and other relevant
29 information. A party may not introduce information at the hearing
30 which was not previously disclosed to the other parties unless all
31 parties agree to the introduction.

32 **Sec. 6.3.** NRS 616C.350 is hereby amended to read as follows:

33 616C.350 1. Any physician , ~~or~~ chiropractor , *physician*
34 *assistant or advanced practice registered nurse* who attends an
35 employee within the provisions of chapters 616A to 616D,
36 inclusive, or chapter 617 of NRS in a professional capacity, may be
37 required to testify before an appeals officer. A physician , ~~or~~
38 chiropractor , *physician assistant or advanced practice registered*
39 *nurse* who testifies is entitled to receive the same fees as witnesses
40 in civil cases and, if the appeals officer so orders at his or her own
41 discretion, a fee equal to that authorized for a consultation by the
42 appropriate schedule of fees for physicians , ~~or~~ chiropractors ~~or~~ ,
43 *physician assistants or advanced practice registered nurses, if any.*
44 These fees must be paid by the insurer.



1 2. Information gained by the attending physician , ~~for~~
2 chiropractor , *physician assistant or advanced practice registered*
3 *nurse* while in attendance on the injured employee is not a
4 privileged communication if:

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

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

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

16 **Sec. 6.7.** NRS 616C.360 is hereby amended to read as follows:

17 616C.360 1. A stenographic or electronic record must be kept
18 of the hearing before the appeals officer and the rules of evidence
19 applicable to contested cases under chapter 233B of NRS apply to
20 the hearing.

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

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

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

40 (b) If the medical question or dispute is relevant to an issue
41 involved in the matter before the appeals officer and all parties agree
42 to the submission of the matter to an independent review
43 organization, submit the matter to an independent review
44 organization in accordance with NRS 616C.363 and any regulations
45 adopted by the Commissioner.



1 4. The appeals officer may consider the opinion of an
2 examining physician, ~~{or}~~ chiropractor, *physician assistant or*
3 *advanced practice registered nurse*, in addition to the opinion of an
4 authorized treating physician, ~~{or}~~ chiropractor, *physician assistant*
5 *or advanced practice registered nurse*, in determining the
6 compensation payable to the injured employee.

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

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

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

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

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

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

32 9. The appeals officer shall render a decision on a contested
33 claim submitted pursuant to subsection 2 of NRS 616C.345 within
34 15 days after:

35 (a) The date of the hearing; or

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

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

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

43 *11. References to a physician assistant and an advanced*
44 *practice registered nurse in this section are for the purposes of the*
45 *examination and treatment of an injured employee which are*



1 *authorized to be provided by a physician assistant or advanced*
2 *practice registered nurse in the exclusive context of an initial*
3 *examination and treatment pursuant to NRS 616C.010.*

4 **Sec. 7.** NRS 616C.490 is hereby amended to read as follows:

5 616C.490 1. Except as otherwise provided in NRS 616C.175,
6 every employee, in the employ of an employer within the provisions
7 of chapters 616A to 616D, inclusive, of NRS, who is injured by an
8 accident arising out of and in the course of employment is entitled to
9 receive the compensation provided for permanent partial disability.
10 As used in this section, “disability” and “impairment of the whole
11 person” are equivalent terms.

12 2. Except as otherwise provided in subsection 3:

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

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

21 (1) The insurer shall select the rating physician or
22 chiropractor from the list of qualified rating physicians and
23 chiropractors designated by the Administrator, to determine the
24 percentage of disability in accordance with the American Medical
25 Association’s Guides to the Evaluation of Permanent Impairment as
26 adopted and supplemented by the Division pursuant to
27 NRS 616C.110.

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

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

44 4. If an insurer contacts a treating physician or chiropractor to
45 determine whether an injured employee has suffered a permanent



1 disability, the insurer shall deliver to the treating physician or
2 chiropractor that portion or a summary of that portion of the
3 American Medical Association's Guides to the Evaluation of
4 Permanent Impairment as adopted by the Division pursuant to NRS
5 616C.110 that is relevant to the type of injury incurred by the
6 employee.

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

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

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

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

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

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

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

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

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

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

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

40 (c) Of 0.54 percent of the claimant's average monthly wage for
41 injuries sustained on or after June 18, 1993, and before January 1,
42 2000; and

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



1 ↪ Compensation must commence on the date of the injury or the
2 day following the termination of temporary disability compensation,
3 if any, whichever is later, and must continue on a monthly basis for
4 5 years or until the claimant is 70 years of age, whichever is later.

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

7 10. ~~Except as otherwise provided in subsection 11, if~~ **If** there
8 is a previous disability, ~~as the loss of one eye, one hand, one foot,~~
9 ~~or any other previous permanent disability,~~ the percentage of
10 disability for a subsequent injury must be determined ~~by computing~~
11 ~~the percentage of the entire disability and deducting therefrom the~~
12 ~~percentage of the previous disability as it existed at the time of the~~
13 ~~subsequent injury.]~~ **pursuant to section 1 of this act.**

14 11. ~~If a rating evaluation was completed for a previous~~
15 ~~disability involving a condition, organ or anatomical structure that is~~
16 ~~identical to the condition, organ or anatomical structure being~~
17 ~~evaluated for the present disability, the percentage of disability for a~~
18 ~~subsequent injury must be determined by deducting the percentage~~
19 ~~of the previous disability from the percentage of the present~~
20 ~~disability, regardless of the edition of the American Medical~~
21 ~~Association's Guides to the Evaluation of Permanent Impairment as~~
22 ~~adopted by the Division pursuant to NRS 616C.110 used to~~
23 ~~determine the percentage of the previous disability. The~~
24 ~~compensation awarded for a permanent disability on a subsequent~~
25 ~~injury must be reduced only by the awarded or agreed upon~~
26 ~~percentage of disability actually received by the injured employee~~
27 ~~for the previous injury regardless of the percentage of the previous~~
28 ~~disability.]~~ **In the event of a dispute over an award of**
29 **compensation for permanent partial disability, the insurer shall**
30 **commence making installment payments to the injured employee**
31 **for that portion of the award that is not in dispute:**

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

34 **(b) Without requiring the injured employee to make an**
35 **election whether to receive his or her compensation in installment**
36 **payments or in a lump sum.**

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

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

43 14. This section does not entitle any person to double payments
44 for the death of an employee and a continuation of payments for a



1 permanent partial disability, or to a greater sum in the aggregate
2 than if the injury had been fatal.

3 **Sec. 8.** NRS 616C.495 is hereby amended to read as follows:

4 616C.495 1. Except as otherwise provided in NRS 616C.380,
5 an award for a permanent partial disability may be paid in a lump
6 sum under the following conditions:

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

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

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

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

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

29 (2) Exceeds 25 percent may:

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

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

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



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

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

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

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

25 2. If the claimant elects to receive his or her payment for a
26 permanent partial disability in a lump sum pursuant to subsection 1,
27 all of the claimant's benefits for compensation terminate. ~~The~~
28 *Except as otherwise provided in paragraph (d), the* claimant's
29 acceptance of that payment constitutes a final settlement of all
30 factual and legal issues in the case. By so accepting the claimant
31 waives all of his or her rights regarding the claim, including the
32 right to appeal from the closure of the case or the percentage of his
33 or her disability, except:

34 (a) The right of the claimant to:

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

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

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

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

43 ~~}; and~~

44 *(d) The right of the claimant to conclude or resolve any*
45 *contested matter which is pending at the time that the claimant*



1 *executes his or her election to receive his or her payment for a*
2 *permanent partial disability in a lump sum. The provisions of this*
3 *paragraph do not apply to:*

4 (1) *The scope of the claim;*

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

6 (3) *The claimant's average monthly wage.*

7 3. The claimant, when he or she demands payment in a lump
8 sum ~~§~~ *pursuant to subsection 2*, must be provided with a written
9 notice which prominently displays a statement describing the effects
10 of accepting payment in a lump sum of an entire permanent partial
11 disability award, any portion of such an award or any uncontested
12 portion of such an award, and that the claimant has 20 days after the
13 mailing or personal delivery of the notice within which to retract or
14 reaffirm the demand, before payment may be made and the
15 claimant's election becomes final.

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

19 ~~§~~ 5. Except as otherwise provided in this subsection, the
20 total lump-sum payment for disablement must not be less than one-
21 half the product of the average monthly wage multiplied by the
22 percentage of disability. If the claimant received compensation in
23 installment payments for his or her permanent partial disability
24 before electing to receive payment for that disability in a lump sum,
25 the lump-sum payment must be calculated for the remaining
26 payment of compensation.

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

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

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

41 ~~§~~ 7. If a claimant would receive more money by electing to
42 receive compensation in a lump sum than the claimant would if he
43 or she receives installment payments, the claimant may elect to
44 receive the lump-sum payment.



1 **Sec. 9.** NRS 616C.541 is hereby amended to read as follows:
2 616C.541 Where a written assessment is requested pursuant to
3 NRS 616C.550 or where a plan for a program of vocational
4 rehabilitation is required pursuant to NRS 616C.555, a vocational
5 rehabilitation counselor must be appointed as follows:

6 1. The insurer and the injured employee or personal or legal
7 representative of the injured employee shall agree on the selection
8 of a vocational rehabilitation counselor. ~~{ }~~

9 2. If the insurer or injured employee or personal or legal
10 representative of the injured employee are unable to agree on the
11 appointment of a vocational rehabilitation counselor, the insurer
12 shall submit a list of at least three vocational rehabilitation
13 counselors *who are employed by at least three different*
14 *organizations or entities* to the injured employee or personal or
15 legal representative of the injured employee. ~~{ }~~

16 3. The injured employee or personal or legal representative of
17 the injured employee shall select a vocational rehabilitation
18 counselor from the list provided by the insurer pursuant to
19 subsection 2 within 7 days after receiving the list provided by the
20 insurer pursuant to subsection 2. ~~{ }~~

21 4. The vocational rehabilitation counselor that is selected by
22 the injured employee or personal or legal representative of the
23 injured employee pursuant to subsection 1 or 3 must be assigned to
24 provide all vocational rehabilitation services for the claim pursuant
25 to this section and NRS 616C.530 to 616C.600, inclusive. ~~{, and }~~

26 5. After a vocational rehabilitation counselor is selected and
27 assigned pursuant to this section, an injured employee or personal or
28 legal representative of the injured employee may only rescind the
29 selection of the vocational rehabilitation counselor with the consent
30 of the insurer.

31 **Sec. 9.5.** NRS 616C.545 is hereby amended to read as follows:

32 616C.545 *1.* If an employee does not return to work for 28
33 consecutive calendar days as a result of an injury arising out of and
34 in the course of his or her employment or an occupational disease,
35 the insurer shall contact the treating physician, ~~{or}~~ chiropractor,
36 *physician assistant or advanced practice registered nurse* to
37 determine whether:

38 ~~{1-}~~ (a) There are physical limitations on the injured employee's
39 ability to work; and

40 ~~{2-}~~ (b) The limitations, if any, are permanent or temporary.

41 2. *References to a physician assistant and an advanced*
42 *practice registered nurse in this section are for the purposes of the*
43 *examination and treatment of an injured employee which are*
44 *authorized to be provided by a physician assistant or advanced*



1 *practice registered nurse in the exclusive context of an initial*
2 *examination and treatment pursuant to NRS 616C.010.*

3 **Sec. 10.** NRS 617.356 is hereby amended to read as follows:

4 617.356 1. An insurer shall accept or deny a claim for
5 compensation under this chapter and notify the claimant or the
6 person acting on behalf of the claimant pursuant to NRS 617.344
7 that the claim has been accepted or denied within 30 working days
8 after the forms for filing the claim for compensation are received
9 pursuant to both NRS 617.344 and 617.352.

10 2. The insurer shall notify the claimant or the person acting on
11 behalf of the claimant that a claim has been accepted or denied
12 pursuant to subsection 1 by:

13 (a) Mailing its written determination to the claimant or the
14 person acting on behalf of the claimant ~~[(b)]~~ and

15 ~~[(b)]~~, if the claim has been denied, in whole or in part,
16 obtaining a certificate of mailing ~~[(b)]~~; or

17 (b) *If and as requested by the claimant or the person acting on*
18 *behalf of the claimant, sending its written determination to the*
19 *claimant or the person acting on behalf of the claimant by*
20 *facsimile or other electronic transmission the proof of sending and*
21 *receipt of which is readily verifiable and retaining proof of a*
22 *successful transmission and receipt of the facsimile or other*
23 *electronic transmission, as applicable.*

24 3. The failure of the insurer to ~~[(b)]~~, as applicable:

25 (a) *Obtain* a certificate of mailing as required by paragraph ~~[(b)]~~
26 (a) of subsection 2 shall be deemed to be a failure of the insurer to
27 mail the written determination of the denial of a claim as required
28 by this section ~~[(b)]~~; or

29 (b) *Retain proof of a successful transmission and receipt of the*
30 *facsimile or other electronic transmission the proof of sending and*
31 *receipt of which is readily verifiable, as applicable, as required by*
32 *paragraph (b) of subsection 2 shall be deemed to be a failure of*
33 *the insurer to send by facsimile or other electronic transmission*
34 *the written determination regarding a claim as required by this*
35 *section.*

36 4. Upon request, the insurer shall provide a copy of the
37 certificate of mailing, if any, *or proof of a successful transmission*
38 *and receipt of the facsimile or other electronic transmission the*
39 *proof of sending and receipt of which is readily verifiable, as*
40 *applicable*, to the claimant or the person acting on behalf of the
41 claimant.

42 5. For the purposes of this section, the insurer shall ~~[(mail)]~~
43 *either:*

44 (a) *Mail* the written determination to:



1 ~~[(a)]~~ (1) The mailing address of the claimant or the person
2 acting on behalf of the claimant that is provided on the form
3 prescribed by the Administrator for filing the claim; or

4 ~~[(b)]~~ (2) Another mailing address if the claimant or the person
5 acting on behalf of the claimant provides to the insurer written
6 notice of another mailing address ~~[(c)]~~; or

7 *(b) If and as requested by the claimant or the person acting on*
8 *behalf of the claimant, send the written determination by facsimile*
9 *or other electronic transmission the proof of sending and receipt*
10 *of which is readily verifiable to the claimant or person acting on*
11 *behalf of the claimant.*

12 6. As used in this section, "certificate of mailing" means a
13 receipt that provides evidence of the date on which the insurer
14 presented its written determination to the United States Postal
15 Service for mailing.

16 **Sec. 11.** The amendatory provisions of this act apply
17 prospectively with regard to any claim pursuant to chapters 616A to
18 616D, inclusive, or 617 of NRS which is open on the effective date
19 of this act.

20 **Sec. 12.** This act becomes effective upon passage and
21 approval.

