



NEVADA WORKERS' COMPENSATION CHRONICLE

Department of Business & Industry
A Publication of the Workers' Compensation Section

Division of Industrial Relations Winter Edition
(December 2019 - February 2020)

This newsletter is not intended to provide legal advice to the reader. Legal opinions or interpretations of statutes and regulations referenced should be sought from legal professionals.

Understanding Senate Bill 381

Senate Bill (SB) 381, passed by the 2019 Nevada Legislature, takes time to digest. Although many concerns were addressed in the Division of Industrial Relations (DIR) Workers' Compensation Section (WCS) training presented on November 13, 2019, some confusion remains regarding its implementation. Two presentations are available on the WCS website at <http://dir.nv.gov/WCS/Training/>. This article is not intended to summarize SB 381 in its entirety nor is it intended to provide legal advice. It is written to clarify some of the outstanding issues the DIR/WCS can address.

Statutes always have the potential to conflict with existing regulations. SB 381 is no exception. It should be noted that statutes carry greater authority than regulations. Therefore, if a statute conflicts with an existing regulation, the statute takes priority over the regulation. Conflicting regulations are generally revised or deleted as soon as possible to resolve these legal dilemmas. DIR is currently working to align the existing regulations with the statutory changes

One controversial issue included in SB 381 is the requirement that each insurer's provider list must be certified by a claims adjuster licensed pursuant to Nevada Revised Statute (NRS) 684A. Currently, insurers are not required to license their workers' compensation claims adjusters individually in Nevada so this requirement presents a conundrum. The WCS plans to clarify this issue in the near future via regulation.

Nevada's workers' compensation community continues to seek answers regarding the relationship of the WCS Treating Panel of Physicians and Chiropractors (WCS Tx Panel) and insurers' provider lists. Insurers are now required to have a treating provider list. However, insurers may adopt the WCS Tx Panel list as their provider list. All insurers must provide the WCS an electronic copy (PDF) of their treating provider list by October 1, 2020 and annually thereafter. If an insurer adopts the WCS Tx Panel as their provider list, they are still required to provide a written notification of election to WCS by October 1 for posting on the WCS website.

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2019 COLA Legislation - Notice to Insurers and TPAs

The 2019 Nevada Legislature passed two workers' compensation bills that provide for an increase in benefits for some injured workers and their dependents starting January 1, 2020:

Senate Bill 377 (SB 377), Permanent Total Disability (PTD) Benefits

Assembly Bill 370 (AB 370), Death (Survivors') Benefits

Please see the [2019 COLA Legislation - Notice to Insurers and TPAs](#) regarding these important changes to injured employee benefits.

Training will be provided December 19, 2019 at 9:00 am and 1:00 pm. The training will be held at the Grant Sawyer State Office Building in Las Vegas, NV and will also be available via video conference at the Legislative Building in Carson City, NV. Those unable to attend one of these locations may also view the training online via <https://www.leg.state.nv.us/App/Calendar/A/>. To register http://dir.nv.gov/WCS/Training_Enrollment_Request/.

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Understanding Senate Bill 381

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SB 381 Section 2 (2) mandates insurers to choose **from the WCS Tx Panel** a minimum of twelve providers in each of the specialties listed (a) – (s). SB 381 Section 2 (3) mandates insurers choose a minimum of eight providers in any specialty that is not listed in Section 2 (2). If the WCS Tx Panel does not contain the minimum of twelve providers in a listed specialty or eight providers in an unlisted specialty, insurers must include in their provider lists all of the providers on the WCS Tx Panel in that specialty. In summary, SB 381 requires that insurers' provider lists be a subset of the WCS Tx Panel. The exception is non-Doctor of Medicine (MD)/Doctor of Osteopathic Medicine (DO)/Doctor of Chiropractic (DC) providers who are not included on the WCS Tx Panel. The WCS Tx Panel is limited to those persons licensed as an MD, DO or DC. Therefore, non- MD/DO/DC providers included on insurers' provider lists are not a subset of the WCS Tx Panel.

There have also been questions regarding insurers' responsibility to provide injured employees with a list of specialists when a transfer of care is requested or the treating physician refers the claimant to a specialist. If the request names a specialist already on the insurer's provider list, the insurer is not required to provide a list of providers in that specialty to the injured employee. However, if a particular specialist is not named in the request, the insurer must provide a list of providers in the requested specialty to the injured employee. Once an injured employee receives the insurer's provider list, he/she has fourteen days to select a provider. If the injured employee does not select a provider from the insurer's list within the time period allowed, the insurer may select a provider from their list in that specialty. WCS strongly encourages claims adjusters to thoroughly document their actions, including when giving provider/specialist lists to injured employees. Be aware that SB 381 also gives hearing officers and appeals officers the authority to order a treating provider and authorize more than one treating provider at a time. These new requirements may result in treatment delays. However, delays may be minimized, if not completely avoided, by professional and timely communication between involved parties.

The workers' compensation community in Nevada has previously faced significant changes that challenge the manner in which services are provided and business is conducted. Most individuals and companies rise to face the challenges and adapt to the new environment. This adaptation process is essential for survival and continued growth. Nevada, like every other state, will continue to change and its businesses must adapt. As individual participants, professional communication and an emphasis on problem solving eases the transition to any new environment.

Katherine Godwin, Manager, Medical Unit

Nevada Participates in IAIABC Convention

In October 2019, the International Association of Industrial Accident Boards and Commissions (IAIABC) held its 105th Convention in Pittsburgh, Pennsylvania. The IAIABC Convention brings together workers' compensation administrators, regulators, and industry leaders to discuss major policy and regulatory issues affecting workers' compensation systems around the world. Deputy Administrator, Victoria Carreon, represented Nevada at the convention and attended sessions hosted by the Medical Issues Committee, Research and Standards Committee, and the Regulation Committee. She also represented Nevada at the Heads of Delegation Forum and the Western Association of Workers' Compensation Boards (WAWCB). Medical topics included alternatives to spinal fusion, return to work, and use of American Medical Association (AMA) guidelines for impairment ratings. Regulation topics included trends in states adopting legislation that creates a presumption that certain occupational diseases are compensable under workers' compensation, misclassification of workers as independent contractors, and adjuster licensing. The IAIABC is also developing data tools that will allow states to compare their approaches on various policy issues.

The next IAIABC conference will be the Forum 2020, April 27-30 in Clearwater, Florida. For more information, visit <http://www.iaibc.org>

Tori Carreon, Deputy Administrator, Department of Business and Industry, Division of Industrial Relations



REPORTING REMINDERS



Starting in 2020, the *Reporting Reminders* column will feature detailed information on the ins and outs of specific data calls. We hope to address some of the commonly asked questions and give you some guidance on how to avoid errors, follow up requests and report rejection.

REPORTING IN CARDS:

- **Insurer Information Form:** Insurers must notify WCS of any changes such as name, address, phone and fax numbers, as well as changes in TPAs by submitting an *Insurer Information Form* via our CARDS web portal annually and within 30 days of any changes. For information on how to submit the *Insurer Information Form*, see the Quick Steps guide on our website at http://dir.nv.gov/WCS/Insurer-TPA_Reporting/.
- **TPA Information Form:** TPAs must also notify WCS of any changes in contact information within 30 days by submitting the *TPA Information Form* via the CARDS web portal.
- **D-38 Injured Worker Index System Claims Registration Document:** Required for all claims, accepted and denied, within 30 days of determination and updated during the life of the claim.
- For information on CARDS, please visit the CARDS Web page at <http://dir.nv.gov/WCS/cards/>

NON-CARDS REPORTING:

- The **FY19 WCS Workers' Compensation Claims Activity Report** pursuant to NRS 616B.009 and NAC 616B.016. The request for this report was emailed to insurers and TPAs on October 24, 2019. **The due date for this report is December 10, 2019.** Links to the blank form and instructions will be updated in the coming weeks on our web site at http://dir.nv.gov/WCS/Insurer-TPA_Reporting/.
- A **D-35 Request for a Rotating Physician or Chiropractor** must be submitted to WCS prior to any PPD impairment evaluation being scheduled with a rater. If a claim has not been reported, the insurer or TPA must submit the **D-38 Injured Worker Index System Claims Registration Document** via the CARDS web portal or by submitting the fillable form found on our website.
- **(OD-8) Occupational Disease Claim Report(s) (NRS 617.357)** is an ongoing reporting requirement. The OD -8 form was updated in July 2018 to include the claimant's first and last name and appeal number fields to assist the DIR in implementing and enforcing the requirements set forth in NRS 617.455 and 617.457. **Please remember to report updates to reportable claims such as appeals and decision information, estimated claim costs, claim closure and reopening information.**
- **Proof of Coverage (POC):** Private carriers must also report information to NCCI within 15 days of the effective date of the issuance, renewal, cancellation, nonrenewal, reinstatement or reissuance of a policy of workers' compensation insurance. Private carriers are reminded that nonrenewal transactions are required to be reported, even though Nevada is not a continuous coverage state. **See NCCI Circular FYI-POC-NV-2019-01 on our website for more information:** <http://dir.nv.gov/uploadedFiles/dir.nvgov/content/WCS/InsurerReportingDocs/FYI-POC-NV-2019-01.pdf>.

Information on reporting requirements and forms can be found on our web site at <http://dir.nv.gov/WCS/Home/> under "Insurer and TPA Reporting" or go directly to our page at http://dir.nv.gov/WCS/Insurer-TPA_Reporting/. Contact the WCS Research and Analysis Unit by phone at (702) 486-9080 or by email at wcsra@business.nv.gov if we can be of any assistance.

Tips From the Medical Unit

Please check D-35 Forms for accuracy prior to faxing them to the Medical Unit. Common errors include inaccurate Request Date, listing procedures as diagnoses, missing diagnoses applicable to body parts requesting rating, missing ticket (TK) numbers when claim has not been indexed through CARDS.

- Prior to calling the Medical Unit regarding status of a D-35 Form previously sent, please check your fax machine to see if the Medical Unit sent you a return fax with a list of errors that need to be corrected. Any errors identified need to be corrected prior to resubmitting the D-35 Form to the Medical Unit .
- The Medical Unit respectfully requests **all D-35 Forms be FAXED to (702) 486-8713** instead of emailing them to the Medical Unit. This allows for quicker processing.
- The Medical Unit is pleased to announce we now have three dedicated email addresses for stakeholder use. It is essential correspondence be sent to the correct email address.
- Medical Unit complaints, questions and C-4 Forms (as directed by DIR/WCS staff): medunit@business.nv.gov
- Applications to either WCS Treating Panel of Physicians and/or Rating Panel of Physicians, Insurers' Provider Lists: medpanels@business.nv.gov
- PPD reports only: PPDreports@business.nv.gov



Veterans Village



The Division of Industrial Relations (DIR) team collected non-perishable food items and personal products from late September through November for Nevada's veterans. Boxes of canned goods and other needed items were delivered on November 6, 2019. Veterans Village has been caring for the needs of our homeless veterans for the last seven years. In 2018 Veterans Village provided 110,213 meals, 262,008 bed nights, housing for 1,265 people housed, 721 jobs and 46,477 emergency packets. They also help with continuing education opportunities and concierge medical and mental health services. We look forward to our ongoing relationship with such an important organization.



Krissi Garcia and Maria Ledesma of DIR, delivering canned goods, and personal products to Veterans Village

Robin Hoodie Project

During the month of December the DIR team will be collecting hoodies to help the students at Myrtle Tate Elementary School. Myrtle Tate Elementary School is an at-risk elementary school with an impoverished population. Many of the students do not have sweaters or jackets, so they freeze on the playground or on their walk to and from school during the winter months. Last year the DIR collected over two hundred (200) new hoodies for the students at Myrtle Tate Elementary School. This year our goal is to collect a hundred and fifty (150) or more new hoodies for the students. Santa Claus will be delivering the hoodies to the students before their winter break on December 19, 2019.



CONTACT WCS

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Division of Industrial Relations
Workers' Compensation Section

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NORTHERN NEVADA
(775) 684-7270 / Fax: (775) 687-6305

<http://dir.nv.gov/WCS/Home/>

WCSHelp@business.nv.gov

Questions about Workers' Compensation?
Click Here!



WCSHelp@business.nv.gov

Holiday Closures

Christmas Day
Wednesday December 25, 2019

New Year's Day
Wednesday January 1, 2020

Martin Luther King, Jr. Day
Monday January 20, 2020

President's Day
Monday February 17, 2020

2020 Training Sessions

Classes taught live in
SOUTHERN NEVADA
 3360 West Sahara Avenue, Suite 250
 Las Vegas, Nevada 89102
krissi.garcia@business.nv.gov
 (702) 486-9105

Classes taught via video conference
 in
NORTHERN NEVADA
 400 West King Street, Suite 400
 Carson City, Nevada 89703
 (775) 684-7265

To view or register for classes:
<http://dir.nv.gov/WCS/Training/>



Delving into the D-35
2/19/2020 at 1:30 pm

Direct comments or suggestions about
 this newsletter to:

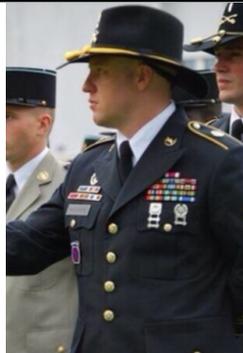
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Welcome

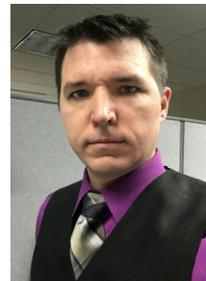
Hails and Promotions



We are happy to announce the promotion of **Joshua Swartzbaugh** to Compliance Audit Investigator II for the Enforcement Unit's Las Vegas office. Joshua recently joined ECU where he has played a key role as an AAIL. Josh brings a wealth of knowledge and professional background experience including a combination of investigative and security experience gained during his career serving in the United States Army. Josh also has a bachelor's degree in criminal justice. His education and experience in enforcing rules and regulations will help him to grow and be successful with the DIR/WCS Enforcement Unit. Joshua recently retired from the Army where he was a Tank Operator for 23 years. He is a Vegas native and is a huge sports fanatic.

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Welcome **Chad O'Connor**, a Compliance Audit Investigator II in the enforcement unit in the Las Vegas Office. Prior to his current position, Chad was a Workers' Compensation Compliance Investigator for the State of Wisconsin for 5 years. He was also a Master-at-Arms in the United States Army. When he is not at work, he enjoys writing, board games and dungeon mastering.



Welcome **Gina D'Alessandro** the new Compliance Auditor II for the Audit Unit in the Las Vegas office. Gina began her career with the State in 2014 and previously worked as a Compliance Audit Investigator II with the Real Estate Division. Gina is a die hard Chicago Cubs fan since birth. She was born in Illinois and has been in Nevada since 1995. When she is not at work, she loves spending time with family, friends and 2 Pitbulls. She believes in living life to the fullest and loves to travel.

Welcome **Wendy Diaz** who recently accepted the position of administrative assistant. Wendy is the receptionist and is the first person visitors and callers to the Las Vegas office will have contact with. Wendy is originally from California and moved to Las Vegas 4 years ago. She worked with Molina Health Care for 14 years as an operator for a 24 hour nurse advise line. During her free time she likes to read, watch movies and play with her fur babies.



WCS MISSION STATEMENT

The purpose of the Workers' Compensation Section is to impartially serve the interests of Nevada employers and employees by providing assistance, information, and a fair and consistent regulatory structure focused on:

- Ensuring the timely and accurate delivery of workers' compensation benefits.
- Ensuring employer compliance with the mandatory coverage provisions.