

This is an unofficial compilation prepared by the Division of Industrial Relations which incorporates the additions, amendments and repeal of regulations as of the filing of the Permanent Regulation LCB File No. R028-23 on February 27, 2024 and LCB File No. R076-23 on October 9, 2024.

EXPLANATION — Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

## CHAPTER 616D - INDUSTRIAL INSURANCE: ADMINISTRATIVE PROCEEDINGS AND ENFORCEMENT

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#### GENERAL PROVISIONS

NAC 616D.005 **Definitions.** ([NRS 616A.400](#)) As used in this chapter, unless the context otherwise requires, the words and terms defined in:

1. [NRS 616A.030](#) to [616A.360](#), inclusive; and
  2. [NAC 616A.015](#) to [616A.275](#), inclusive, and [616D.0055](#) to [616D.008](#), inclusive,
- ↪ have the meanings ascribed to them in those sections.

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(Supplied in codification; A by Industrial Insurance System by R165-97, 12-31-97, eff. 1-1-98; A by Div. of Industrial Relations by R167-97 & R168-97, 1-30-98)

**NAC 616D.0055 “Audit period” defined. ([NRS 616A.400](#))** “Audit period” means the period over which:

1. An insurer will review; or
  2. The Administrator will review or direct an insurer to review,
- the records of each employer that is insured by the insurer to verify that payrolls were accurately reported.

(Added to NAC by Div. of Industrial Relations by R168-97, eff. 1-30-98)

**NAC 616D.006 “Communication relating to the medical disposition” defined. ([NRS 616A.400](#))** “Communication relating to the medical disposition” means any discussion concerning:

1. The injured employee’s:
  - (a) Current medical condition; and
  - (b) Past or predicted future condition if such information is relevant to the determination of the employee’s eligibility for compensation or accident benefits pursuant to [chapters 616A](#) to [616D](#), inclusive, of NRS.
2. The results of any medical treatment, evaluation or test that was conducted to determine whether an injured employee is eligible for compensation or accident benefits pursuant to [chapters 616A](#) to [616D](#), inclusive, of NRS.

(Added to NAC by Div. of Industrial Relations by R167-97, eff. 1-30-98)

**NAC 616D.0065 “Compensated representative of an injured employee” defined. ([NRS 616A.400](#))** “Compensated representative of an injured employee” means any person who receives payment for assisting an injured employee to obtain compensation or accident benefits pursuant to [chapters 616A](#) to [616D](#), inclusive, of NRS, regardless of whether the person is paid by the injured employee or a third party.

(Added to NAC by Div. of Industrial Relations by R167-97, eff. 1-30-98)

**NAC 616D.007 “Expected annual premium” defined. ([NRS 616A.400](#))** “Expected annual premium” means an estimate of the total amount of money to be paid by an employer to his or her insurer to provide, secure and maintain compensation as required by the terms of [chapters 616A](#) to [616D](#), inclusive, of NRS for a fiscal or calendar year.

(Added to NAC by Div. of Industrial Relations by R168-97, eff. 1-30-98)

**NAC 616D.008 “Log of oral communications” defined. ([NRS 616A.400](#))** “Log of oral communications” means a record, in a written form or in a form from which a written record may be produced, maintained by a person specified in subsection 1 of [NRS 616D.330](#) of any oral communication the person initiated with an injured employee’s examining or treating physician or chiropractor, or an employee of the examining or treating physician or chiropractor, relating to the medical disposition of a claim of an injured employee.

(Added to NAC by Div. of Industrial Relations by R167-97, eff. 1-30-98)

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#### **PROCEEDINGS BEFORE ADMINISTRATOR**

**NAC 616D.009 “Administrator” defined.** ([NRS 616A.400](#)) As used in [NAC 616D.009](#) to [616D.075](#), inclusive, unless the context otherwise requires, “Administrator” means the Administrator or a person designated by him or her to conduct a hearing.

(Added to NAC by Div. of Industrial Relations by R006-97, eff. 12-9-97; A by R092-98, 12-18-98)

**NAC 616D.010 Procedure at hearings.** ([NRS 616A.400](#), [616D.050](#)) At any hearing, an insurer, employer or injured employee, or counsel for any of them or the Administrator may:

1. Call and examine witnesses;
2. Introduce into evidence written exhibits relevant to the issues to be decided;
3. Cross-examine opposing witnesses on any matter relevant to the issues of the case; and
4. Submit written legal arguments.

(Added to NAC by Div. of Industrial Insurance Regulation, eff. 2-22-88; A by Div. of Industrial Relations by R006-97, 12-9-97)

**NAC 616D.012 Scheduling of prehearing conference.** ([NRS 616A.400](#), [616D.050](#)) The Administrator may schedule a prehearing conference in any case to discuss settlement, discovery, scheduling or other matters pertinent to the case and may enter any order relating to those matters.

(Added to NAC by Div. of Industrial Relations by R092-98, eff. 12-18-98)

**NAC 616D.014 Purposes of prehearing.** ([NRS 616A.400](#), [616D.050](#)) A prehearing may be held for:

1. Speeding up the pending case.
2. Hearing motions.
3. Mediating a settlement.
4. Submittal of documentary evidence.
5. Narrowing issues.
6. Setting a convenient date for the main hearing.
7. Any other purpose which would facilitate the proceedings.

(Added to NAC by Div. of Industrial Relations by R092-98, eff. 12-18-98)

**NAC 616D.016 Failure to comply with regulations.** ([NRS 616A.400](#), [616D.050](#)) If a party or his or her counsel fails or refuses to comply with [NAC 616D.009](#) to [616D.075](#), inclusive, the Administrator may make such orders as are necessary to direct the course of the hearing, including, without limitation:

1. Continuing the hearing until the party or his or her counsel complies with the requirements.
2. Restricting or prohibiting the introduction of evidence.
3. Dismissing the matter.

(Added to NAC by Div. of Industrial Relations by R092-98, eff. 12-18-98)

**NAC 616D.020 Representation in proceedings.** ([NRS 616A.400](#))

1. An insurer or employer may be represented in any proceeding before the Administrator by a corporate officer, employee or other authorized representative.

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2. Any attorney appearing on behalf of a party in a proceeding before the Administrator must be licensed to practice law before all the courts of this State.

3. The counsel of record shall be deemed to be counsel for the party in all proceedings before the Administrator until written notice of the withdrawal and substitution of counsel is filed with the Administrator.

4. Counsel for an injured employee who filed a complaint with the Division pursuant to [NRS 616D.130](#) shall be deemed to be the counsel of record for the injured employee in all proceedings before the Administrator arising from the complaint, until written notice of the withdrawal and substitution of counsel is filed with the Administrator.

(Added to NAC by Div. of Industrial Insurance Regulation, eff. 2-22-88; A by Div. of Industrial Relations by R006-97, 12-9-97; R092-98, 12-18-98)

**NAC 616D.022 Request for interpreter.** ([NRS 616A.400](#), [616D.050](#)) A party who requires assistance in interpreting the English language during a proceeding before the Administrator must notify the Administrator in writing at least 10 days before the hearing at which such assistance is required. The Administrator will appoint an interpreter and arrange for the interpreter to attend the hearing at no cost to the party who requires such assistance.

(Added to NAC by Div. of Industrial Relations by R092-98, eff. 12-18-98)

**NAC 616D.030 Continuances.** ([NRS 616A.400](#), [616D.050](#)) A hearing before the Administrator may be continued by the Administrator upon:

1. His or her own motion for good cause;
2. The written stipulation of the parties to the proceeding if written approval is given by the Administrator and the continuance is obtained not less than 5 days before the scheduled hearing; or
3. An affidavit showing good cause filed by a party to the proceeding not less than 5 days before the scheduled hearing.

(Added to NAC by Div. of Industrial Insurance Regulation, eff. 2-22-88; A by Div. of Industrial Relations by R006-97, 12-9-97)

**NAC 616D.040 Materials to be filed before hearing; time for filing; filing by Administrator of statement of position.** ([NRS 616A.400](#), [616D.050](#))

1. Within the times prescribed in subsection 2, each party shall file with the Administrator and serve upon all other parties:

- (a) All documents to be introduced as evidence at the hearing;
- (b) A statement of the issues to be raised;
- (c) A list of witnesses, a brief summary of proposed testimony and a statement indicating whether any of the testimony is to be taken by use of the telephone; and
- (d) An estimate of the length of time required to present the case, including rebuttal testimony and argument.

2. The materials required by subsection 1 must be filed:

- (a) By the appellant, at least 14 days before the scheduled hearing.
  - (b) By a respondent, at least 7 days before the scheduled hearing.
3. The Administrator may upon his or her own motion file a statement of position.

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(Added to NAC by Div. of Industrial Insurance Regulation, eff. 2-22-88; A by Div. of Industrial Relations by R006-97, 12-9-97)

**NAC 616D.042 Request for issuance of subpoena; approval or denial of request. ([NRS 616A.400](#), [616D.050](#))**

1. A party who wishes the Administrator to issue a subpoena requiring the attendance of a witness or the production of a book, account, paper, record or other document must submit a request for a subpoena to the Administrator:

- (a) At any prehearing conference held in the matter;
- (b) At least 10 days before the hearing; or
- (c) As otherwise allowed by the Administrator.

2. A request for a subpoena must:

- (a) Set forth the reason why the subpoena is necessary; and
- (b) Be accompanied by a completed form for the subpoena.

3. The Administrator will:

(a) Approve the request for a subpoena if the Administrator determines that the witness or document requested is relevant to the issues in the matter and the party requesting the subpoena is otherwise unable to compel the attendance of the witness or the production of the document.

(b) Approve or deny the request for a subpoena within 5 days after the receipt of the request.

4. A subpoena for the production of a book, account, paper, record or other document must include, without limitation, a notice that indicates the manner in which the requested document may be provided without requiring the appearance of a person at the hearing.

(Added to NAC by Div. of Industrial Relations by R092-98, eff. 12-18-98)

**NAC 616D.044 Failure to comply with order or subpoena. ([NRS 616A.400](#), [616D.050](#))**

1. A party aggrieved by the failure or refusal of a person to comply with an order or subpoena may apply to the Administrator for an order certifying the disobedience or refusal to comply.

2. Upon receipt of such an application, the Administrator will notify the disobedient person to show cause why such an order should not be issued.

3. After the hearing, if the Administrator determines an order is appropriate, he or she will issue an order certifying disobedience or refusal to comply to the party who applied for the order.

4. Upon receipt of such an order, the party may, on behalf of the Administrator, file with the appropriate district court an application to compel obedience.

(Added to NAC by Div. of Industrial Relations by R092-98, eff. 12-18-98)

**NAC 616D.046 General requirements for motions. ([NRS 616A.400](#), [616D.050](#))**

1. All motions, except motions made during a hearing, must be filed with the Administrator and a copy thereof served by the moving party upon all other parties to the proceeding.

2. A party desiring to oppose a motion may serve and file a written opposition to the motion within 10 days after service of the motion.

3. The moving party may serve and file a reply within 5 days after service of the opposition to the motion.

4. Points and authorities may be filed with the motion.

5. All motions must be submitted for decision:

- (a) Within 10 days after the filing of the motion if a written opposition is not filed;

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- (b) Within 5 days after the filing of a written opposition; or
- (c) At the time designated by the Administrator if a hearing on the motion has been ordered.

6. The Administrator may, for good cause:

- (a) Change any times prescribed in this section; or
- (b) Order a hearing on the motion.

7. All motions requesting the entry of an order must be accompanied by alternate proposed orders approving and denying the motion.

(Added to NAC by Div. of Industrial Relations by R092-98, eff. 12-18-98)

**NAC 616D.048 Motion for change of venue. (NRS 616A.400, 616D.050)**

1. A party who wishes to transfer a hearing to or from Carson City or Las Vegas must submit a written motion for a change of venue to the Administrator at least 10 days before the scheduled hearing. The motion must be accompanied by an affidavit from the moving party which sets forth whether or not any other party to the proceeding opposes the motion. The moving party must serve a copy of the motion on all other parties to the proceeding.

2. A motion for a change of venue must be administered pursuant to [NAC 616D.046](#).

(Added to NAC by Div. of Industrial Relations by R092-98, eff. 12-18-98)

**NAC 616D.050 Admission of testimony or other evidence; applicable rules of evidence. (NRS 616A.400, 616D.050)**

1. At a hearing before the Administrator, any relevant testimony or other evidence may be admitted, except where precluded by law, if it is reasonably reliable.

2. The rules of evidence applicable to contested cases pursuant to [chapter 233B](#) of NRS apply to a hearing before the Administrator.

(Added to NAC by Div. of Industrial Insurance Regulation, eff. 2-22-88; A by Div. of Industrial Relations by R006-97, 12-9-97; R092-98, 12-18-98)

**NAC 616D.052 Testimony by telephone. (NRS 616A.400, 616D.050)**

1. Testimony may be taken by the Administrator by use of the telephone. If a party requests that testimony be taken by the Administrator by use of the telephone, the party must provide, before the hearing, written notification of the request to all of the other parties to the proceeding and the Administrator. The Administrator will determine any issues relating to the credibility of such testimony in the same manner as he or she determines the credibility of any other testimony.

2. The party requesting the taking of testimony by use of the telephone is responsible for the charges for the call, unless the person providing testimony by telephone pays the costs of the telephone call or otherwise accepts the charges for the call when he or she presents his or her testimony at the hearing.

3. If a party requests to present testimony by telephone and is not available to do so when the Administrator places the call, the party shall be deemed to have failed to appear.

(Added to NAC by Div. of Industrial Relations by R092-98, eff. 12-18-98)

**NAC 616D.054 Evidence recorded on videotape. (NRS 616A.400, 616D.050)**

1. A party who wishes to introduce evidence that is recorded on videotape must submit to the Administrator a written request therefor and a summary of the evidence so recorded in the

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statement of the issues to be raised at the hearing at least 14 days before the hearing or as otherwise allowed by the Administrator.

2. The Administrator will grant or deny the request within 5 days after the receipt of the request.

3. The party requesting the introduction of such evidence shall:

(a) At least 14 days before any hearing, or as otherwise allowed by the Administrator, provide an unedited copy of the evidence to the opposing party free of charge; and

(b) Provide all equipment necessary to display the videotape at the hearing.

(Added to NAC by Div. of Industrial Relations by R092-98, eff. 12-18-98)

**NAC 616D.056 Papers and documents. ([NRS 616A.400](#), [616D.050](#))**

1. Papers and documents filed pursuant to [NAC 616D.009](#) to [616D.075](#), inclusive, need not conform to any particular format.

2. All papers and documents, and copies thereof, must be legible.

3. A party shall furnish to the counsel for any other party to the proceeding, or directly to the other party if he or she is not represented by counsel, copies of all papers and documents served upon any party or filed with the Administrator.

4. Papers and documents offered as evidence, except for good cause shown, must not be marked with highlighting, underlining, annotations or any other device that serves to draw attention to one part of the document over another part or one document over another document or to comment on the contents of the document.

5. The Administrator may seal the record or require any party to the proceeding to redact confidential information from submitted papers and documents, including, without limitation, the name, address and social security number of the injured employee.

(Added to NAC by Div. of Industrial Relations by R092-98, eff. 12-18-98)

**NAC 616D.060 Findings of fact and conclusions of law; notice of right to file petition for judicial review; service by mail. ([NRS 616A.400](#), [616D.050](#))** If, after a hearing, the Administrator decides that the insurer, third-party administrator, organization for managed care, provider of health care, employee leasing company or employer has committed the alleged violation, the Administrator will:

1. Prepare written findings of fact and conclusions of law;

2. Give notice of the right to file a petition for judicial review within 30 days after service of the decision; and

3. Serve upon the insurer, third-party administrator, organization for managed care, provider of health care, employee leasing company or employer by mail a copy of the findings of fact and conclusions of law.

(Added to NAC by Div. of Industrial Insurance Regulation, eff. 2-22-88; A by Div. of Industrial Relations by R006-97, 12-9-97; R130-14, 9-9-2016)

**NAC 616D.065 Failure to appear. ([NRS 616A.400](#), [616D.050](#))** If a party who appeals fails to appear after due notice has been given and good cause is not shown for the failure to appear, the Administrator may:

1. Dismiss the case, with or without prejudice; or

2. Take testimony and evidence from the parties appearing and rule on the matter.



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**NAC 616D.070 Petition for reconsideration or rehearing.** ([NRS 616A.400](#), [616D.050](#))

1. A written petition for a reconsideration or rehearing based on good cause or newly discovered evidence may be filed with the Administrator within 15 days after the service of a notice of the final decision. A copy of the petition must be served upon the other parties to the proceeding within the same time.

2. The Administrator may grant or deny the petition for reconsideration or rehearing within 5 days after the receipt of the petition. If the petition is:

(a) Granted, the rehearing or reconsideration must be held within 30 days after the petition is granted.

(b) Denied, the time limit in which to file a petition for judicial review with the appropriate district court is not extended by the filing of a petition for reconsideration or rehearing.

3. Only one petition for reconsideration or rehearing will be considered for each party in a specific case.

(Added to NAC by Div. of Industrial Relations by R092-98, eff. 12-18-98)

**NAC 616D.075 Record of hearing.** ([NRS 616A.400](#), [616D.050](#))

1. A hearing before the Administrator must be transcribed by a court reporter or recorded electronically.

2. A party to the hearing may order a transcript of the record of the hearing within 30 days after the final decision of the Administrator is issued. If the record is:

(a) A stenographic record, the party must:

(1) Contact the certified court reporter who prepared the record; and

(2) Pay for the record.

(b) An electronically recorded record, the party must:

(1) Contact the Administrator, who will have the record transcribed; and

(2) Pay for the costs of transcription.

3. The electronic recording of the hearing will be maintained by the Administrator for not less than 6 months after the Administrator makes a ruling in the case.

4. The ordering of a transcript does not stay the time in which the party must file a petition for reconsideration, rehearing or judicial review.

(Added to NAC by Div. of Industrial Relations by R092-98, eff. 12-18-98)

## **ENFORCEMENT**

### **Payment of Compensation**

**NAC 616D.305 Interpretation of certain provisions.** ([NRS 616A.400](#), [616D.120](#)) For the purposes of carrying out the provisions of [NRS 616D.120](#) and [NAC 616D.311](#) and [616D.315](#):

1. A decision of a court, a hearing officer, an appeals officer or the Division shall be deemed to be:

(a) Any written order or decision entered by a court of competent jurisdiction, hearing officer or appeals officer, including, without limitation, a written determination that is not appealed in a timely manner;

(b) Any written decision issued by the Division; and

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(c) A written settlement agreement or written stipulation that is modified or changed by a court of competent jurisdiction, a hearing officer, an appeals officer or the Division.

2. “Payment of compensation” means:

(a) The payment of accident, medical or other benefits to an injured employee or his or her dependents;

(b) The payment of accident, medical or other benefits to persons other than an injured employee or his or her dependents;

(c) Giving written notice to an injured employee of the date, time and place of an appointment for the receipt of accident, medical or other benefits; and

(d) Providing an evaluation of or treatment to an injured employee for an industrial injury or occupational disease for which accident, medical or other benefits are payable.

3. “Written settlement agreement” means any agreement that is in writing or in the form of minutes or a transcript.

4. “Written stipulation” means any stipulation that is in writing or in the form of minutes or a transcript.

(Added to NAC by Div. of Industrial Relations by R010-97, eff. 11-5-97; A by R105-00, 1-18-2001, eff. 3-1-2001)

**NAC 616D.311 Establishment of policies and procedures for payment. ([NRS 616A.400](#), [616D.120](#))**

1. Each insurer, organization for managed care, health care provider or third-party administrator shall establish written policies and procedures for the payment of compensation found to be due by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to [chapters 616A](#) to [616D](#), inclusive, or chapter [617](#) of NRS.

2. The policies and procedures adopted pursuant to subsection 1 must:

(a) Provide that payment be made within the time set forth in paragraph (c) of subsection 1 of [NRS 616D.120](#);

(b) Provide for the quick and efficient payment of compensation to injured employees and their dependents in a manner that is consistent with the provisions of [chapters 616A](#) to [617](#), inclusive, of NRS;

(c) Establish a procedure for the clarification of any ambiguity in the payment of compensation found to be due an injured employee by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division within the time set forth in paragraph (c) of subsection 1 of [NRS 616D.120](#);

(d) Provide for the designation of a person or persons to receive and calendar notices for the payment of compensation found to be due an injured employee by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division; and

(e) Provide for the designation of a person or persons to pay any compensation found to be due an injured employee by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division within the time set forth in paragraph (c) of subsection 1 of [NRS 616D.120](#).

(Added to NAC by Div. of Industrial Relations by R010-97, eff. 11-5-97)

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**NAC 616D.315 Considerations for determining unreasonable delay in payment.** ([NRS 616A.400](#), [616D.120](#)) For the purposes of paragraph (c) of subsection 1 of [NRS 616D.120](#), to determine whether an insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company has unreasonably delayed payment to an injured employee of compensation found to be due him or her by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to [chapters 616A to 617](#), inclusive, of NRS, the Administrator will consider:

1. The reasons given by the insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company for making the payment after the time set forth in paragraph (c) of subsection 1 of [NRS 616D.120](#);
2. The efforts made by the insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company to make the payment within the time set forth in paragraph (c) of subsection 1 of [NRS 616D.120](#), if any;
3. The date the payment was made;
4. Whether the amount of compensation due, or any portion of that amount, was unclear or ambiguous and whether the insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company took action or exercised reasonable diligence to clarify the uncertainty or ambiguity and to pay the compensation due within the time set forth in paragraph (c) of subsection 1 of [NRS 616D.120](#), or at any time thereafter;
5. Whether the amount of compensation due, or any portion of that amount, was unknown or could have been determined through the exercise of reasonable diligence within the time set forth in paragraph (c) of subsection 1 of [NRS 616D.120](#), or at any time thereafter;
6. Whether the insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company was advised, in writing, by the injured employee or a representative thereof that payment of the compensation due could be delayed pending the outcome of any further negotiations relating to the compensation that was due;
7. Whether the insurer, organization for managed care, health care provider or third-party administrator established the policies and procedures required by [NAC 616D.311](#) and complied with those policies and procedures;
8. Whether the delay in the payment of the compensation due, or any portion thereof, was the result of error, lack of good faith or diligence, neglect or another cause within the control of the insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company; and
9. Any other circumstance which the Administrator deems relevant to determine whether a delay in the payment of compensation due was reasonable.

(Added to NAC by Div. of Industrial Relations by R010-97, eff. 11-5-97; A by R149-09, 10-23-2013)

### **Employers**

**NAC 616D.333 Order for cessation of business: Service.** ([NRS 616A.400](#), [616D.110](#)) An order for the cessation of business will be delivered to and served upon the employer, manager or supervisor at the place of employment or jobsite, or upon an employee of suitable age and discretion if the employer, manager and supervisor are absent, by a representative of the

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Administrator or by a peace officer who is authorized to serve judicial process and is designated by the Administrator to serve the order.

[Industrial Comm'n, No. 18.020, eff. 7-1-73; renumbered as 10.020, 6-30-82] — (NAC A by Div. of Industrial Insurance Regulation, 10-26-83; A by Div. of Industrial Relations by R092-98, 12-18-98)

**NAC 616D.335 Order for cessation of business: Compliance. ([NRS 616A.400](#), [616D.110](#))**

1. The representative of the Administrator who delivers the order of cessation of business shall remain at the place of employment or jobsite to witness that the employer immediately orders all employees and other persons present to leave the place of employment or jobsite and that all operations are terminated.

2. If the representative of the Administrator observes that the terms of the order are not carried out immediately, the representative must contact the nearest law enforcement agency by the most expeditious means and request that the agency render assistance in enforcing the terms of the order.

[Industrial Comm'n, No. 18.030, eff. 7-1-73; renumbered as 10.030, 6-30-82] — (NAC A by Div. of Industrial Relations by R092-98, 12-18-98)

**NAC 616D.340 Failure to provide and secure compensation or to report material fact concerning amount of payroll: Provision of certain information to or estimation of premiums by Administrator. ([NRS 616A.400](#), [616D.200](#), [616D.220](#))**

1. If the Administrator notifies an employer that the employer failed to provide and secure compensation as required by the terms of [chapters 616A](#) to [616D](#), inclusive, of NRS and that the employer is required to provide information to the Administrator for the calculation of the premiums that would otherwise have been owed to a private carrier, the employer or the former or current private carrier of the employer, as applicable, must provide written information to the Administrator that verifies the amount of the premiums that the employer otherwise would have owed to a private carrier for the period that the employer was uninsured.

2. If the Administrator notifies an employer that the employer knowingly failed to report a material fact concerning the amount of payroll upon which his or her premium was based pursuant to [NRS 616C.220](#) and that the employer is required to provide information to the Administrator for the calculation of the premium that would have been due had the proper information been submitted, the employer or the former or current private carrier of the employer, as applicable, must provide written information to the Administrator that verifies the amount of the premium that would have been due if the proper information had been submitted.

3. If the employer or the former or current private carrier of the employer, as applicable, fails or is unable to provide the information required pursuant to subsection 1 or 2, the employer shall verify the actual amount of the pay earned by his or her employees during the period that the employer was uninsured or in which the employer knowingly failed to report a material fact concerning the amount of payroll upon which the premium was based.

4. If the employer or the former or current private carrier of the employer, as applicable, fails or is unable to provide the information required by subsection 1, 2 or 3, the Administrator may estimate the premiums that the employer otherwise would have owed to a private carrier for the period during which the employer was uninsured or during which the employer failed to report a material fact concerning the amount of payroll upon which the premium was based.

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(Added to NAC by Industrial Insurance System, eff. 5-23-96; A by Div. of Industrial Relations by R166-97, 1-30-98; R007-06, 6-1-2006)

**NAC 616D.345 Failure to provide and secure compensation: Imposition and amount of administrative fine. ([NRS 616A.400](#), [616D.120](#))**

1. If the Fraud Control Unit for Industrial Insurance established pursuant to [NRS 228.420](#) does not prosecute an employer for failing to provide and secure compensation as required by the terms of [chapters 616A](#) to [616D](#), inclusive, of NRS or any regulation adopted pursuant thereto, the Administrator will:

(a) For a failure to provide and secure compensation for a period of 90 days or less, impose an administrative fine not to exceed \$1,000.

(b) For a failure to provide and secure compensation for a period of more than 90 days, but not more than 1 year, impose an administrative fine in an amount not to exceed \$5,000.

(c) For a failure to provide and secure compensation for a period of more than 1 year, impose an administrative fine not to exceed \$15,000.

2. In determining the amount of the administrative fines pursuant to subsection 1, the Administrator will consider whether:

(a) The employer is a small employer; and

(b) The failure to provide and secure compensation was the result of:

(1) An error of a private carrier or other third party;

(2) An unintentional error of the employer; or

(3) An intentional violation by the employer.

3. If the employer is a small employer and the failure to provide and secure compensation was not the result of an intentional violation by the employer, the Administrator may reduce the administrative fine imposed pursuant to this section by not more than 50 percent of the fine.

4. As used in this section, “small employer” means an employer which employs less than 150 full-time or part-time employees.

(Added to NAC by Div. of Industrial Relations by R168-97, eff. 1-30-98; A by R105-00, 1-18-2001, eff. 3-1-2001; R007-06, 6-1-2006)

### **Penalties**

**NAC 616D.400 Minor violations: Definition; authority of Administrator. ([NRS 616A.400](#), [616D.120](#))**

1. For the purposes of subsection 2 of [NRS 616D.120](#) and except as otherwise provided in [chapters 616A](#) to [617](#), inclusive, of NRS, or in any regulation adopted pursuant thereto, an insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company commits a “minor violation” of any provision of [chapter 616A](#), [616B](#), [616C](#), [616D](#) or [617](#) of NRS, or a regulation adopted pursuant thereto, if the violation is a single, unintentional violation and the insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company agrees, in writing, to correct the violation during the course of an investigation or audit conducted pursuant to those chapters.

2. Except as otherwise provided in this subsection, if an insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company

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agrees, in writing, to correct a single, unintentional violation during the course of an investigation or audit, the Administrator will issue a notice of correction for that violation. The Administrator will not issue a notice of correction pursuant to this subsection if the violation does not require correction or the correction is unnecessary or moot.

3. If an insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company does not agree, in writing, to correct a single, unintentional violation during the course of an investigation or audit, the Administrator may impose an administrative fine in an amount not to exceed those amounts set forth in subsection 2 of [NRS 616D.120](#) or order a plan of corrective action to be submitted to the Administrator, or both.

(Added to NAC by Div. of Industrial Relations by R007-97, eff. 12-10-97; A by R105-00, 1-18-2001, eff. 3-1-2001; R118-02, 9-7-2005; R149-09, 10-23-2013)

**NAC 616D.405 Intentional violations: Definition; authority of Administrator. ([NRS 616A.400](#), [616D.120](#))**

1. For the purposes of [NRS 616D.120](#), an insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company commits an “intentional violation” of any provision of [chapter 616A](#), [616B](#), [616C](#), [616D](#) or [617](#) of NRS, or any regulation adopted pursuant thereto, if he or she acts with purpose or design, otherwise acts to cause the consequences, desires to cause the consequences or believes that the consequences are substantially certain to result from the violation.

2. The Administrator may consider two or more violations of the same or similar provisions of [chapters 616A](#) to [617](#), inclusive, of NRS, or any regulations adopted pursuant thereto, as evidence of an intentional violation. If the Administrator determines that two or more violations constitute an intentional violation, the Administrator will impose an administrative fine as required by subsection 1 of [NRS 616D.120](#) and, if appropriate, order a plan of corrective action to be submitted to the Administrator.

(Added to NAC by Div. of Industrial Relations by R118-02, eff. 9-7-2005; A by R149-09, 10-23-2013)

**NAC 616D.411 Benefit penalties: Determination of amount required to be paid. ([NRS 616A.400](#), [616D.120](#))**

1. To determine the amount of a benefit penalty required to be paid pursuant to subsection 3 of [NRS 616D.120](#), *as amended by section 20 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3635*, the Administrator will determine that the violation caused physical or economic harm to the injured employee or his or her dependents if the Administrator finds, by a preponderance of the evidence, that:

- (a) The harm would not have occurred but for the violation;
- (b) The violation was a substantial factor in bringing about the harm; and
- (c) There is no supervening cause that is responsible for bringing about the harm.

2. Physical harm must be established by a preponderance of objective medical evidence in the form of existing medical records or medical records furnished by the claimant.

3. The Administrator will determine the amount of a benefit penalty required to be paid pursuant to subsection 3 of [NRS 616D.120](#), *as amended by section 20 of Senate Bill No. 274, chapter 535, Statutes of Nevada 2023, at page 3635*, according to the following schedule. In addition to the required minimum benefit penalty of ~~[\$5,000.]~~ **\$17,000**, a claimant will be awarded

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~~[\$2,250]~~ **\$8,500**, for each point assessed, but in no event will the amount of the benefit penalty be greater than ~~[\$50,000]~~ **\$120,000**.

Points assessed for physical harm:

Temporary minor harm.....	2 points
Temporary major harm.....	5 points
Permanent minor harm.....	5 points
Permanent major harm.....	15 points
Death.....	25 points

Points assessed for the amount of compensation found to be due the claimant:

Amount of compensation

\$3,001 - \$5,000.....	1 point
\$5,001 - \$7,000.....	2 points
\$7,001 - \$9,000.....	3 points
\$9,001 - \$11,000.....	4 points
\$11,001 - \$13,000.....	5 points
\$13,001 - \$15,000.....	6 points
\$15,001 - \$17,000.....	7 points
\$17,001 - \$19,000.....	8 points
\$19,001 - \$21,000.....	9 points
An amount that is greater than \$21,000.....	10 points

Points assessed for prior violations:

Average number of claims handled in the past 3 years of 4,000 or more

Five or less prior violations.....	0 points
Six prior violations.....	1 point
Seven prior violations.....	2 points
Eight prior violations.....	4 points
Nine or more prior violations.....	6 points

Average number of claims handled in the past 3 years of less than 4,000 but more than 1,500

Three or less prior violations.....	0 points
Four prior violations.....	1 point
Five prior violations.....	2 points
Six prior violations.....	4 points
Seven or more prior violations.....	6 points

Average number of claims handled in the past 3 years of 1,500 or less

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One prior violation.....	0 points
Two prior violations.....	1 point
Three prior violations.....	2 points
Four prior violations.....	4 points
Five or more prior violations.....	6 points

Points assessed for economic harm:

Amount of economic harm

\$6,001 - \$7,000.....	1 point
\$7,001 - \$8,000.....	2 points
\$8,001 - \$9,000.....	3 points
\$9,001 - \$10,000.....	4 points
\$10,001 - \$11,000.....	5 points
\$11,001 - \$12,000.....	6 points
\$12,001 - \$13,000.....	7 points
\$13,001 - \$14,000.....	8 points
\$14,001 - \$15,000.....	9 points
More than \$15,000.....	10 points

4. To determine the number of prior violations of an insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company, the Administrator will:

(a) Consider only those fines and benefit penalties imposed pursuant to paragraphs (a) to (e), inclusive, (h) and (i) of subsection 1 of [NRS 616D.120](#) using the 3 most recent complete years of available data.

(b) Not consider those benefit penalties imposed pursuant to paragraph (b) of subsection 3 of [NRS 616D.120](#).

5. To determine the average number of claims handled in the past 3 years, the Administrator will consider the 3 most recent complete years of available data.

6. As used in this section:

(a) ***“Claim” means a claim for compensation for which a Form C-4, Employee’s Claim for Compensation/Report of Initial Treatment, has been submitted to the employer of an injured employee and the insurer or third-party administrator of the employer pursuant to NAC 616C.080.***

(b) “Dependent” means a person who:

(1) At the time of the violation, is:

(I) The spouse of the injured employee;

(II) A child of the injured employee and is under 18 years of age; or

(III) A child of the injured employee, is 18 years of age or older and is physically or mentally incapacitated and unable to earn a wage; or

(2) Is a parent of the injured employee, a child of the injured employee who is 18 years of age or older, a stepchild of the injured employee or a sibling of the injured employee if that



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person's dependency upon the injured employee is established by a federal income tax return of the injured employee or by any other reliable evidence.

~~[(b)]~~ (c) "Economic harm" includes:

- (1) The loss of money or an item of monetary value; and
- (2) The deprivation of a reasonable expectation of a financial or monetary advantage.

~~[(e)]~~ (d) "Number of claims handled" means the total number of claims accepted, denied or reopened during a 1-year period.

~~[(d)]~~ (e) "Permanent major harm" means physical harm that:

(1) Results in a complete or significant loss of the ability to engage in activities of daily living, including, without limitation, caring for oneself, performing manual tasks, walking, standing, sitting, seeing, hearing, speaking, breathing, learning, working, sleeping, functioning sexually, and engaging in normal recreational and social activities; and

(2) Is unlikely to be alleviated in spite of medical treatment that a reasonable person is willing to undergo.

~~[(e)]~~ (f) "Permanent minor harm" means physical harm that:

(1) Does not result in a complete or significant loss of the ability to engage in activities of daily living, including, without limitation, caring for oneself, performing manual tasks, walking, standing, sitting, seeing, hearing, speaking, breathing, learning, working, sleeping, functioning sexually, and engaging in normal recreational and social activities; and

(2) Is unlikely to be alleviated in spite of medical treatment that a reasonable person is willing to undergo.

~~[(f)]~~ (g) "Physical harm" means death or any physiological disorder or condition, cosmetic disfigurement or anatomic loss affecting one or more of the following body systems:

- (1) The neurological system.
- (2) The musculoskeletal system.
- (3) Special sense organs.
- (4) The respiratory system, including, without limitation, speech organs.
- (5) The cardiovascular system.
- (6) The reproductive system.
- (7) The digestive system.
- (8) The genitourinary system.
- (9) The hemic and lymphatic system.
- (10) The skin.
- (11) The endocrine system.

~~[(g)]~~ (h) "Temporary major harm" means physical harm that:

(1) Results in a complete or significant loss of the ability to engage in activities of daily living, including, without limitation, caring for oneself, performing manual tasks, walking, standing, sitting, seeing, hearing, speaking, breathing, learning, working, sleeping, functioning sexually, and engaging in normal recreational and social activities; and

(2) Is likely to be alleviated with or without medical treatment.

~~[(h)]~~ (i) "Temporary minor harm" means physical harm that:

(1) Does not result in a complete or significant loss of the ability to engage in activities of daily living, including, without limitation, caring for oneself, performing manual tasks, walking, standing, sitting, seeing, hearing, speaking, breathing, learning, working, sleeping, functioning sexually, and engaging in normal recreational and social activities; and

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(2) Is likely to be alleviated with or without medical treatment.

(Added to NAC by Div. of Industrial Relations by R118-02, eff. 9-7-2005; A by R007-06, 6-1-2006; R149-09, 10-23-2013; R076-23, 10-09-2024)

**NAC 616D.413 Determination of pattern of untimely payments to injured workers. ([NRS 616A.400](#), [616D.120](#))**

1. For the purposes of paragraph (h) of subsection 1 of [NRS 616D.120](#), to determine whether an insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company has engaged in a pattern of untimely payments to injured workers, the Administrator will consider:

(a) The reasons given by the insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company for making the payments after the time set forth in the applicable statute or regulation;

(b) The efforts made by the insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company to make the payments within the time set forth in the applicable statute or regulation;

(c) The date the payments were made;

(d) The number of injured employees who have received untimely payments;

(e) The number of untimely payments;

(f) The length of the time period in which the untimely payments occurred;

(g) Whether the amount of any payments due, or any portion of that amount, was unknown, unclear or ambiguous, and whether the insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company took action or exercised reasonable diligence to determine the unknown amounts or to clarify the uncertainty or ambiguity and to make the payments due within the time set forth in the applicable statute or regulation or at any time thereafter;

(h) Whether the insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company was advised, in writing, by the affected injured employee or a representative thereof that payments could be delayed pending the outcome of any further negotiations relating to the compensation that was due;

(i) Whether successive or numerous untimely payments have been made to a single injured employee;

(j) Whether the untimely payments involved the same form of compensation, such as temporary total disability;

(k) Whether the insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company knew or reasonably should have known of the circumstances resulting in or likely to result in multiple untimely payments to one or more injured employees;

(l) Whether the insurer, organization for managed care, health care provider or third-party administrator established the policies and procedures required by [NAC 616D.311](#) and complied with those policies and procedures;

(m) Whether the untimely payments were the result of error, lack of good faith or diligence, neglect or another cause within the control of the insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company; and

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(n) Any other circumstance which the Administrator deems relevant to determine whether untimely payments to one or more injured employees constitute a pattern of untimely payments that warrants awarding a benefit penalty to an injured employee.

2. ~~[Timeliness of payments must be determined by the statute or regulation specifically applicable to the type of payment involved.]~~

~~—3.]~~ The insurer or third-party administrator shall record in the claim file the date on which any payment of compensation or other relief pursuant to [chapters 616A to 617](#), inclusive, of NRS is made to an injured employee or other person or has been deposited for mailing to the injured employee or other person. This information must be provided to the Administrator upon request.

(Added to NAC by Div. of Industrial Relations by R149-09, eff. 10-23-2013; A by Div. of Industrial Relations by R028-23, 02-26-24)

**NAC 616D.415 Imposition of administrative fine or order for corrective action for certain unintentional or multiple violations.** ([NRS 616A.400](#), [616D.120](#)) Except as otherwise provided in [chapters 616A to 617](#), inclusive, of NRS, or in any regulation adopted pursuant thereto:

1. If the Administrator determines that:

(a) An insurer or third-party administrator has failed to comply or has complied in an untimely manner with any provision of [chapter 616A](#), [616B](#), [616C](#), [616D](#) or [617](#) of NRS, or any regulation adopted pursuant thereto, that requires the insurer or third-party administrator to make a determination regarding the acceptance or denial of a claim for compensation;

(b) An insurer or third-party administrator has failed to comply or has complied in an untimely manner with any provision of [chapter 616A](#), [616B](#), [616C](#), [616D](#) or [617](#) of NRS, or any regulation adopted pursuant thereto, that requires the insurer or third-party administrator to make a payment of benefits to an injured employee;

(c) An insurer or employer has failed to comply or has complied in an untimely manner with any of the provisions of [NRS 616B.460](#) or [616B.461](#) or [NAC 616B.124](#) to [616B.136](#), inclusive;

(d) An insurer, organization for managed care, provider of health care, third-party administrator, employer or employee leasing company has failed to comply or has complied in an untimely manner with any of the provisions of [NRS 616A.475](#), [616B.006](#), [616B.009](#), [616C.700](#) or [617.357](#) or [NAC 616A.410](#) or [616C.527](#) or paragraph (b) of subsection 1 of [NAC 616B.014](#);

(e) A treating physician or chiropractor has failed to comply or has complied in an untimely manner with any of the provisions of [NRS 616C.020](#) or [616C.040](#), subsection 7 of [NRS 616C.475](#) or [NRS 617.352](#), or any regulations adopted pursuant thereto, that require the treating physician or chiropractor to complete a claim for compensation; or

(f) An employer has failed to comply or has complied in an untimely manner with any of the provisions of [NRS 616C.045](#) or [617.354](#), or any regulation adopted pursuant thereto, that require the employer to complete a report of industrial injury or occupational disease,

↪ and the Administrator determines that the violation was not an intentional violation, the Administrator may impose an administrative fine in an amount not to exceed those amounts set forth in subsection 2 of [NRS 616D.120](#) or order a plan of corrective action to be submitted to the Administrator, or both.

2. If the Administrator determines that an insurer, organization for managed care, health care provider, third-party administrator, employer or employee leasing company has committed two or

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more violations of the same or similar provisions of [chapters 616A](#) to [617](#), inclusive, of NRS, or any regulation adopted pursuant thereto, the Administrator may impose an administrative fine in an amount not to exceed those amounts set forth in subsection 2 of [NRS 616D.120](#) or order a plan of corrective action to be submitted to the Administrator, or both.

(Added to NAC by Div. of Industrial Relations by R118-02, eff. 9-7-2005; A by R149-09, 10-23-2013; R130-14, 9-9-2016)

### **COMMUNICATIONS RELATING TO MEDICAL DISPOSITION OF CLAIMS**

**NAC 616D.450 Log of oral communications: Maintenance; contents. ([NRS 616A.400](#), [616D.330](#))**

1. An insurer, employer, organization for managed care, a third-party administrator or the representative of any of those persons, the Nevada Attorney for Injured Workers or an attorney or other compensated representative of an injured employee who initiates an oral communication relating to the medical disposition of a claim shall maintain a log of oral communications for each claim of each injured employee with whom he or she has had such communications.

2. The initiator may maintain a log of oral communications in any file that he or she maintains concerning the injured employee if the log of oral communications is maintained so that it is readily available for production pursuant to the provisions of [NAC 616D.455](#).

3. A log of oral communications must contain the names of all parties included in each communication and the date, time and subject matter of the communication.

(Added to NAC by Div. of Industrial Relations by R167-97, eff. 1-30-98)

**NAC 616D.455 Log of oral communications: Availability. ([NRS 616A.400](#), [616D.330](#))**  
If a person specified in subparagraph (2) of paragraph (a) of subsection 1 of [NRS 616D.330](#) makes a written request for a log of oral communications and, if requested, proves his or her status as a person specified in subparagraph (2) of paragraph (a) of subsection 1 of [NRS 616D.330](#), the person who is required to maintain the log pursuant to subsection 1 of [NRS 616D.330](#) shall make the log available within 30 days after receipt of the written request.

(Added to NAC by Div. of Industrial Relations by R167-97, eff. 1-30-98)