

**2019 LEGISLATIVE CHANGES  
NRS CHAPTERS 616A-616D, and 617**

**AMENDMENTS**

**AB 128 amends NRS 616C.555(3), increasing the maximum vocational rehabilitation program limits to 9 months for a 0% PPD, 12 months for a 1% up to 6% PPD, and 24 months for a 6% or greater PPD and in (1) eliminates the prohibition on a claimant's right to appeal an authorization of a third or latter program; amends NRS 616C.560 by removing all restrictions on an insurer's granting an extension to voc rehab programs and adds that an extension may also be granted by order of a Hearing or Appeals Officer; and amends NRS 616C.595 raising the maximum limitation of lump sum voc rehab programs from 40% to 55%. Effective July 1, 2019 and applies to any open claim in which the claimant has not executed a formal training plan agreement.**

**Section 1.** NRS 616C.555 is hereby amended to read as follows:

616C.555 1. A vocational rehabilitation counselor shall develop a plan for a program of vocational rehabilitation for each injured employee who is eligible for vocational rehabilitation services pursuant to NRS 616C.590. The counselor shall work with the insurer and the injured employee to develop a program that is compatible with the injured employee's age, sex and physical condition.

2. If the counselor determines in a written assessment requested pursuant to NRS 616C.550 that the injured employee has existing marketable skills, the plan must consist of job placement assistance only. When practicable, the goal of job placement assistance must be to aid the employee in finding a position which pays a gross wage that is equal to or greater than 80 percent of the gross wage that the employee was earning at the time of his or her injury. An injured employee must not receive job placement assistance for more than 6 months after the date on which the injured employee was notified that he or she is eligible only for job placement assistance because:

- (a) The injured employee was physically capable of returning to work; or
- (b) It was determined that the injured employee had existing marketable skills.

3. If the counselor determines in a written assessment requested pursuant to NRS 616C.550 that the injured employee does not have existing marketable skills, the plan must consist of a program which trains or educates the injured employee and provides job placement assistance. Except as otherwise provided in NRS 616C.560, such a program must not exceed:

- (a) If the injured employee has incurred a permanent disability as a result of which permanent restrictions on the ability of the injured employee to work have been imposed but no permanent physical impairment rating has been issued, or a permanent disability with a permanent physical impairment of *0 percent, 9 months.*

- (b) *If the injured employee has incurred a permanent physical impairment of 1 percent or more but less than 6 percent, 12 months.*

~~[(b) If the injured employee has incurred a permanent physical impairment of 6 percent or more, but less than 11 percent, 1 year.]~~

- (c) If the injured employee has incurred a permanent physical impairment of ~~11~~ 6 percent or more, ~~18~~ 24 months.

↪ The percentage of the injured employee's permanent physical impairment must be determined pursuant to NRS 616C.490.

4. A plan for a program of vocational rehabilitation must comply with the requirements set forth in NRS 616C.585.
5. A plan created pursuant to subsection 2 or 3 must assist the employee in finding a job or train or educate the employee and assist the employee in finding a job that is a part of an employer's regular business operations and from which the employee will gain skills that would generally be transferable to a job with another employer.
6. A program of vocational rehabilitation must not commence before the treating physician or chiropractor, or an examining physician or chiropractor determines that the injured employee is capable of safely participating in the program.
7. If, based upon the opinion of a treating or an examining physician or chiropractor, the counselor determines that an injured employee is not eligible for vocational rehabilitation services, the counselor shall provide a copy of the opinion to the injured employee, the injured employee's employer and the insurer.
8. A plan for a program of vocational rehabilitation must be signed by a certified vocational rehabilitation counselor.
9. If an initial program of vocational rehabilitation pursuant to this section is unsuccessful, an injured employee may submit a written request for the development of a second program of vocational rehabilitation which relates to the same injury. An insurer shall authorize a second program for an injured employee upon good cause shown.
10. If a second program of vocational rehabilitation pursuant to subsection 9 is unsuccessful, an injured employee may submit a written request for the development of a third program of vocational rehabilitation which relates to the same injury. The insurer, with the approval of the employer who was the injured employee's employer at the time of his or her injury, may authorize a third program for the injured employee. If such an employer has terminated operations, the employer's approval is not required for authorization of a third program. ~~[An insurer's determination to authorize or deny a third program of vocational rehabilitation may not be appealed.]~~
11. The Division shall adopt regulations to carry out the provisions of this section. The regulations must specify the contents of a plan for a program of vocational rehabilitation.

**Sec. 2.** NRS 616C.560 is hereby amended to read as follows:

616C.560 1. A program for vocational rehabilitation developed pursuant to subsection 3 of NRS 616C.555 may be extended:

(a) Without condition or limitation, by the insurer at the insurer's sole discretion; or

(b) ~~In accordance with this section if:~~

~~(1) The injured employee makes a written request to extend the program not later than 30 days after the program has been completed; and~~

~~(2) There are exceptional circumstances which make it unlikely that the injured employee will obtain suitable gainful employment as a result of vocational rehabilitation which is limited to the period for which the injured employee is eligible.~~

~~→ An insurer's determination to grant or deny an extension pursuant to paragraph (a) may not be appealed.~~

~~2. If an injured employee has incurred a permanent physical impairment of less than 11 percent:~~

~~(a) The total length of the program, including any extension, must not exceed 2 years.~~

~~(b) "Exceptional circumstances" shall be deemed to exist for the purposes of paragraph (b) of subsection 1, if:~~

~~(1) The injured employee lacks work experience, training, education or other transferable skills for an occupation which the injured employee is physically capable of performing; or~~

~~(2) Severe physical restrictions as a result of the industrial injury have been imposed by a physician which significantly limit the employee's occupational opportunities.~~

~~3. If an injured employee has incurred a permanent physical impairment of 11 percent or more:~~

~~(a) The total length of the program, including any extension, must not exceed 2 1/2 years.~~

~~(b) "Exceptional circumstances" shall be deemed to exist for the purposes of paragraph (b) of subsection 1, if the injured employee has suffered:~~

~~(1) The total and permanent loss of sight of both eyes;~~

~~(2) The loss by separation of a leg at or above the knee;~~

~~(3) The loss by separation of a hand at or above the wrist; (4) An injury to the head or spine which results in permanent and complete paralysis of both legs, both arms or a leg and an arm; (5) An injury to the head which results in a severe cognitive functional impairment which may be established by a nationally recognized form of objective psychological testing;~~

~~(6) The loss by separation of an arm at or above the elbow and the loss by separation of a leg at or above the knee;~~

~~(7) An injury consisting of second or third degree burns on 50 percent or more of the body, both hands or the face;~~

~~(8) A total bilateral loss of hearing;~~

~~(9) The total loss or significant and permanent impairment of speech; or~~

~~(10) A permanent physical impairment of 50 percent or more determined pursuant to NRS 616C.490, if the severity of the impairment limits the injured employee's gainful employment to vocations that are primarily intellectual and require a longer program of education.~~

~~4. By order of a hearing officer or appeals officer.~~

2. The insurer shall deliver a copy of its decision granting or denying an extension to the injured employee and the employer. ~~{Except as otherwise provided in this section, the}~~ The decision shall be deemed to be a final determination of the insurer for the purposes of NRS 616C.315.

**Sec. 3.** NRS 616C.595 is hereby amended to read as follows:

616C.595 1. If an injured employee is eligible for vocational rehabilitation services pursuant to NRS 616C.590, the insurer and the injured employee may, at any time during the employee's eligibility for such services, execute a written agreement providing for the payment of compensation in a lump sum in lieu of the provision of vocational rehabilitation services. An insurer's refusal to execute such an agreement may not be appealed.

2. If the insurer and the injured employee execute an agreement pursuant to subsection 1, the acceptance of the payment of compensation in a lump sum by the injured employee extinguishes the right of the injured employee to receive vocational rehabilitation services under the injured employee's claim. Except as otherwise required by federal law, an injured employee shall not receive vocational rehabilitation services from any state agency after the injured employee accepts payment of compensation in a lump sum pursuant to this section.

3. Before executing an agreement pursuant to subsection 1, an insurer shall:

(a) Order an assessment of and counseling concerning the vocational skills of the injured employee, unless the provisions of subsection 3 of NRS 616C.580 are applicable;

(b) Consult with the employer of the injured employee; and (c) Provide a written notice to the injured employee that contains the following statements:



- (1) That the injured employee is urged to seek assistance and advice from the Nevada Attorney for Injured Workers or to consult with a private attorney before signing the agreement.
  - (2) That the injured employee may rescind the agreement within 20 days after the injured employee signs it.
  - (3) That the 20-day period pursuant to subparagraph (2) may not be waived.
  - (4) That acceptance by the injured employee of payment of compensation in a lump sum in lieu of the provision of vocational rehabilitation services extinguishes the right of the injured employee to receive such services.
4. Except as otherwise provided in NRS 616C.580, any payment of compensation in a lump sum in lieu of the provision of vocational rehabilitation services must not be less than ~~40~~ 55 percent of the maximum amount of vocational rehabilitation maintenance due to the injured employee pursuant to NRS 616C.555.
5. No payment of compensation in a lump sum may be made pursuant to this section until the 20-day period provided for the rescission of the agreement has expired.
- Sec. 4.** The amendatory provisions of this act apply prospectively with regard to any claim pursuant to chapters 616A to 616D, inclusive, or 617 of NRS which is open and for which the claimant has not executed a formal agreement for a plan which consists of a program of training or education pursuant to subsection 3 of NRS 616C.555 on or before July 1, 2019.
- Sec. 5.** This act becomes effective on July 1, 2019.

**AB 455 (Kid's Chance bill) amends NRS 616B.012 to authorize disclosure of confidential information; or notifying an injured employee or surviving spouse or dependent of additional benefits they may obtain from a nonprofit organization. Effective July 1, 2019.**

**Section 1.** NRS 616B.012 is hereby amended to read as follows:

616B.012 1. Except as otherwise provided in this section and NRS 239.0115, 616B.015, 616B.021 and 616C.205, information obtained from any insurer, employer or employee is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's identity.

2. Any claimant or legal representative of the claimant is entitled to information from the records of the insurer, to the extent necessary for the proper presentation of a claim in any proceeding under chapters 616A to 616D, inclusive, or chapter 617 of NRS.

3. The Division and Administrator are entitled to information from the records of the insurer which is necessary for the performance of their duties. The Administrator may, by regulation, prescribe the manner in which otherwise confidential information may be made available to:

- (a) Any agency of this or any other state charged with the administration or enforcement of laws relating to industrial insurance, unemployment compensation, public assistance or labor law and industrial relations;
- (b) Any state or local agency for the enforcement of child support;
- (c) The Internal Revenue Service of the Department of the Treasury;
- (d) The Department of Taxation; and
- (e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS.

↪ Information obtained in connection with the administration of a program of industrial insurance may be made available to persons or agencies for purposes appropriate to the operation of a program of industrial insurance.

4. Upon written request made by a public officer of a local government, an insurer shall furnish from its records the name, address and place of employment of any person listed in its records. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to the local government. The insurer may charge a reasonable fee for the cost of providing the requested information.

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

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

- (a) Lists containing the names and addresses of employers; and
- (b) Other information concerning employers collected and maintained by the Administrator or the Division to carry out the purposes of chapters 616A to 616D, inclusive, or chapter 617 of NRS,

↳ to the Department for its use in verifying returns for the taxes imposed pursuant to chapters 363A, 363B and 363C of NRS. The Administrator may charge a reasonable fee to cover any related administrative expenses.

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

8. All letters, reports or communications of any kind, oral or written, from the insurer, or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

9. The provisions of this section do not prohibit the Administrator or the Division from ~~{disclosing}~~ :

(a) *Disclosing* any nonproprietary information relating to an uninsured employer or proof of industrial insurance ~~{}~~ ; or

(b) *Notifying an injured employee or the surviving spouse or dependent of an injured employee of benefits to which such persons may be entitled in addition to those provided pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS but only if:*

*(1) The notification is solely for the purpose of informing the recipient of benefits that are available to the recipient; and*

*(2) The content of the notification is limited to information concerning services which are offered by nonprofit entities.*

Sec. 2. This act becomes effective on July 1, 2019.

**AB 492 amends NRS 616C.180, the limitation on stress claims caused by gradual mental stimulus, to create stress claims for first responders and public employees; and amends NRS 616C.420 expanding concurrent wages in calculating average monthly wage. Effective July 1, 2019.**

**Section 1. (Deleted by amendment.)**

**Sec. 2. NRS 616C.180 is hereby amended to read as follows:**

616C.180 1. Except as otherwise provided in this section, an injury or disease sustained by an employee that is caused by stress is compensable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS if it arose out of and in the course of his or her employment.

2. Any ailment or disorder caused by any gradual mental stimulus, and any death or disability ensuing therefrom, shall be deemed not to be an injury or disease arising out of and in the course of employment.

3. ~~1. Except as otherwise provided by subsections 4 and 5, an~~ injury or disease caused by stress shall be deemed to arise out of and in the course of employment only if the employee proves by clear and convincing medical or psychiatric evidence that:

(a) The employee has a mental injury caused by extreme stress in time of danger;

(b) The primary cause of the injury was an event that arose out of and during the course of his or her employment; and

(c) The stress was not caused by his or her layoff, the termination of his or her employment or any disciplinary action taken against him or her.

4. *An injury or disease caused by stress shall be deemed to arise out of and in the course of employment, and shall not be deemed the result of gradual mental stimulus, if the employee is a first responder and proves by clear and convincing medical or psychiatric evidence that:*

*(a) The employee has a mental injury caused by extreme stress due to the employee directly witnessing:*

*(1) The death, or the aftermath of the death, of a person as a result of a violent event, including, without limitation, a homicide, suicide or mass casualty incident; or*

*(2) An injury, or the aftermath of an injury, that involves grievous bodily harm of a nature that shocks the conscience; and*

*(b) The primary cause of the mental injury was the employee witnessing an event described in paragraph (a) during the course of his or her employment.*

5. *An injury or disease caused by stress shall be deemed to arise out of and in the course of employment, and shall not be deemed the result of gradual mental stimulus, if the employee is employed by the State or any of its agencies or political subdivisions and proves by clear and convincing medical or psychiatric evidence that:*

*(a) The employee has a mental injury caused by extreme stress due to the employee responding to a mass casualty incident; and*

*(b) The primary cause of the injury was the employee responding to the mass casualty incident during the course of his or her employment.*

6. *An agency which employs a first responder, including, without limitation, a first responder who serves as a volunteer, shall provide educational training to the first responder related to the awareness, prevention, mitigation and treatment of mental health issues.*

7. The provisions of this section do not apply to a person who is claiming compensation pursuant to NRS 617.457.

8. *As used in this section:*

*(a) "Directly witness" means to see or hear for oneself.*

*(b) "First responder" means:*

- (1) *A salaried or volunteer firefighter;*
- (2) *A police officer;*
- (3) *An emergency dispatcher or call taker who is employed by a law enforcement or public safety agency in this State; or*
- (4) *An emergency medical technician or paramedic who is employed by a public safety agency in this State.*

(c) *“Mass casualty incident” means an event that, for the purposes of emergency response or operations, is designated as a mass casualty incident by one or more governmental agencies that are responsible for public safety or for emergency response.*

**Sec. 3.** NRS 616C.400 is hereby amended to read as follows:

616C.400 1. Temporary compensation benefits must not be paid under chapters 616A to 616D, inclusive, of NRS for an injury which does not incapacitate the employee for at least 5 consecutive days, or 5 cumulative days within a 20-day period, from earning full wages, but if the incapacity extends for 5 or more consecutive days, or 5 cumulative days within a 20-day period, compensation must then be computed from the date of the injury.

2. The period prescribed in this section does not apply to:

(a) Accident benefits, whether they are furnished pursuant to NRS 616C.255 or 616C.265, if the injured employee is otherwise covered by the provisions of chapters 616A to 616D, inclusive, of NRS and entitled to those benefits.

(b) Compensation paid to the injured employee pursuant to subsection 1 of NRS 616C.477.

(c) A claim which is filed pursuant to NRS 617.453, 617.455 or 617.457.

(d) *A claim to which subsection 4 or 5 of NRS 616C.180 applies.*

**Sec. 3.5.** NRS 616C.420 is hereby amended to read as follows: 616C.420 1. The Administrator shall provide by regulation for a method of determining average monthly wage.

2. *In determining average monthly wage pursuant to subsection 1, the method must include concurrent wages of the injured employee only if the concurrent wages are earned from one or more employers who are insured for workers' compensation or government disability benefits by:*

(a) *A private carrier;*

(b) *A plan of self-insurance;*

(c) *A workers' compensation insurance system operating under the laws of any other state or territory of the United States; or*

(d) *A workers' compensation or disability benefit plan provided for and administered by the Federal Government or any agency thereof.*

3. *Except as otherwise provided by subsection 2, concurrent wages include, without limitation, wages earned from:*

(a) *Active or reserve duty with or in:*

(1) *The Army, Navy, Air Force, Marine Corps or Coast Guard of the United States;*

(2) *The Merchant Marine; or*

(3) *The National Guard; or*

(b) *Employment by:*

(1) *The Federal Government or any branch or agency thereof;*

(2) *A state, territorial, county, municipal or local government of any state or territory of the United States; or*

(3) *A private employer, whether that employment is fulltime, part-time, temporary, periodic, seasonal or otherwise limited in term, or pursuant to contract.*

4. *As used in this section, “concurrent wages” means the sum of wages earned or deemed to have been earned at each place of employment, including, without limitation, the sum of any and all money earned for work of any kind or nature performed by an employee for two or more employers during the one-year period immediately preceding the date of injury or the onset of*



*occupational disease, whether measured by an hourly rate, salary, piecework, commissions, gratuities, bonuses, per diem, value of meals, value of housing or any other employment benefit that can be fairly calculated to a monetary value expressed in an average monthly amount.*

**Sec. 4.** (Deleted by amendment.)

**Sec. 5.** NRS 617.420 is hereby amended to read as follows:

617.420 1. No compensation may be paid under this chapter for temporary total disability which does not incapacitate the employee for at least 5 cumulative days within a 20-day period from earning full wages, but if the incapacity extends for 5 or more days within a 20-day period, the compensation must then be computed from the date of disability.

2. The limitations in this section do not apply to medical benefits, including, without limitation, medical benefits pursuant to NRS 617.453, 617.455 or 617.457, *or a claim to which subsection 4 or 5 of NRS 616C.180 applies*, which must be paid from the date of application for payment of medical benefits.

**Sec. 5.5.** The amendatory provisions of section 3.5 of this act apply prospectively with regard to any claim pursuant to chapters 616A to 616D, inclusive, or 617 of NRS which is open on or filed on or after July 1, 2019.

**Sec. 6.** The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

**Sec. 7. 1.** This section and sections 2, 3, 5 and 6 of this act become effective upon passage and approval.

2. Sections 3.5 and 5.5 of this act become effective on July 1, 2019.

**SB 215 amends NRS 617.453, the firefighter cancer bill, to include arson investigators and training instructors and officers; revises the list of substances deemed to be to be known carcinogens, provides that disabling cancer is rebuttably presumed to be occupationally related and that a person who files a disabling cancer claim after retirement is not entitled to compensation other than medical benefits under certain circumstances. Effective July 1, 2019.**

**Section 1.** NRS 617.453 is hereby amended to read as follows:

617.453 1. Notwithstanding any other provision of this chapter, cancer, resulting in either temporary or permanent disability, or death, is an occupational disease and compensable as such under the provisions of this chapter if:

(a) The cancer develops or manifests itself out of and in the course of the employment of a person who, for 5 years or more, has been:

(1) Employed in this State in a full-time salaried occupation ~~[of fire fighting]~~ *as:*

*(I) A firefighter for the benefit or safety of the public;*

*(II) An investigator of fires or arson; or*

*(III) An instructor or officer for the provision of training concerning fire or hazardous materials; or*

(2) Acting as a volunteer firefighter in this State and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145; and

(b) It is demonstrated that:

(1) The person was exposed, while in the course of the employment, to a known carcinogen, *or a substance reasonably anticipated to be a human carcinogen*, as defined by the International Agency for Research on Cancer or the National Toxicology Program; and



(2) The carcinogen *or substance, as applicable*, is reasonably associated with the disabling cancer.

2. With respect to a person who, for 5 years or more, has been employed in this State ~~in a full-time salaried occupation of fire fighting for the benefit or safety of the public,~~ *as a firefighter, investigator, instructor or officer described in subparagraph (1) of paragraph (a) of subsection 1, or has acted as a volunteer firefighter in this State as described in subparagraph (2) of paragraph (a) of subsection 1*, the following substances shall be deemed, for the purposes of paragraph (b) of subsection 1, to be known carcinogens that are reasonably associated with the following disabling cancers:

(a) Diesel exhaust, formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with bladder cancer.

(b) Acrylonitrile, formaldehyde and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with brain cancer.

(c) *Asbestos, benzene, diesel exhaust and soot, digoxin, ethylene oxide, polychlorinated biphenyls and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with breast cancer.*

(d) Diesel exhaust and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with colon cancer.

(e) *Diesel exhaust and soot, formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with esophageal cancer.*

~~(d)~~ (f) Formaldehyde shall be deemed to be a known carcinogen that is reasonably associated with Hodgkin's lymphoma.

~~(e)~~ (g) Formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with kidney cancer.

(h) *Benzene, diesel exhaust and soot, formaldehyde, 1,3-butadiene and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with leukemia.*

~~(f)~~ (i) Chloroform, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with liver cancer.

(j) *Arsenic, asbestos, cadmium, chromium compounds, oils, polycyclic aromatic hydrocarbon, radon, silica, soot and tars shall be deemed to be known carcinogens that are reasonably associated with lung cancer.*

~~(g)~~ (k) Acrylonitrile, benzene, formaldehyde, polycyclic aromatic hydrocarbon, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with lymphatic or hematopoietic cancer.

~~(h)~~ (l) Diesel exhaust, soot, aldehydes and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with basal cell carcinoma, squamous cell carcinoma and malignant melanoma.

(m) *Benzene, dioxins and glyphosate shall be deemed to be known carcinogens that are reasonably associated with multiple myeloma.*

(n) *Arsenic, asbestos, benzene, diesel exhaust and soot, formaldehyde and hydrogen chloride shall be deemed to be known carcinogens that are reasonably associated with nasopharyngeal cancer, including laryngeal cancer and pharyngeal cancer.* (o) *Benzene, chronic hepatitis B and C viruses, formaldehyde and polychlorinated biphenyls shall be deemed to be known carcinogens that are reasonably associated with non-Hodgkin's lymphoma.*

(p) *Asbestos, benzene and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with ovarian cancer.*

(q) *Polycyclic aromatic hydrocarbon shall be deemed to be a known carcinogen that is reasonably associated with pancreatic cancer.*

~~(i)~~ (r) Acrylonitrile, benzene and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with prostate cancer.

*(s) Diesel exhaust and soot, formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with rectal cancer.*

*(t) Chlorophenols, chlorophenoxy herbicides and polychlorinated biphenyls shall be deemed to be known carcinogens that are reasonably associated with soft tissue sarcoma.*

*(u) Diesel exhaust and soot, formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with stomach cancer.*

~~[(j)]~~ *(v) Diesel exhaust, soot and polychlorinated biphenyls shall be deemed to be known carcinogens that are reasonably associated with testicular cancer.*

~~[(k)]~~ *(w) Diesel exhaust, benzene and X-ray radiation shall be deemed to be known carcinogens that are reasonably associated with thyroid cancer.*

*(x) Diesel exhaust and soot, formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with urinary tract cancer and ureteral cancer.*

*(y) Benzene and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with uterine cancer.*

3. The provisions of subsection 2 do not create an exclusive list and do not preclude any person from demonstrating, on a case-by-case basis for the purposes of paragraph (b) of subsection 1, that a substance is a known carcinogen *or is reasonably anticipated to be a human carcinogen, including an agent classified by the International Agency for Research on Cancer in Group 1 or Group 2A*, that is reasonably associated with a disabling cancer.

#### ~~[4.—Compensation]~~

4. *Except as otherwise provided in subsection 10, compensation* awarded to the employee or his or her dependents for disabling cancer pursuant to this section must include:

(a) Full reimbursement for related expenses incurred for medical treatments, surgery and hospitalization in accordance with the schedule of fees and charges established pursuant to NRS 616C.260 or, if the insurer has contracted with an organization for managed care or with providers of health care pursuant to NRS 616B.527, the amount that is allowed for the treatment or other services under that contract; and

(b) The compensation provided in chapters 616A to 616D, inclusive, of NRS for the disability or death.

5. ~~[Disabling]~~ *For a person who has been employed in this State as a firefighter, investigator, instructor or officer described in subparagraph (1) of paragraph (a) of subsection 1, or has acted as a volunteer firefighter in this State as described in subparagraph (2) of paragraph (a) of subsection 1, disabling cancer is rebuttably presumed to have arisen out of and in the course of the employment of the person if the disease is diagnosed during the course of the person's employment described in paragraph (a) of subsection 1.*

6. *For a person who has been employed in this State as a firefighter, investigator, instructor or officer described in subparagraph (1) of paragraph (a) of subsection 1 and who retires before July 1, 2019, or has acted as a volunteer firefighter in this State as described in subparagraph (2) of paragraph (a) of subsection 1, regardless of the date on which the volunteer firefighter retires, disabling cancer is rebuttably presumed to have ~~[developed or manifested itself]~~ arisen out of and in the course of the person's employment ~~[of any firefighter described in this section.]~~ pursuant to this subsection.* This rebuttable presumption applies to disabling cancer diagnosed after the termination of the person's employment if the diagnosis occurs within a period, not to exceed 60 months, which begins with the last date the employee actually worked in the qualifying capacity and extends for a period calculated by multiplying 3 months by the number of full years of his or her employment. ~~[This rebuttable presumption must control the awarding of benefits pursuant to this section unless evidence to rebut the presumption is presented.]~~

~~6.—The provisions of this section do not create a conclusive presumption.]~~

7. *For a person who has been employed in this State as a firefighter, investigator, instructor or officer described in subparagraph (1) of paragraph (a) of subsection 1 and who retires on or*

*after July 1, 2019, disabling cancer is rebuttably presumed to have arisen out of and in the course of the person's employment pursuant to this subsection. This rebuttable presumption applies to disabling cancer diagnosed:*

*(a) If the person ceases employment before completing 20 years of service as a firefighter, investigator, instructor or officer, during the period after separation from employment which is equal to the number of years worked; or*

*(b) If the person ceases employment after completing 20 years or more of service as a firefighter, investigator, instructor or officer, at any time during the person's life.*

*8. Service credit which is purchased in a retirement system must not be used to calculate the number of years of service or employment of a person for the purposes of this section.*

*9. A rebuttable presumption created by subsection 5, 6 or 7 must control the awarding of benefits pursuant to this section unless evidence to rebut the presumption is presented. The provisions of subsections 5, 6 and 7 do not create a conclusive presumption.*

*10. A person who files a claim for a disabling cancer pursuant to subsection 7 after he or she retires from employment as a firefighter, investigator of fires or arson, or instructor or officer for the provision of training concerning fire or hazardous materials is not entitled to receive any compensation for that disease other than medical benefits.*

**Sec. 2.** The amendatory provisions of this act apply only to claims filed on or after July 1, 2019.

**Sec. 3.** This act becomes effective on July 1, 2019.

## **NEW PROVISIONS**

**AB 370 creates a COLA of 2.3% for survivor's death benefits starting January 1, 2020, paid by the insurer, which for claims prior to July 1, 2019 is reimbursed from the Fund for Workers' Compensation and Safety. Effective July 1, 2019.**

**Section 1.** NRS 616A.425 is hereby amended to read as follows:

616A.425 1. There is hereby established in the State Treasury the Fund for Workers' Compensation and Safety as an enterprise fund. All money received from assessments levied on insurers and employers by the Administrator pursuant to NRS 232.680 must be deposited in this Fund.

2. All assessments, penalties, bonds, securities and all other properties received, collected or acquired by the Division for functions supported in whole or in part from the Fund must be delivered to the custody of the State Treasurer for deposit to the credit of the Fund.

3. All money and securities in the Fund must be used to defray all costs and expenses of administering the program of workers' compensation, including the payment of:

(a) All salaries and other expenses in administering the Division of Industrial Relations, including the costs of the office and staff of the Administrator.

(b) All salaries and other expenses of administering NRS 616A.435 to 616A.460, inclusive, the offices of the Hearings Division of the Department of Administration and the programs of self-insurance and review of premium rates by the Commissioner.

(c) The salary and other expenses of a full-time employee of the Legislative Counsel Bureau whose principal duties are limited to conducting research and reviewing and evaluating data related to industrial insurance.

(d) All salaries and other expenses of the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420.



(e) Claims against uninsured employers arising from compliance with NRS 616C.220 and 617.401.

(f) That portion of the salaries and other expenses of the Office for Consumer Health Assistance of the Department of Health and Human Services established pursuant to NRS 232.458 that is related to providing assistance to consumers and injured employees concerning workers' compensation.

(g) *For widows, widowers, surviving children and surviving dependent parents who are entitled to death benefits on account of an industrial injury or a disablement from an occupational disease that occurred before July 1, 2019:*

*(1) Reimbursement to insurers for the cost of the increase in the death benefits pursuant to subsection 1 of section 3.5 of this act; and*

*(2) The salary and other expenses of administering the payment of the increase in death benefits pursuant to subsection 1 of section 3.5 of this act.*

↪ *The provisions of this paragraph shall cease to be of any force or effect when no widow, widower, surviving child or surviving dependent parent is entitled to receive death benefits on account of an industrial injury or a disablement from an occupational disease that occurred before July 1, 2019.*

4. The State Treasurer may disburse money from the Fund only upon written order of the Controller.

5. The State Treasurer shall invest money of the Fund in the same manner and in the same securities in which the State Treasurer is authorized to invest state general funds which are in his or her custody. Income realized from the investment of the assets of the Fund must be credited to the Fund.

6. The Commissioner shall assign an actuary to review the establishment of assessment rates. The rates must be filed with the Commissioner 30 days before their effective date. Any insurer or employer who wishes to appeal the rate so filed must do so pursuant to NRS 679B.310.

7. If the Division refunds any part of an assessment, the Division shall include in that refund any interest earned by the Division from the refunded part of the assessment.

**Secs. 2 and 3.** (Deleted by amendment.)

**Sec. 3.2.** Chapter 616C of NRS is hereby amended by adding thereto the provisions set forth as sections 3.5 and 3.8 of this act.

**Sec. 3.5.** *1. Any widow, widower, surviving child or surviving dependent parent who is receiving death benefits pursuant to chapters 616A to 617, inclusive, of NRS on account of an industrial injury or a disablement from an occupational disease is entitled to an annual increase in those death benefits in the amount of 2.3 percent. The benefits must be increased pursuant to this section:*

*(a) On January 1, 2020; and*

*(b) On January 1 of each year thereafter.*

*2. Any increase in death benefits provided pursuant to this section is in addition to any increase in death benefits to which a widow, widower, surviving child or surviving dependent parent is otherwise entitled by law.*

*3. Any increase in death benefits pursuant to this section on account of an industrial injury or a disablement from an occupational disease that occurred on or after July 1, 2019, must be paid by insurers, including, without limitation, employers who provide accident benefits for injured employees pursuant to NRS 616C.265, without reimbursement from the Fund for Workers' Compensation and Safety pursuant to section 3.8 of this act.*

**Sec. 3.8.** *1. An insurer, including, without limitation, an employer who provides accident benefits for injured employees pursuant to NRS 616C.265, who pays an increase in death benefits to a widow, widower, surviving child or surviving dependent parent pursuant to section 3.5 of this act is entitled to be reimbursed for the amount of that increase from the Fund for*

*Workers' Compensation and Safety if the insurer provides to the Administrator all of the following:*

- (a) The name of the widow, widower, surviving child or surviving dependent parent to whom the insurer paid the increase in death benefits.*
- (b) The claim number under which death benefits were paid to the widow, widower, surviving child or surviving dependent parent.*
- (c) The date of the industrial injury or disablement from an occupational disease which resulted in the eligibility of the widow, widower, surviving child or surviving dependent parent for death benefits.*
- (d) The date of the death of the injured employee who is the:*
  - (1) Spouse of the widow or widower;*
  - (2) Parent of the surviving child; or*
  - (3) Child of the surviving dependent parent.*
- (e) The amount of the death benefit to which the widow, widower, surviving child or surviving dependent parent was entitled as of December 31, 2019.*
- (f) Proof of the insurer's payment of the increase in death benefits.*
- (g) The amount of reimbursement requested by the insurer.*

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

*3. An insurer may not be reimbursed pursuant to this section unless the insurer's request for reimbursement is approved by the Administrator.*

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

**Sec. 4.** NRS 232.680 is hereby amended to read as follows:

232.680 1. The cost of carrying out the provisions of NRS 232.550 to 232.700, inclusive, and of supporting the Division, a full-time employee of the Legislative Counsel Bureau and the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420, and that portion of the cost of the Office for Consumer Health Assistance established pursuant to NRS 232.458 that is related to providing assistance to consumers and injured employees concerning workers' compensation, must be paid from assessments payable by each insurer, including each employer who provides accident benefits for injured employees pursuant to NRS 616C.265.

2. The Administrator shall assess each insurer, including each employer who provides accident benefits for injured employees pursuant to NRS 616C.265. To establish the amount of the assessment, the Administrator shall determine the amount of money necessary for each of the expenses set forth in subsections 1 and 4 of this section and subsection 3 of NRS 616A.425 and determine the amount that is payable by the private carriers, the self-insured employers, the associations of self-insured public or private employers and the employers who provide accident benefits pursuant to NRS 616C.265 for each of the programs. For the expenses from which more than one group of insurers receives benefit, the Administrator shall allocate a portion of the amount necessary for that expense to be payable by each of the relevant group of insurers, based upon the expected annual expenditures for claims of each group of insurers. After allocating the amounts payable among each group of insurers for all the expenses from which each group receives benefit, the Administrator shall apply an assessment rate to the:

- (a) Private carriers that reflects the relative hazard of the employments covered by the private carriers, results in an equitable distribution of costs among the private carriers and is based upon expected annual premiums to be received;

- (b) Self-insured employers that results in an equitable distribution of costs among the self-insured employers and is based upon expected annual expenditures for claims;
- (c) Associations of self-insured public or private employers that results in an equitable distribution of costs among the associations of self-insured public or private employers and is based upon expected annual expenditures for claims; and
- (d) Employers who provide accident benefits pursuant to NRS 616C.265 that reflect the relative hazard of the employments covered by those employers, results in an equitable distribution of costs among the employers and is based upon expected annual expenditures for claims.

↪ The Administrator shall adopt regulations that establish the formula for the assessment and for the administration of payment, and any penalties that the Administrator determines are necessary to carry out the provisions of this subsection. The formula may use actual expenditures for claims. As used in this subsection, the term "group of insurers" includes the group of employers who provide accident benefits for injured employees pursuant to NRS 616C.265. 3. Federal grants may partially defray the costs of the Division.

4. Assessments made against insurers by the Division after the adoption of regulations must be used to defray all costs and expenses of administering the program of workers' compensation, including the payment of:

- (a) All salaries and other expenses in administering the Division, including the costs of the office and staff of the Administrator.
- (b) All salaries and other expenses of administering NRS 616A.435 to 616A.460, inclusive, the offices of the Hearings Division of the Department of Administration and the programs of self-insurance and review of premium rates by the Commissioner of Insurance.
- (c) The salary and other expenses of a full-time employee of the Legislative Counsel Bureau whose principal duties are limited to conducting research and reviewing and evaluating data related to industrial insurance.
- (d) All salaries and other expenses of the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420.
- (e) Claims against uninsured employers arising from compliance with NRS 616C.220 and 617.401.
- (f) That portion of the salaries and other expenses of the Office for Consumer Health Assistance established pursuant to NRS 232.458 that is related to providing assistance to consumers and injured employees concerning workers' compensation.

~~{5. If the Division refunds any part of an assessment, the Division shall include in that refund any interest earned by the Division from the refunded part of the assessment.}~~

*(g) For widows, widowers, surviving children and surviving dependent parents who are entitled to death benefits on account of an industrial injury or a disablement from an occupational disease pursuant to section 3.5 of this act that occurred before July 1, 2019:*

- (1) Reimbursement to insurers for the cost of the increase in the death benefits pursuant to subsection 1 of section 3.5 of this act; and*
- (2) The salary and other expenses of administering the payment of the increase in death benefits pursuant to subsection 1 of section 3.5 of this act.*

↪ *The provisions of this paragraph shall cease to be of any force or effect when no widow, widower, surviving child or surviving dependent parent is entitled to receive death benefits on account of an industrial injury or a disablement from an occupational disease that occurred before July 1, 2019.*

**Sec. 5.** For the purposes of subsection 1 of section 3.5 of this act, the amount of death benefits which is to be increased by 2.3 percent on January 1, 2020, for a widow, widower, surviving child



or surviving dependent parent who is entitled to receive death benefits on account of an industrial injury or a disablement from an occupational disease that occurred before January 1, 1989, shall be deemed to be the amount of annual death benefits the widow, widower, surviving child or surviving dependent parent was entitled to receive before the effective date of this act, compounded 3 times at 2.3 percent. The intent of this section is to put the widow, widower, surviving child or surviving dependent parent in the same position on January 1, 2020, with regard to the amount of death benefits to be increased by 2.3 percent pursuant to paragraph (a) of subsection 1 of section 3.5 of this act, as if the widow, widower, surviving child or surviving dependent parent had been receiving an annual increase of 2.3 percent of his or her annual death benefits on January 1 of each year beginning on January 1, 2017.

**Sec. 6.** For the purposes of subsection 1 of section 3.5 of this act, the amount of death benefits which is to be increased by 2.3 percent on January 1, 2020, for a widow, widower, surviving child or surviving dependent parent who is entitled to receive death benefits on account of an industrial injury or a disablement from an occupational disease that occurred on or after January 1, 1989, and before January 1, 1994, shall be deemed to be the amount of annual death benefits the widow, widower, surviving child or surviving dependent parent was entitled to receive before the effective date of this act, compounded 2 times at 2.3 percent. The intent of this section is to put the widow, widower, surviving child or surviving dependent parent in the same position on January 1, 2020, with regard to the amount of death benefits to be increased by 2.3 percent pursuant to paragraph (a) of subsection 1 of section 3.5 of this act, as if the widow, widower, surviving child or surviving dependent parent had been receiving an annual increase of 2.3 percent of his or her annual death benefits on January 1 of each year beginning on January 1, 2018.

**Sec. 7.** (Deleted by amendment.)

**Sec. 8.** This act becomes effective on July 1, 2019.

**SB 377 creates a COLA of 2.3% for permanent total disability benefits starting January 1, 2020, paid by the insurer, which for claims occurring prior to January 1, 2004 is reimbursed from the Fund for Workers' Compensation and Safety; and amends NRS 616C.420 on average monthly wage. Effective July 1, 2019.**

**Section 1.** NRS 616A.425 is hereby amended to read as follows:

616A.425 1. There is hereby established in the State Treasury the Fund for Workers' Compensation and Safety as an enterprise fund. All money received from assessments levied on insurers and employers by the Administrator pursuant to NRS 232.680 must be deposited in this Fund.

2. All assessments, penalties, bonds, securities and all other properties received, collected or acquired by the Division for functions supported in whole or in part from the Fund must be delivered to the custody of the State Treasurer for deposit to the credit of the Fund.

3. All money and securities in the Fund must be used to defray all costs and expenses of administering the program of workers' compensation, including the payment of:

(a) All salaries and other expenses in administering the Division of Industrial Relations, including the costs of the office and staff of the Administrator.

(b) All salaries and other expenses of administering NRS 616A.435 to 616A.460, inclusive, the offices of the Hearings Division of the Department of Administration and the programs of self-insurance and review of premium rates by the Commissioner.

(c) The salary and other expenses of a full-time employee of the Legislative Counsel Bureau whose principal duties are limited to conducting research and reviewing and evaluating data related to industrial insurance.

(d) All salaries and other expenses of the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420.

(e) Claims against uninsured employers arising from compliance with NRS 616C.220 and 617.401.

(f) That portion of the salaries and other expenses of the Office for Consumer Health Assistance of the Department of Health and Human Services established pursuant to NRS 232.458 that is related to providing assistance to consumers and injured employees concerning workers' compensation.

(g) *For claimants and dependents of claimants who are entitled to receive compensation for a permanent total disability caused by an industrial injury or a disablement that occurred before January 1, 2004:*

*(1) Reimbursement to insurers for the cost of the annual increase in the compensation pursuant to subsection 2 of NRS 616C.473; and*

*(2) The salary and other expenses of administering the payment of the annual increase in the compensation pursuant to subsection 2 of NRS 616C.473.*

4. The State Treasurer may disburse money from the Fund only upon written order of the Controller.

5. The State Treasurer shall invest money of the Fund in the same manner and in the same securities in which the State Treasurer is authorized to invest state general funds which are in his or her custody. Income realized from the investment of the assets of the Fund must be credited to the Fund.

6. The Commissioner shall assign an actuary to review the establishment of assessment rates. The rates must be filed with the Commissioner 30 days before their effective date. Any insurer or employer who wishes to appeal the rate so filed must do so pursuant to NRS 679B.310.

7. If the Division refunds any part of an assessment, the Division shall include in that refund any interest earned by the Division from the refunded part of the assessment.

**Sec. 2.** NRS 616A.430 is hereby amended to read as follows:

616A.430 1. There is hereby established in the State Treasury the Uninsured Employers' Claim Account in the Fund for Workers' Compensation and Safety, which may be used only for the purpose of making payments in accordance with the provisions of NRS 616C.220 ~~616C.453~~ and 617.401 ~~and~~ *and subsection 2 of NRS 616C.473*. The Administrator shall administer the Account and shall credit any excess money toward the assessments of the insurers for the succeeding years.

2. All assessments, penalties, bonds, securities and all other properties received, collected or acquired by the Administrator for the Uninsured Employers' Claim Account must be delivered to the custody of the State Treasurer.

3. All money and securities in the Account must be held by the State Treasurer as custodian thereof to be used solely for workers' compensation.

4. The State Treasurer may disburse money from the Account only upon written order of the State Controller.

5. The State Treasurer shall invest money of the Account in the same manner and in the same securities in which the State Treasurer is authorized to invest money of the State General Fund. Income realized from the investment of the assets of the Account must be credited to the Account.

6. The Administrator shall assess each insurer, including each employer who provides accident benefits for injured employees pursuant to NRS 616C.265, an amount to be deposited in the Uninsured Employers' Claim Account. To establish the amount of the assessment, the Administrator shall determine the amount of money necessary to maintain an appropriate balance

in the Account for each fiscal year and shall allocate a portion of that amount to be payable by private carriers, a portion to be payable by self-insured employers, a portion to be payable by associations of self-insured public or private employers and a portion to be payable by the employers who provide accident benefits pursuant to NRS 616C.265, based upon the expected annual expenditures for claims of each group of insurers. After allocating the amounts payable, the Administrator shall apply an assessment rate to the:

- (a) Private carriers that reflects the relative hazard of the employments covered by the private carriers, results in an equitable distribution of costs among the private carriers and is based upon expected annual premiums to be received;
  - (b) Self-insured employers that results in an equitable distribution of costs among the self-insured employers and is based upon expected annual expenditures for claims;
  - (c) Associations of self-insured public or private employers that results in an equitable distribution of costs among the associations of self-insured public or private employers and is based upon expected annual expenditures for claims; and
  - (d) Employers who provide accident benefits pursuant to NRS 616C.265 that reflects the relative hazard of the employments covered by those employers, results in an equitable distribution of costs among the employers and is based upon expected annual expenditures for claims.
- ↪ The Administrator shall adopt regulations for the establishment and administration of the assessment rates, payments and any penalties that the Administrator determines are necessary to carry out the provisions of this subsection. As used in this subsection, the term “group of insurers” includes the group of employers who provide accident benefits for injured employees pursuant to NRS 616C.265.

7. The Commissioner shall assign an actuary to review the establishment of assessment rates. The rates must be filed with the Commissioner 30 days before their effective date. Any insurer who wishes to appeal the rate so filed must do so pursuant to NRS 679B.310.

**Sec. 2.5.** Chapter 616C of NRS is hereby amended by adding thereto a new section to read as follows:

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

- (a) The name of the claimant or dependent of a claimant to whom the insurer paid the increase in compensation.*
- (b) The claim number under which the compensation for a permanent total disability was paid to the claimant or dependent of a claimant.*
- (c) The date of the industrial injury or disablement from an occupational disease which resulted in the permanent total disability of the injured employee.*
- (d) The date on which the disability of the injured employee was determined or deemed to be total and permanent.*
- (e) The amount of the compensation for a permanent total disability to which the claimant or dependent of a claimant was entitled as of December 31, 2019.*
- (f) Proof of the insurer’s payment of the increase in compensation for a permanent total disability.*
- (g) The amount of reimbursement requested by the insurer.*

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



3. *An insurer may not be reimbursed pursuant to this section unless the insurer's request for reimbursement is approved by the Administrator.*

4. *If the Administrator approves an insurer's request for reimbursement, the Administrator must withdraw from the Uninsured Employers' Claim Account established pursuant to NRS 616A.430 an amount of the income realized from the investment of the assets in that Account that is necessary to reimburse the insurer or employer for the cost of the increase in compensation paid to claimants and dependents pursuant to subsection 2 of NRS 616C.473. If the income realized from the investment of the assets in the Account is insufficient to pay such reimbursement, the Administrator must pay the remainder of the reimbursement from the assessments levied by the Administrator pursuant to NRS 232.680.*

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

Sec. 2.8. NRS 616C.420 is hereby amended to read as follows:

616C.420 1. The Administrator shall provide by regulation for a method of determining average monthly wage.

2. *The method established pursuant to subsection 1 must provide that:*

(a) *Except as otherwise provided in this subsection, a history of wages earned for a period of 12 weeks must be used to calculate an average monthly wage.*

(b) *If a 12-week period of wages earned is not representative of the average monthly wage of the injured employee, wages earned over a period of 1 year or the full period of employment, if it is less than 1 year, may be used. Wages earned over 1 year or the full period of employment, if it is less than 1 year, must be used if the average monthly wage would be increased.*

(c) *If an injured employee is a member of a labor organization and is regularly employed by referrals from the office of that organization, wages earned from all employers for a period of 1 year may be used. A period of 1 year using all the wages earned by the injured employee from all his or her employers must be used if the average monthly wage would be increased.*

(d) *If information concerning payroll is not available for a period of 12 weeks, wages earned may be averaged for the available period, but not for a period of less than 4 weeks.*

(e) *If information concerning payroll is unavailable for a period of at least 4 weeks, average wages earned must be projected using the rate of pay on the date of the injury or illness and the projected working schedule of the injured employee.*

(f) *If wages earned are based on piecework and a history of wages earned is unavailable for a period of at least 4 weeks, the wages earned must be determined as being equal to the average wages earned by other employees doing the same work.*

(g) *If these methods of determining a period of wages earned cannot be applied reasonably and fairly, an average monthly wage must be calculated by the insurer at 100 percent of:*

(1) *The sum which reasonably represents the average monthly wage of the injured employee, as defined in regulations adopted pursuant to this section, at the time the injury or illness occurs; or*

(2) *The amount determined using the hourly wage on the day the injury or illness occurs and the projected working schedule of the injured employee.*

(h) *The period used to calculate the average monthly wage must consist of consecutive days, ending on the date on which the injury or illness occurs, or the last day of the payroll period preceding the injury or illness if this period is representative of the average monthly wage.*

→ *As used in this subsection, "wages earned" means wages earned from the employment in which the injury or illness occurs and in any concurrent employment.*

Sec. 3. NRS 616C.473 is hereby amended to read as follows:

616C.473 1. If a claimant or a dependent of a claimant is entitled to receive compensation pursuant to chapters 616A to 617, inclusive, of NRS for a permanent total disability caused by an industrial injury or a disablement from an occupational disease that occurs on or after January 1, 2004, the claimant or dependent is entitled to an annual increase in that compensation in the amount of 2.3 percent. The compensation must be increased pursuant to this ~~section:~~ *subsection:*

(a) On January 1 of the year immediately after the year in which the claimant or dependent becomes entitled to receive that compensation; and

(b) On January 1 of each successive year after the year specified in paragraph (a) in which the claimant or dependent is entitled to receive that compensation.

*2. If a claimant or a dependent of a claimant is entitled to receive compensation pursuant to chapters 616A to 617, inclusive, of NRS for a permanent total disability caused by an industrial injury or a disablement from an occupational disease that occurred before January 1, 2004, the claimant or dependent is entitled to an annual increase in that compensation in the amount of 2.3 percent. The compensation must be increased pursuant to this subsection:*

*(a) On January 1, 2020; and*

*(b) On January 1 of each year thereafter.*

3. Any increase in compensation provided pursuant to this section is in addition to any increase in compensation to which a claimant or a dependent of a claimant is otherwise entitled by law.

**Sec. 4.** NRS 232.680 is hereby amended to read as follows:

232.680 1. The cost of carrying out the provisions of NRS 232.550 to 232.700, inclusive, and of supporting the Division, a full-time employee of the Legislative Counsel Bureau and the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420, and that portion of the cost of the Office for Consumer Health Assistance established pursuant to NRS 232.458 that is related to providing assistance to consumers and injured employees concerning workers' compensation, must be paid from assessments payable by each insurer, including each employer who provides accident benefits for injured employees pursuant to NRS 616C.265.

2. The Administrator shall assess each insurer, including each employer who provides accident benefits for injured employees pursuant to NRS 616C.265. To establish the amount of the assessment, the Administrator shall determine the amount of money necessary for each of the expenses set forth in subsections 1 and 4 of this section and subsection 3 of NRS 616A.425 and determine the amount that is payable by the private carriers, the self-insured employers, the associations of self-insured public or private employers and the employers who provide accident benefits pursuant to NRS 616C.265 for each of the programs. For the expenses from which more than one group of insurers receives benefit, the Administrator shall allocate a portion of the amount necessary for that expense to be payable by each of the relevant group of insurers, based upon the expected annual expenditures for claims of each group of insurers. After allocating the amounts payable among each group of insurers for all the expenses from which each group receives benefit, the Administrator shall apply an assessment rate to the:

(a) Private carriers that reflects the relative hazard of the employments covered by the private carriers, results in an equitable distribution of costs among the private carriers and is based upon expected annual premiums to be received;

(b) Self-insured employers that results in an equitable distribution of costs among the self-insured employers and is based upon expected annual expenditures for claims;

(c) Associations of self-insured public or private employers that results in an equitable distribution of costs among the associations of self-insured public or private employers and is based upon expected annual expenditures for claims; and

(d) Employers who provide accident benefits pursuant to NRS 616C.265 that reflect the relative hazard of the employments covered by those employers, results in an

equitable distribution of costs among the employers and is based upon expected annual expenditures for claims.

↪ The Administrator shall adopt regulations that establish the formula for the assessment and for the administration of payment, and any penalties that the Administrator determines are necessary to carry out the provisions of this subsection. The formula may use actual expenditures for claims. As used in this subsection, the term “group of insurers” includes the group of employers who provide accident benefits for injured employees pursuant to NRS 616C.265.

3. Federal grants may partially defray the costs of the Division.

4. Assessments made against insurers by the Division after the adoption of regulations must be used to defray all costs and expenses of administering the program of workers’ compensation, including the payment of:

(a) All salaries and other expenses in administering the Division, including the costs of the office and staff of the Administrator.

(b) All salaries and other expenses of administering NRS 616A.435 to 616A.460, inclusive, the offices of the Hearings Division of the Department of Administration and the programs of self-insurance and review of premium rates by the Commissioner of Insurance.

(c) The salary and other expenses of a full-time employee of the Legislative Counsel Bureau whose principal duties are limited to conducting research and reviewing and evaluating data related to industrial insurance.

(d) All salaries and other expenses of the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420.

(e) Claims against uninsured employers arising from compliance with NRS 616C.220 and 617.401.

(f) That portion of the salaries and other expenses of the Office for Consumer Health Assistance established pursuant to NRS 232.458 that is related to providing assistance to consumers and injured employees concerning workers’ compensation.

~~{5. If the Division refunds any part of an assessment, the Division shall include in that refund any interest earned by the Division from the refunded part of the assessment.}~~

*(g) For claimants and dependents of claimants who are entitled to receive compensation for a permanent total disability caused by an industrial injury or a disablement that occurred before January 1, 2004, reimbursement to insurers for the cost of the annual increase in the compensation pursuant to subsection 2 of NRS 616C.473.*

**Sec. 5.** NRS 616C.453 is hereby repealed.

**Sec. 5.5.** The amendatory provisions of section 2.8 of this act apply prospectively with regard to any claim pursuant to chapters 616A to 616D, inclusive, or 617 of NRS which is open on or filed on or after July 1, 2019.

**Sec. 6.** This act becomes effective on July 1, 2019.

**SB 381 creates requirements for insurer provider lists and DIR provider list, posted on DIR’s website; amends NRS 616C.490 so that employee or representative can request a PPD rating provider from DIR’s rotating list at any time. Effective January 1, 2010.**

**Section 1.** NRS 616B.527 is hereby amended to read as follows:

616B.527 1. A self-insured employer, an association of self-insured public or private employers or a private carrier may:

(a) Except as otherwise provided in NRS 616B.5273, enter into a contract or contracts with one or more organizations for managed care to provide comprehensive medical and health care



services to employees for injuries and diseases that are compensable pursuant to chapters 616A to 617, inclusive, of NRS.

(b) Enter into a contract or contracts with providers of health care, including, without limitation, physicians who provide primary care, specialists, pharmacies, physical therapists, radiologists, nurses, diagnostic facilities, laboratories, hospitals and facilities that provide treatment to outpatients, to provide medical and health care services to employees for injuries and diseases that are compensable pursuant to chapters 616A to 617, inclusive, of NRS.

(c) Require employees to obtain medical and health care services for their industrial injuries from those organizations and persons with whom the self-insured employer, association or private carrier has contracted pursuant to paragraphs (a) and (b), or as the self-insured employer, association or private carrier otherwise prescribes.

(d) Except as otherwise provided in subsection ~~3~~ 4 of NRS 616C.090, require employees to obtain the approval of the self-insured employer, association or private carrier before obtaining medical and health care services for their industrial injuries from a provider of health care who has not been previously approved by the self-insured employer, association or private carrier.

2. An organization for managed care with whom a self-insured employer, association of self-insured public or private employers or a private carrier has contracted pursuant to this section shall comply with the provisions of NRS 616B.528, 616B.5285 and 616B.529.

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

***1. The Legislature hereby declares that:***

***(a) The choice of a treating physician or chiropractor is a substantive right and substantive benefit of an injured employee who has a claim under the Nevada Industrial Insurance Act or the Nevada Occupational Diseases Act.***

***(b) The injured employees of this State have a substantive right to an adequate choice of physicians and chiropractors to treat their industrial injuries and occupational diseases.***

***2. Except as otherwise provided in this subsection and subsections 3 and 4, an insurer's list of physicians and chiropractors from which an injured employee may choose pursuant to NRS 616C.090 must include not less than 12 physicians or chiropractors, as applicable, in each of the following disciplines and specializations, without limitation, from the panel of physicians and chiropractors maintained by the Administrator pursuant to NRS 616C.090:***

- (a) Orthopedic surgery on spines;***
- (b) Orthopedic surgery on shoulders;***
- (c) Orthopedic surgery on elbows;***
- (d) Orthopedic surgery on wrists;***
- (e) Orthopedic surgery on hands;***
- (f) Orthopedic surgery on hips;***
- (g) Orthopedic surgery on knees;***
- (h) Orthopedic surgery on ankles;***
- (i) Orthopedic surgery on feet;***
- (j) Neurosurgery;***
- (k) Neurology;***
- (l) Cardiology;***
- (m) Pulmonology;***
- (n) Psychiatry;***
- (o) Pain management;***
- (p) Occupational medicine;***
- (q) Physiatry or physical medicine;***

- (r) General practice or family medicine; and*
- (s) Chiropractic medicine.*
- If the panel of physicians and chiropractors maintained by the Administrator pursuant to NRS 616C.090 contains fewer than 12 physicians or chiropractors, as applicable, for a discipline or specialization specifically identified in this subsection, all of the physicians or chiropractors, as applicable, on the panel for that discipline or specialization must be included on the insurer's list.*
- 3. For any other discipline or specialization not specifically identified in subsection 2, the insurer's list must include not fewer than 8 physicians or chiropractors, as applicable, unless the panel of physicians and chiropractors maintained by the Administrator pursuant to NRS 616C.090 contains fewer than 8 physicians or chiropractors, as applicable, for that discipline or specialization, in which case all of the physicians or chiropractors, as applicable, on the panel for that discipline or specialization must be included on the insurer's list.*
- 4. For each county whose population is 100,000 or more, an insurer's list of physicians and chiropractors must include for that county a number of physicians and chiropractors, as applicable, that is not less than the number required pursuant to subsections 2 and 3 and that also maintain in that county: (a) An active practice; and (b) A physical office.*
- 5. If an insurer fails to maintain a list of physicians and chiropractors that complies with the requirements of subsections 2, 3 and 4, an injured employee may choose a physician or chiropractor from the panel of physicians and chiropractors maintained by the Administrator pursuant to NRS 616C.090.*
- 6. Each insurer shall, not later than October 1 of each year, update the list of physicians and chiropractors and file the list with the Administrator. The list must be certified by an adjuster who is licensed pursuant to chapter 684A of NRS.*
- 7. Upon receipt of a list of physicians and chiropractors that is filed pursuant to subsection 6, the Administrator shall:*
  - (a) Stamp the list as having been filed; and*
  - (b) Indicate on the list the date on which it was filed.*
- 8. The Administrator shall:*
  - (a) Provide a copy of an insurer's list of physicians and chiropractors to any member of the public who requests a copy; or*
  - (b) Post a copy of each insurer's list of physicians and chiropractors on an Internet website maintained by the Administrator and accessible to the public for viewing, printing or downloading.*
- 9. At any time, a physician or chiropractor may request in writing that he or she be removed from an insurer's list of physicians and chiropractors. The insurer must comply with the request and omit the physician or chiropractor from the next list which the insurer files with the Administrator.*
- 10. A physician or chiropractor may not be involuntarily removed from an insurer's list of physicians and chiropractors except for good cause. As used in this subsection, "good cause" means that one or more of the following circumstances apply:*
  - (a) The physician or chiropractor has died or is disabled.*
  - (b) The license of the physician or chiropractor has been revoked or suspended.*
  - (c) The physician or chiropractor has been convicted of:*
    - (1) A felony; or*
    - (2) A crime for a violation of a provision of chapter 616D of NRS.*
  - (d) The physician or chiropractor has been removed from the panel of physicians and chiropractors maintained by the Administrator pursuant to NRS 616C.090 by the Administrator upon a finding that the physician or chiropractor has failed to comply with*

*the standards for treatment of industrial injuries or occupational diseases as established by the Administrator.*

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

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

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

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

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

**Secs. 3 and 4.** (Deleted by amendment.)

**Sec. 5.** NRS 616C.050 is hereby amended to read as follows:

616C.050 1. An insurer shall provide to each claimant:

(a) Upon written request, one copy of any medical information concerning the claimant's injury or illness.

(b) A statement which contains information concerning the claimant's right to:

(1) Receive the information and forms necessary to file a claim;

(2) Select a treating physician or chiropractor and an alternative treating physician or chiropractor in accordance with the provisions of NRS 616C.090;

(3) Request the appointment of the Nevada Attorney for Injured Workers to represent the claimant before the appeals officer;

(4) File a complaint with the Administrator;

(5) When applicable, receive compensation for:

(I) Permanent total disability;

(II) Temporary total disability;

(III) Permanent partial disability;

(IV) Temporary partial disability;

(V) All medical costs related to the claimant's injury or disease; or

(VI) The hours the claimant is absent from the place of employment to receive medical treatment pursuant to NRS 616C.477;

(6) Receive services for rehabilitation if the claimant's injury prevents him or her from returning to gainful employment;

(7) Review by a hearing officer of any determination or rejection of a claim by the insurer within the time specified by statute; and

(8) Judicial review of any final decision within the time specified by statute.

2. The insurer's statement must include a copy of the form designed by the Administrator pursuant to subsection ~~8~~ 9 of NRS 616C.090 that notifies injured employees of their right to select an alternative treating physician or chiropractor. The Administrator shall adopt regulations for the manner of compliance by an insurer with the other provisions of subsection 1.

**Sec. 6.** NRS 616C.055 is hereby amended to read as follows:

616C.055 1. The insurer may not, in accepting responsibility for any charges, use fee schedules which unfairly discriminate among physicians and chiropractors.

2. ~~It is~~ *Except as otherwise provided in section 2 of this act, if* a physician or chiropractor is removed from the panel established pursuant to NRS 616C.090 or from participation in a plan for



managed care established pursuant to NRS 616B.527, the physician or chiropractor, as applicable, must not be paid for any services rendered to the injured employee after the date of the removal.

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 616C.090 is hereby amended to read as follows:

616C.090 1. The Administrator shall establish *, maintain and update not less frequently than annually on or before July 1 of each year,* a panel of physicians and chiropractors who have demonstrated special competence and interest in industrial health to treat injured employees under chapters 616A to 616D, inclusive, or chapter 617 of NRS. *The Administrator shall maintain the following information relating to each physician and chiropractor on the panel:*

- (a) The name of the physician or chiropractor.*
- (b) The title or degree of the physician or chiropractor.*
- (c) The legal name of the practice of the physician or chiropractor and the name under which the practice does business.*
- (d) The street address of the location of every office of the physician or chiropractor.*
- (e) The telephone number of every office of the physician or chiropractor.*
- (f) Every discipline and specialization practiced by the physician or chiropractor.*
- (g) Every condition and part of the body which the physician or chiropractor will treat.*

2. Every employer whose insurer has not entered into a contract with an organization for managed care or with providers of health care ~~{services}~~ pursuant to NRS 616B.527 shall maintain a list of those physicians and chiropractors on the panel who are reasonably accessible to his or her employees.

~~{2.}~~ 3. An injured employee whose employer's insurer has not entered into a contract with an organization for managed care or with providers of health care ~~{services}~~ pursuant to NRS 616B.527 may choose a treating physician or chiropractor from the panel of physicians and chiropractors. If the injured employee is not satisfied with the first physician or chiropractor he or she so chooses, the injured employee may make an alternative choice of physician or chiropractor from the panel if the choice is made within 90 days after his or her injury. The insurer shall notify the first physician or chiropractor in writing. The notice must be postmarked within 3 working days after the insurer receives knowledge of the change. The first physician or chiropractor must be reimbursed only for the services the physician or chiropractor, as applicable, rendered to the injured employee up to and including the date of notification. Except as otherwise provided in this subsection, any further change is subject to the approval of the insurer ~~{, which}~~ *or by order of a hearing officer or appeals officer. A request for a change of physician or chiropractor* must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If *the insurer takes* no action ~~{is taken}~~ on the request within 10 days, the request shall be deemed granted. Any request for a change of physician or chiropractor must include the name of the new physician or chiropractor chosen by the injured employee. If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the ~~{treating physician or chiropractor}~~ *insurer* shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is on the panel. ~~{After}~~ *Not later than 14 days after* receiving the list, the injured employee shall ~~{, at the time the referral is made,}~~

~~{3.}~~ 4. An injured employee whose employer's insurer has entered into a contract with an organization for managed care or with providers of health care ~~{services}~~ pursuant to NRS 616B.527 must choose a treating physician or chiropractor pursuant to the terms of that contract. If the injured employee is not satisfied with the first physician or chiropractor he or she so chooses, the injured employee may make an alternative choice of physician or chiropractor pursuant to the

terms of the contract without the approval of the insurer if the choice is made within 90 days after his or her injury. *Except as otherwise provided in this subsection, any further change is subject to the approval of the insurer or by order of a hearing officer or appeals officer. A request for a change of physician or chiropractor must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If the insurer takes no action on the request within 10 days, the request shall be deemed granted.* If the injured employee, after choosing a treating physician or chiropractor, moves to a county which is not served by the organization for managed care or providers of health care ~~{services}~~ named in the contract and the insurer determines that it is impractical for the injured employee to continue treatment with the physician or chiropractor, the injured employee must choose a treating physician or chiropractor who has agreed to the terms of that contract unless the insurer authorizes the injured employee to choose another physician or chiropractor. If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the ~~{treating physician or chiropractor}~~ insurer shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is available pursuant to the terms of the contract with the organization for managed care or with providers of health care ~~{services}~~ pursuant to NRS 616B.527, as appropriate. ~~{After}~~ *Not later than 14 days after* receiving the list, the injured employee shall ~~{, at the time the referral is made,}~~ select a physician or chiropractor from the list. If the employee fails to select a physician or chiropractor, the insurer may select a physician or chiropractor with that specialization. If a physician or chiropractor with that specialization is not available pursuant to the terms of the contract, the organization for managed care or the provider of health care ~~{services}~~ may select a physician or chiropractor with that specialization.

~~{4.}~~ 5. If the injured employee is not satisfied with the physician or chiropractor selected by himself or herself or by the insurer, the organization for managed care or the provider of health care ~~{services}~~ pursuant to subsection ~~{3.}~~ 4, the injured employee may make an alternative choice of physician or chiropractor pursuant to the terms of the contract. A change in the treating physician or chiropractor may be made at any time but is subject to the approval of the insurer ~~{, which}~~ *or by order of a hearing officer or appeals officer. A request for a change of physician or chiropractor* must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If no action is taken on the request within 10 days, the request shall be deemed granted. Any request for a change of physician or chiropractor must include the name of the new physician or chiropractor chosen by the injured employee. If the insurer denies a request for a change in the treating physician or chiropractor under this subsection, the insurer must include in a written notice of denial to the injured employee the specific reason for the denial of the request.

~~{5.}~~ 6. Except when emergency medical care is required and except as otherwise provided in NRS 616C.055, the insurer is not responsible for any charges for medical treatment or other accident benefits furnished or ordered by any physician, chiropractor or other person selected by the injured employee in disregard of the provisions of this section or for any compensation for any aggravation of the injured employee's injury attributable to improper treatments by such physician, chiropractor or other person.

~~{6.}~~ 7. The Administrator may order necessary changes in a panel of physicians and chiropractors and shall suspend or remove any physician or chiropractor from a panel for good cause shown ~~{, 7.}~~ *in accordance with section 2 of this act.*

8. An injured employee may receive treatment by more than one physician or chiropractor if

:

(a) *If* the insurer provides written authorization for such treatment ~~{,}~~

~~8.1~~ ; or

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

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

**Secs. 9-15.** (Deleted by amendment.)

**Sec. 16.** NRS 616C.260 is hereby amended to read as follows:

616C.260 1. All fees and charges for accident benefits must not:

(a) Exceed the amounts usually billed and paid in the State for similar treatment.

(b) Be unfairly discriminatory as between persons legally qualified to provide the particular service for which the fees or charges are asked.

2. The Administrator shall, giving consideration to the fees and charges being billed and paid in the State, establish a schedule of reasonable fees and charges allowable for accident benefits provided to injured employees whose insurers have not contracted with an organization for managed care or with providers of health care ~~{services}~~ pursuant to NRS 616B.527. The Administrator shall review and revise the schedule on or before February 1 of each year. In the revision, the Administrator shall adjust the schedule by the corresponding annual change in the Consumer Price Index, Medical Care Component.

3. The Administrator shall designate a vendor who compiles data on a national basis concerning fees and charges that are billed and paid for treatment or services similar to the treatment and services that qualify as accident benefits in this State to provide the Administrator with such information as the Administrator deems necessary to carry out the provisions of subsection 2. The designation must be made pursuant to reasonable competitive bidding procedures established by the Administrator. In addition, the Administrator may request a health insurer, health maintenance organization or provider of accident benefits, an agent or employee of such a person, or an agency of the State to provide the Administrator with information concerning fees and charges that are billed and paid in this State for similar services as the Administrator deems necessary to carry out the provisions of subsection 2. The Administrator shall require a health insurer, health maintenance organization or provider of accident benefits, an agent or employee of such a person, or an agency of the State that provides records or reports of fees and charges billed and paid pursuant to this section to provide interpretation and identification concerning the information delivered. The Administrator may impose an administrative fine of \$500 on a health insurer, health maintenance organization or provider of accident benefits, or an agent or employee of such a person for each refusal to provide the information requested pursuant to this subsection.

4. The Division may adopt reasonable regulations necessary to carry out the provisions of this section. The regulations must include provisions concerning:

(a) Standards for the development of the schedule of fees and charges that are billed and paid; and

(b) The monitoring of compliance by providers of benefits with the schedule of fees and charges.

5. The Division shall adopt regulations requiring the use of a system of billing codes as recommended by the American Medical Association.

**Secs. 17-24.** (Deleted by amendment.)

**Sec. 25.** NRS 616C.475 is hereby amended to read as follows:

616C.475 1. Except as otherwise provided in this section, NRS 616C.175 and 616C.390, every employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by accident arising out of and in the course of employment, or



his or her dependents, is entitled to receive for the period of temporary total disability, 66 2/3 percent of the average monthly wage.

2. Except as otherwise provided in NRS 616B.028 and 616B.029, an injured employee or his or her dependents are not entitled to accrue or be paid any benefits for a temporary total disability during the time the injured employee is incarcerated. The injured employee or his or her dependents are entitled to receive such benefits when the injured employee is released from incarceration if the injured employee is certified as temporarily totally disabled by a physician or chiropractor.

3. If a claim for the period of temporary total disability is allowed, the first payment pursuant to this section must be issued by the insurer within 14 working days after receipt of the initial certification of disability and regularly thereafter.

4. Any increase in compensation and benefits effected by the amendment of subsection 1 is not retroactive.

5. Payments for a temporary total disability must cease when:

(a) A physician or chiropractor determines that the employee is physically capable of any gainful employment for which the employee is suited, after giving consideration to the employee's education, training and experience;

(b) The employer offers the employee light-duty employment or employment that is modified according to the limitations or restrictions imposed by a physician or chiropractor pursuant to subsection 7; or

(c) Except as otherwise provided in NRS 616B.028 and 616B.029, the employee is incarcerated.

6. Each insurer may, with each check that it issues to an injured employee for a temporary total disability, include a form approved by the Division for the injured employee to request continued compensation for the temporary total disability.

7. A certification of disability issued by a physician or chiropractor must:

(a) Include the period of disability and a description of any physical limitations or restrictions imposed upon the work of the employee;

(b) Specify whether the limitations or restrictions are permanent or temporary; and

(c) Be signed by the treating physician or chiropractor authorized pursuant to NRS 616B.527 or appropriately chosen pursuant to subsection ~~{3- or}~~ 4 or 5 of NRS 616C.090.

8. If the certification of disability specifies that the physical limitations or restrictions are temporary, the employer of the employee at the time of the employee's accident may offer temporary, light-duty employment to the employee. If the employer makes such an offer, the employer shall confirm the offer in writing within 10 days after making the offer. The making, acceptance or rejection of an offer of temporary, light-duty employment pursuant to this subsection does not affect the eligibility of the employee to receive vocational rehabilitation services, including compensation, and does not exempt the employer from complying with NRS 616C.545 to 616C.575, inclusive, and 616C.590 or the regulations adopted by the Division governing vocational rehabilitation services. Any offer of temporary, light-duty employment made by the employer must specify a position that:

(a) Is substantially similar to the employee's position at the time of his or her injury in relation to the location of the employment and the hours the employee is required to work;

(b) Provides a gross wage that is:

(1) If the position is in the same classification of employment, equal to the gross wage the employee was earning at the time of his or her injury; or

(2) If the position is not in the same classification of employment, substantially similar to the gross wage the employee was earning at the time of his or her injury; and

(c) Has the same employment benefits as the position of the employee at the time of his or her injury.

**Sec. 26.** NRS 616C.490 is hereby amended to read as follows:

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

2. *Except as otherwise provided in subsection 3:*

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

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

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

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

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

4. If an insurer contacts ~~[(the)]~~ a treating physician or chiropractor to determine whether an injured employee has suffered a permanent disability, the insurer shall deliver to the treating physician or chiropractor that portion or a summary of that portion of the American Medical Association’s Guides to the Evaluation of

Permanent Impairment as adopted by the Division pursuant to NRS 616C.110 that is relevant to the type of injury incurred by the employee.

~~[(4)]~~ 5. At the request of the insurer, the injured employee shall, before an evaluation by a rating physician or chiropractor is performed, notify the insurer of:

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

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

↳ The notice must be on a form approved by the Administrator and provided to the injured employee by the insurer at the time of the insurer’s request.

~~[(5)]~~ 6. Unless the regulations adopted pursuant to NRS 616C.110 provide otherwise, a rating evaluation must include an evaluation of the loss of motion, sensation and strength of an injured

employee if the injury is of a type that might have caused such a loss. Except in the case of claims accepted pursuant to NRS 616C.180, no factors other than the degree of physical impairment of the whole person may be considered in calculating the entitlement to compensation for a permanent partial disability.

~~{6-}~~ **7.** The rating physician or chiropractor shall provide the insurer with his or her evaluation of the injured employee. After receiving the evaluation, the insurer shall, within 14 days, provide the employee with a copy of the evaluation and notify the employee: (a) Of the compensation to which the employee is entitled pursuant to this section; or

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

~~{7-}~~ **8.** Each 1 percent of impairment of the whole person must be compensated by a monthly payment:

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

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

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

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

↪ Compensation must commence on the date of the injury or the day following the termination of temporary disability compensation, if any, whichever is later, and must continue on a monthly basis for 5 years or until the claimant is 70 years of age, whichever is later. ~~{8-}~~ **9.** Compensation benefits may be paid annually to claimants who will be receiving less than \$100 a month.

~~{9-}~~ **10.** Except as otherwise provided in subsection ~~{10-}~~ **11**, if there is a previous disability, as the loss of one eye, one hand, one foot, or any other previous permanent disability, the percentage of disability for a subsequent injury must be determined by computing the percentage of the entire disability and deducting therefrom the percentage of the previous disability as it existed at the time of the subsequent injury.

~~{10-}~~ **11.** If a rating evaluation was completed for a previous disability involving a condition, organ or anatomical structure that is identical to the condition, organ or anatomical structure being evaluated for the present disability, the percentage of disability for a subsequent injury must be determined by deducting the percentage of the previous disability from the percentage of the present disability, regardless of the edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted by the Division pursuant to NRS 616C.110 used to determine the percentage of the previous disability. The compensation awarded for a permanent disability on a subsequent injury must be reduced only by the awarded or agreed upon percentage of disability actually received by the injured employee for the previous injury regardless of the percentage of the previous disability.

~~{11-}~~ **12.** The Division may adopt schedules for rating permanent disabilities resulting from injuries sustained before July 1, 1973, and reasonable regulations to carry out the provisions of this section.

~~{12-}~~ **13.** The increase in compensation and benefits effected by the amendment of this section is not retroactive for accidents which occurred before July 1, 1973.

~~{13-}~~ **14.** This section does not entitle any person to double payments for the death of an employee and a continuation of payments for a permanent partial disability, or to a greater sum in the aggregate than if the injury had been fatal.



**Sec. 27.** NRS 616C.495 is hereby amended to read as follows:

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

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

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

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

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

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

(2) Exceeds 25 percent may:

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

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

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

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

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

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

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

2. If the claimant elects to receive his or her payment for a permanent partial disability in a lump sum pursuant to subsection 1, all of the claimant's benefits for compensation terminate. The claimant's acceptance of that payment constitutes a final settlement of all factual and legal issues in the case. By so accepting the claimant waives all of his or her rights regarding the claim, including the right to appeal from the closure of the case or the percentage of his or her disability, except:

(a) The right of the claimant to:

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

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

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

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

↪ The claimant, when he or she demands payment in a lump sum, must be provided with a written notice which prominently displays a statement describing the effects of accepting payment in a lump sum of an entire permanent partial disability award, any portion of such an award or any uncontested portion of such an award, and that the claimant has 20 days after the mailing or personal delivery of the notice within which to retract or reaffirm the demand, before payment may be made and the claimant's election becomes final.

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

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

5. The lump sum payable must be equal to the present value of the compensation awarded, less any advance payment or lump sum previously paid. The present value must be calculated using monthly payments in the amounts prescribed in subsection ~~{7}~~ 8 of NRS 616C.490 and actuarial annuity tables adopted by the Division. The tables must be reviewed annually by a consulting actuary and must be adjusted accordingly on July 1 of each year by the Division using:

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

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

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

**Secs. 28-35.** (Deleted by amendment.)

**Sec. 36.** The amendatory provisions of this act apply prospectively with regard to any claim pursuant to chapters 616A to 616D, inclusive, or 617 of NRS which is open on the effective date of this act.

**Sec. 37.** This act becomes effective on January 1, 2020.

**SB 493 defines "employee misclassification"; requires the Labor Commissioner, DIR, ESD, Dept. of Taxation and Attorney General to share information on employee misclassification; creates the Task Force on Employee Misclassification which is charged with evaluating the policies and practices of the Labor Commissioner, DIR, ESD, Department of Taxation and Attorney General relating to employee misclassification evaluating existing fines, penalties**

or other disciplinary action imposed by state agencies for employee misclassification; developing recommendations for practices, policies or proposed legislation; and submitting a written report to LCB by July 1, 2020 and by July 1 of each subsequent year; amending NRS 616A.490 which the notice posted by employers to prominently display the definitions of “employee” and “independent contractor” from Chptrs. 616A to 616D, inclusive, of NRS; and amending NRS 616B.012 and NRS 616B.015 on confidentiality of DIR records; and amending

**Section 1.** Chapter 607 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, “employee misclassification” means the practice by an employer of improperly classifying employees as independent contractors to avoid any legal obligation under state labor, employment and tax laws, including, without limitation, the laws governing minimum wage, overtime, unemployment insurance, workers’ compensation insurance, temporary disability insurance, wage payment and payroll taxes.*

**Secs. 3-6.** (Deleted by amendment.)

**Sec. 7.** *The offices of the Labor Commissioner, Division of Industrial Relations of the Department of Business and Industry, Employment Security Division of the Department of Employment, Training and Rehabilitation, Department of Taxation and Attorney General:*

*1. Shall communicate between their respective offices information relating to suspected employee misclassification which is received in the performance of their official duties and which is not otherwise declared by law to be confidential.*

*2. May communicate between their respective offices information relating to employee misclassification which is received in the performance of their official duties and which is otherwise declared by law to be confidential, if the confidentiality of the information is otherwise maintained under the terms and conditions required by law.*

**Sec. 8. 1.** *The Task Force on Employee Misclassification is hereby created.*

*2. The Governor shall appoint to serve on the Task Force:*

*(a) One person who represents an employer located in this State that employs more than 500 full-time or part-time employees.*

*(b) One person who represents an employer located in this State that employs 500 or fewer full-time or part-time employees.*

*(c) One person who is an independent contractor in this State.*

*(d) Two persons who represent organized labor in this State.*

*(e) One person who represents a trade or business association in this State.*

*(f) One person who represents a governmental agency that administers laws governing employee misclassification.*

*3. The Governor may appoint up to two additional members to serve on the Task Force as the Governor deems appropriate.*

*4. After the initial terms, the members of the Task Force serve a term of 2 years and until their respective successors are appointed. A member may be reappointed in the same manner as the original appointments.*

*5. Any vacancy occurring in the membership of the Task Force must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.*

*6. The Task Force shall meet at least twice each fiscal year and may meet at such additional times as deemed necessary by the Chair.*



7. *At the first meeting of each fiscal year, the Task Force shall elect from its members a Chair and a Vice Chair.*

8. *A majority of the members of the Task Force constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Task Force.*

9. *The Task Force shall comply with the provisions of chapter 241 of NRS, and all meetings of the Task Force must be conducted in accordance with that chapter.*

10. *Members of the Task Force serve without compensation.*

11. *The Labor Commissioner shall provide the personnel, facilities, equipment and supplies required by the Task Force to carry out its duties.*

**Sec. 9.** *The Task Force on Employee Misclassification created by section 8 of this act shall:*

1. *Evaluate the policies and practices of the Labor Commissioner, Division of Industrial Relations of the Department of Business and Industry, Employment Security Division of the Department of Employment, Training and Rehabilitation, Department of Taxation and Attorney General relating to employee misclassification.*

2. *Evaluate any existing fines, penalties or other disciplinary action relating to employee misclassification that are authorized to be imposed by a state agency.*

3. *Develop recommendations for policies, practices or proposed legislation to reduce the occurrence of employee misclassification.*

4. *On or before July 1, 2020, and on or before July 1 of each subsequent year, submit a written report to the Director of the Legislative Counsel Bureau for submission to the Legislative*

*Commission. The report must include, without limitation, a summary of the work of the Task Force and recommendations for legislation concerning employee misclassification.*

**Sec. 10.** 1. *The Task Force on Employee Misclassification created by section 8 of this act may create a subcommittee to the Task Force for any purpose that is consistent with sections 2 to 10, inclusive, of this act.*

2. *The Task Force shall appoint the members of the subcommittee and designate one of the members of the subcommittee as chair of the subcommittee. The chair of the subcommittee must be a member of the Task Force.*

3. *The subcommittee shall meet at the times and places specified by a call of the chair of the subcommittee. A majority of the members of the subcommittee constitutes a quorum, and a quorum may exercise any power or authority conferred on the subcommittee.*

**Sec. 10.1.** Chapter 608 of NRS is hereby amended by adding thereto the provisions set forth as sections 10.3 and 10.4 of this act.

**Sec. 10.3.** 1. *An employer shall not:*

(a) *Through means of coercion, misrepresentation or fraud, require a person to be classified as an independent contractor or form any business entity in order to classify the person as an independent contractor; or*

(b) *Willfully misclassify or otherwise willfully fail to properly classify a person as an independent contractor.*

2. *In addition to any other remedy or penalty provided by law, the Labor Commissioner may impose an administrative penalty against an employer who misclassifies a person as an independent contractor or otherwise fails to properly classify a person as an employee of the employer. An administrative penalty imposed pursuant to this section must be:*

(a) *For a first offense committed by an employer who unintentionally misclassifies or otherwise fails to properly classify a person as an employee of the employer, a warning issued to the employer by the Labor Commissioner.*

(b) *For a first offense committed by an employer who willfully misclassifies or otherwise willfully fails to properly classify a person as an employee of the employer, a fine of \$2,500 for*

*the first incident of willfully misclassifying or willfully failing to properly classify one or more persons as an employee of the employer imposed by the Labor Commissioner.*

*(c) For a second or subsequent offense, a fine of \$5,000 for each employee who was willfully misclassified imposed by the Labor Commissioner.*

*3. Before the Labor Commissioner may enforce an administrative penalty against an employer for misclassifying or otherwise failing to properly classify an employee of the employer pursuant to this section, the Labor Commissioner must provide the employer with notice and an opportunity for a hearing as set forth in NRS 607.207. The Labor Commissioner may impose an administrative penalty as set forth in subsection 2 if the Labor Commissioner finds that:*

*(a) The employer misclassified a person as an independent contractor; or*

*(b) The employer otherwise failed to properly classify a person as an employee of the employer.*

**Sec. 10.4.** *1. An employer who is found after a hearing conducted in accordance with subsection 3 to have misclassified a person as an independent contractor is liable to such person for lost wages, benefits or other economic damages to make the person whole.*

*2. A person may file a complaint alleging the misclassification of the person as an independent contractor with the Labor Commissioner. The Labor Commissioner shall make a determination on the allegations of the complaint within 120 days after receipt of the complaint. If the Labor Commissioner finds that an employer misclassified an employee as an independent contractor, the Labor Commissioner may impose the penalties set forth in subsection 1.*

*3. A hearing conducted pursuant to this section must be held in accordance with chapter 233B of NRS.*

*4. Each party to a hearing conducted pursuant to this section may petition for judicial review of the decision of the Labor Commissioner in the manner provided by chapter 233B of NRS.*

**Sec. 10.5.** NRS 608.0155 is hereby amended to read as follows:

608.0155 1. ~~For~~ *Except as otherwise provided in subsection 2, for the purposes of this chapter, a person is conclusively presumed to be an independent contractor if:*

*(a) Unless the person is a foreign national who is legally present in the United States, the person possesses or has applied for an employer identification number or social security number or has filed an income tax return for a business or earnings from self-employment with the Internal Revenue Service in the previous year;*

*(b) The person is required by the contract with the principal to hold any necessary state business license or local business license and to maintain any necessary occupational license, insurance or bonding ~~to~~ in order to operate in this State; and*

*(c) The person satisfies three or more of the following criteria:*

*(1) Notwithstanding the exercise of any control necessary to comply with any statutory, regulatory or contractual obligations, the person has control and discretion over the means and manner of the performance of any work and the result of the work, rather than the means or manner by which the work is performed, is the primary element bargained for by the principal in the contract.*

*(2) Except for an agreement with the principal relating to the completion schedule, range of work hours or, if the work contracted for is entertainment, the time such entertainment is to be presented, the person has control over the time the work is performed.*

*(3) The person is not required to work exclusively for one principal unless:*

*(I) A law, regulation or ordinance prohibits the person from providing services to more than one principal; or*

*(II) The person has entered into a written contract to provide services to only one principal for a limited period.*

- (4) The person is free to hire employees to assist with the work.
- (5) The person contributes a substantial investment of capital in the business of the person, including, without limitation, the:
  - (I) Purchase or lease of ordinary tools, material and equipment regardless of source;
  - (II) Obtaining of a license or other permission from the principal to access any work space of the principal to perform the work for which the person was engaged; and
  - (III) Lease of any work space from the principal required to perform the work for which the person was engaged.

↳ The determination of whether an investment of capital is substantial for the purpose of this subparagraph must be made on the basis of the amount of income the person receives, the equipment commonly used and the expenses commonly incurred in the trade or profession in which the person engages.

*2. A natural person is conclusively presumed to be an independent contractor if the person is a contractor or subcontractor licensed pursuant to chapter 624 of NRS or is directly compensated by a contractor or subcontractor licensed pursuant to chapter 624 of NRS for providing labor for which a license pursuant to chapter 624 of NRS is required to perform and:*

*(a) The person has been and will continue to be free from control or direction over the performance of the services, both under his or her contract of service and in fact;*

*(b) The service is either outside the usual course of the business for which the service is performed or that the service is performed outside of all the places of business of the enterprises for which the service is performed; and*

*(c) The service is performed in the course of an independently established trade, occupation, profession or business in which the person is customarily engaged, of the same nature as that involved in the contract of service.*

3. The fact that a person is not conclusively presumed to be an independent contractor for failure to satisfy three or more of the criteria set forth in paragraph (c) of subsection 1 does not automatically create a presumption that the person is an employee. ~~{3-}~~ 4. As used in this section, ~~["foreign"]~~ :

*(a) "Foreign national" has the meaning ascribed to it in NRS 294A.325.*

*(b) "Providing labor" does not include the delivery of supplies.*

**Sec. 11.** NRS 612.265 is hereby amended to read as follows:

612.265 1. Except as otherwise provided in this section and NRS 239.0115 and 612.642, *and section 7 of this act*, information obtained from any employing unit or person pursuant to the administration of this chapter and any determination as to the benefit rights of any person is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's or employing unit's identity.

2. Any claimant or a legal representative of a claimant is entitled to information from the records of the Division, to the extent necessary for the proper presentation of the claimant's claim in any proceeding pursuant to this chapter. A claimant or an employing unit is not entitled to information from the records of the Division for any other purpose.

3. The Administrator may, in accordance with a cooperative agreement among all participants in the statewide longitudinal data system developed pursuant to NRS 400.037 and administered pursuant to NRS 223.820, make the information obtained by the Division available to:

(a) The Board of Regents of the University of Nevada for the purpose of complying with the provisions of subsection 4 of NRS 396.531; and

(b) The Director of the Department of Employment, Training and Rehabilitation for the purpose of complying with the provisions of paragraph (d) of subsection 1 of NRS 232.920.

4. Subject to such restrictions as the Administrator may by regulation prescribe, the information obtained by the Division may be made available to:



(a) Any agency of this or any other state or any federal agency charged with the administration or enforcement of laws relating to unemployment compensation, public assistance, workers' compensation or labor and industrial relations, or the maintenance of a system of public employment offices;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation;

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS; and

(f) The Secretary of State to operate the state business portal established pursuant to chapter 75A of NRS for the purposes of verifying that data submitted via the portal has satisfied the necessary requirements established by the Division, and as necessary to maintain the technical integrity and functionality of the state business portal established pursuant to chapter 75A of NRS.

☐ Information obtained in connection with the administration of the Division may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a public assistance program.

5. Upon written request made by the State Controller or a public officer of a local government, the Administrator shall furnish from the records of the Division the name, address and place of employment of any person listed in the records of employment of the Division. The request may be made electronically and must set forth the social security number of the person about whom the request is made and contain a statement signed by the proper authority of the State Controller or local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation assigned to the State Controller for collection or owed to the local government, as applicable. Except as otherwise provided in NRS 239.0115, the information obtained by the State Controller or local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation assigned to the State Controller for collection or owed to that local government. The Administrator may charge a reasonable fee for the cost of providing the requested information.

6. The Administrator may publish or otherwise provide information on the names of employers, their addresses, their type or class of business or industry, and the approximate number of employees employed by each such employer, if the information released will assist unemployed persons to obtain employment or will be generally useful in developing and diversifying the economic interests of this State. Upon request by a state agency which is able to demonstrate that its intended use of the information will benefit the residents of this State, the Administrator may, in addition to the information listed in this subsection, disclose the number of employees employed by each employer and the total wages paid by each employer. The Administrator may charge a fee to cover the actual costs of any administrative expenses relating to the disclosure of this information to a state agency. The Administrator may require the state agency to certify in writing that the agency will take all actions necessary to maintain the confidentiality of the information and prevent its unauthorized disclosure.

7. Upon request therefor, the Administrator shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation and employment status of each recipient of benefits and the recipient's rights to further benefits pursuant to this chapter.

8. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may submit a written request to the Administrator that the Administrator furnish, from the records of the Division, the name, address and place of employment of any person listed in the records of employment of the Division. The request must

set forth the social security number of the person about whom the request is made and contain a statement signed by the chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of such a request, the Administrator shall furnish the information requested. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

9. In addition to the provisions of subsection 6, the Administrator shall provide lists containing the names and addresses of employers, and information regarding the wages paid by each employer to the Department of Taxation, upon request, for use in verifying returns for the taxes imposed pursuant to chapters 363A, 363B and 363C of NRS. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

10. Upon the request of any district judge or jury commissioner of the judicial district in which the county is located, the Administrator shall, in accordance with other agreements entered into with other district courts and in compliance with 20 C.F.R. Part 603, and any other applicable federal laws and regulations governing the Division, furnish the name, address and date of birth of persons who receive benefits in any county, for use in the selection of trial jurors pursuant to NRS 6.045. The court or jury commissioner who requests the list of such persons shall reimburse the Division for the reasonable cost of providing the requested information.

11. The Division of Industrial Relations of the Department of Business and Industry shall periodically submit to the Administrator, from information in the index of claims established pursuant to NRS 616B.018, a list containing the name of each person who received benefits pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS. Upon receipt of that information, the Administrator shall compare the information so provided with the records of the Employment Security Division regarding persons claiming benefits pursuant to this chapter for the same period. The information submitted by the Division of Industrial Relations must be in a form determined by the Administrator and must contain the social security number of each such person. If it appears from the information submitted that a person is simultaneously claiming benefits under this chapter and under chapters 616A to 616D, inclusive, or chapter 617 of NRS, the Administrator shall notify the Attorney General or any other appropriate law enforcement agency.

12. The Administrator may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this chapter, and may in connection with the request transmit any such report or return to the Comptroller of the Currency of the United States as provided in section 3305(c) of the Internal Revenue Code of 1954.

13. The Administrator, any employee or other person acting on behalf of the Administrator, or any employee or other person acting on behalf of an agency or entity allowed to access information obtained from any employing unit or person in the administration of this chapter, or any person who has obtained a list of applicants for work, or of claimants or recipients of benefits pursuant to this chapter, is guilty of a gross misdemeanor if he or she:

- (a) Uses or permits the use of the list for any political purpose;
- (b) Uses or permits the use of the list for any purpose other than one authorized by the Administrator or by law; or
- (c) Fails to protect and prevent the unauthorized use or dissemination of information derived from the list.

14. All letters, reports or communications of any kind, oral or written, from the employer or employee to each other or to the Division or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of this chapter.

**Secs. 11.3 and 11.5.** (Deleted by amendment.)

**Sec. 11.7.** NRS 616A.490 is hereby amended to read as follows:

616A.490 **1.** Every employer shall post a notice upon his or her premises in a conspicuous place identifying the employer's industrial insurer. The notice must ~~include~~ :

*(a) Include* the insurer's name, business address and telephone number and the name, business address and telephone number of its nearest adjuster in this State. The employer shall at all times maintain the notice provided for the information of his or her employees.

*(b) Prominently set forth any applicable definitions of "employee" and "independent contractor," as those terms are defined in chapters 616A to 616D, inclusive, of NRS.*

**Sec. 12.** NRS 616B.012 is hereby amended to read as follows:

616B.012 **1.** Except as otherwise provided in this section and NRS 239.0115, 616B.015, 616B.021 and 616C.205, *and section 7 of this act*, information obtained from any insurer, employer or employee is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's identity.

**2.** Any claimant or legal representative of the claimant is entitled to information from the records of the insurer, to the extent necessary for the proper presentation of a claim in any proceeding under chapters 616A to 616D, inclusive, or chapter 617 of NRS.

**3.** The Division and Administrator are entitled to information from the records of the insurer which is necessary for the performance of their duties. The Administrator may, by regulation, prescribe the manner in which otherwise confidential information may be made available to:

(a) Any agency of this or any other state charged with the administration or enforcement of laws relating to industrial insurance, unemployment compensation, public assistance or labor law and industrial relations;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation; and

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS.

↪ Information obtained in connection with the administration of a program of industrial insurance may be made available to persons or agencies for purposes appropriate to the operation of a program of industrial insurance.

**4.** Upon written request made by a public officer of a local government, an insurer shall furnish from its records the name, address and place of employment of any person listed in its records. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to the local government. The insurer may charge a reasonable fee for the cost of providing the requested information.

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

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

- (a) Lists containing the names and addresses of employers; and
- (b) Other information concerning employers collected and maintained by the Administrator or the Division to carry out the purposes of chapters 616A to 616D, inclusive, or chapter 617 of NRS, to the Department for its use in verifying returns for the taxes imposed pursuant to chapters 363A, 363B and 363C of NRS. The Administrator may charge a reasonable fee to cover any related administrative expenses.

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

8. All letters, reports or communications of any kind, oral or written, from the insurer, or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

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

**Sec. 13.** NRS 616B.015 is hereby amended to read as follows:

616B.015 1. Except as otherwise provided in subsection 2 and NRS 239.0115, *and section 7 of this act*, the records and files of the Division concerning self-insured employers and associations of self-insured public or private employers are confidential and may be revealed in whole or in part only in the course of the administration of the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS relating to those employers or upon the lawful order of a court of competent jurisdiction.

2. The records and files specified in subsection 1 are not confidential in the following cases:

(a) Testimony by an officer or agent of the Division and the production of records and files on behalf of the Division in any action or proceeding conducted pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS if that testimony or the records and files, or the facts shown thereby, are involved in the action or proceeding.

(b) Delivery to a self-insured employer or an association of self-insured public or private employers of a copy of any document filed by the employer with the Division pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

(c) Publication of statistics if classified so as to prevent:

(1) Identification of a particular employer or document; or

(2) Disclosure of the financial or business condition of a particular employer or insurer.

(d) Disclosure in confidence, without further distribution or disclosure to any other person, to:

(1) The Governor or an agent of the Governor in the exercise of the Governor's general supervisory powers;

(2) Any person authorized to audit the accounts of the Division in pursuance of an audit;

(3) The Attorney General or other legal representative of the State in connection with an action or proceeding conducted pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(4) Any agency of this or any other state charged with the administration or enforcement of the laws relating to workers' compensation or unemployment compensation; or

(5) Any federal, state or local law enforcement agency.



(e) Disclosure in confidence by a person who receives information pursuant to paragraph (d) to a person in furtherance of the administration or enforcement of the laws relating to workers' compensation or unemployment compensation.

3. As used in this section:

(a) "Division" means the Division of Insurance of the Department of Business and Industry.

(b) "Records and files" means:

(1) All credit reports, references, investigative records, financial information and data pertaining to the net worth of a self-insured employer or association of self-insured public or private employers; and

(2) All information and data required by the Division to be furnished to it pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS or which may be otherwise obtained relative to the finances, earnings, revenue, trade secrets or the financial condition of any self-insured employer or association of self-insured public or private employers.

**Sec. 13.5.** (Deleted by amendment.)

**Sec. 14.** 1. As soon as practicable after July 1, 2019, the Governor shall appoint the members of the Task Force on Employee Misclassification described in subsections 2 and 3 of section 8 of this act.

2. The terms of the members of the Task Force on Employee Misclassification appointed pursuant to subsection 1 expire on June 30, 2021.

**Sec. 15.** The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

**Sec. 16.** 1. This section and sections 14 and 15 of this act become effective upon passage and approval.

2. Sections 1 to 13, inclusive, of this act become effective on July 1, 2019.

	2019 Legislative Cross Reference		
NRS	BILL	DESCRIPTION	EFFECTIVE DATE
232.680.	AB 370, Sec. 4	Amends NRS 232.680 (Payment of costs; Assessments) by repealing subsection 5 (if DIR refunds any part of assessment, DIR shall include any interest earned by refunded part of the assessment) and adds subsection 4(g) reimbursing insurer for compensation payable to widows, widowers, surviving children and surviving dependent parents pursuant to sec. 3.5 of this act for industrial injuries or disablement from an occupational disease that occurred before July 1, 2019. Sec. 5 adds note requiring compounding of 2.3%, 3 times for survivors death benefits "caused by an industrial injury or disablement from an occupational disease that occurred before 1/1/89." Sec. 6 adds note requiring compounding of 2.3%, 2 times for survivors death benefits caused by an industrial injury or disablement from an occupational disease that occurred on or after 1/1/89 and before 1/1/94.	7/1/2019
232.680.	SB 377, Sec. 4	Amends NRS 232.680 (Payment of costs; Assessments) by deleting subsection 5 (if DIR refunds any part of assessment, DIR shall include any interest earned by refunded part of the assessment) and adds subsection 4(g) compensation payable to claimants and dependents pursuant to subsection 2 of NRS 616C.473	7/1/2019
616A.425	AB 370, Sec. 1	Amends NRS 616A.425 (Fund for Workers' Compensation & Safety) by adding (3)(g) salary and expenses of administering reimbursement to insurers for the additional compensation paid to claimants and dependents.	7/1/2019
616A.425	SB 377, Sec. 1	Amends NRS 616A.425 (Fund for Workers' Compensation & Safety) by adding (3)(g)(1) reimbursement to insurers for the cost of the PTD COLA for claimants and dependents, and (2) salary and expenses of administering payment of the PTD COLA.	7/1/2019
616A.430	SB 377, Sec. 2	Amends 616A.430 (Uninsured Employers' Claim Act) by deleting reference to NRS 616C.453 (Additional annual payment to certain claimants and dependents of claimants who are entitled to receive compensation for permanent total disability).	7/1/2019
616A.490	SB 493, Sec. 11.7	Amends NRS 616A.490, employer to post notice identifying industrial insurer, by adding a requirement that the applicable definitions of "employee" and "independent contractor", as defined in chapters 616A to 616D, inclusive, of NRS are prominently set forth.	7/1/2019
616B.012	AB 455, Sec. 1	Amends NRS 616B.012 (Confidentiality provision) by adding a new subsection 9 which authorizes Administrator or DIR to: (a) disclose nonproprietary information relating to an uninsured employer or proof of industrial insurance; or (b) notifying an injured employee or surviving spouse or dependent of benefits to which they may be entitled in addition to the NIIA or NODA benefits, but only if: (1) the notification is solely for informing of the availability of benefits; and (2) contents of the notification is limited to information offered by nonprofit entities.	7/1/2019
616B.012	SB 493, Sec. 12	Amend NRS 616B.012 to conform to Sec. 7 on confidentiality with the Labor Commissioner, DIR, ESD, Department of Taxation and the Attorney General.	7/1/2019
616B.015	SB 493, Sec. 13	Amends NRS 616B.015 to conform to Sec. 7 on confidentiality with the Labor Commissioner, DIR, ESD, Department of Taxation and the Attorney General.	7/1/2019
616B.527	SB 381, Sec. 1	Amends NRS 616B.527 to conform with amendment to NRS 616C.090 (Sec. 8).	1/1/2020

NRS	BILL	DESCRIPTION	EFFECTIVE DATE
616C, New	AB 370, Sec. 3.5	Subsection 1 adds a provision that any widow, widower, surviving child or surviving dependent parent receiving death benefits resulting from an industrial injury or occupational disease is entitled to an annual increase of 2.3% starting January 1, 2020 and each January 1 thereafter; and subsection 3 requires the insurers pay any annual increase for industrial injuries or occupational disease claims occurring on or after July 1, 2019, without being reimbursed from the Fund for Workers' Compensation and Safety.	7/1/2019
616C, New	AB 370, Sec. 3.8	Sets forth the criteria for an insurer to be reimbursed from the Fund for Workers' Compensation and Safety by the Administrator if the insurer provides: name of person receiving payment; claim number; date of industrial injury or disablement from occupational disease; date of death of the deceased injured employee; the amount of the death benefit as of December 31, 2019; proof of the insurer's payment; and amount of reimbursement requested by the insurer. Subsection 2 requires the insurer to provide the information by March 31 of each year; subsection 4 requires the Administrator's approval of the request before reimbursement; and subsection 4 authorizes the insurer to apply any approved reimbursement towards any current or future assessment.	7/1/2019
616C, New	SB 377, Sec. 2.5	Adds a new provision which sets forth the criteria for an insurer to be reimbursed from the Fund for Workers' Compensation and Safety by the Administrator if the insurer provides: name of person receiving payment; claim number; date of industrial injury or disablement from occupational disease; the amount of the PTD compensation as of December 31, 2019; proof of the insurer's payment; and amount of reimbursement requested by the insurer. Subsection 2 requires the insurer to provide the information by March 31 of each year to the Administrator; subsection 3 requires the Administrator's approval of the request before	7/1/2019
616C, New	SB 381, Sec. 2	Adds a new provision to chptr. 616C of NRS setting requirements for the adequacy of an insurer's provider panel, authorized under NRS 616B.527. Under (1), the choice of a provider is a substantive right and substantive benefit under NIAA and NODA, and injured employee has a substantive right to an adequate choice of provider. Under (2), the insurer's provider panel must include not less than 12 providers in 19 areas: Orthopaedic surgery on spines, shoulders, elbows, wrists, hands, hips, knees, ankles and feet; Neurosurgery; Neurology; Cardiology; Pulmonology; Psychiatry; Pain management; Occupational medicine; Physiatry or Physical medicine; General or Family practice; and Chiropractic medicine. If less than 12 providers are on the Administrator's Panel, all of those providers must be on the insurer's panel. Under (3), the insurer's provider panel must include not fewer than 8 providers in each listed specialty. For any other specialty, also not less than 10 providers unless that administrator's panel has less than 10, in which case all providers must be included. Under (4) if county population is 100,000 or more (Clark and Washoe), each provider on insurer's panel must have an active practice and a physical office in that county. Under (5) if the insurer fails to comply with secs. 2, 3 and 4, then the injured employee may choose a provider from the Administrator's Panel. Under (6) each insurer shall submit a copy, certified by an adjuster licensed under chptr 6894A of NRS, of an updated list of panel providers to DIR no later than October 1. Under (7) and (8), upon receipt the Administrator shall: stamp the provider list as being filed and the date it was filed; and provide a copy of the insurer's panel to anyone who requests a copy or post a copy of each insurer's panel on the DIR's website. Under (9), a provider can request that he be removed from an insurer's panel and the insurer must comply. Under (10), a provider may not be removed from either an insurer's panel or the DIR panel except for "good cause" defined as: provider died or is disabled; license has been revoked or suspended; provider has been convicted of a felony or a crime for a violation of chptr 616D of NRS; or provider has been removed from the Administrator's Panel. Under (11), unless a provider is removed from an insurer's panel or the DIR panel, he may continue to treat the injured employee.	1/1/2020
616C.050	SB 381, Sec. 5	Amends NRS 616C.050 to conform with amendment to NRS 616C.090.	1/1/2020
616C.055	SB 381, Sec. 6	Amends NRS 616C.055 to conform to Sec. 2.	1/1/2020

NRS	BILL	DESCRIPTION	EFFECTIVE DATE
616C.090	SB 381, Sec. 8	<p>Amends NRS 616C.090 on selection of physician or chiropractor.</p> <p>Under (1), Administrator shall maintain and update not less frequently than annually on or before July 1 the panel of treating health care providers, which shall include: name, title or degree, legal name of the provider's practice, street address of office, telephone number of every office, discipline or specialization practiced and every condition and part of body the provider will treat.</p> <p>Under (3), when an insurer does not have a contract with a MCO, adds provision that a hearing or appeals officer may order a change of provider and the injured employee has 14 days after receipt of DIR's panel list to select a provider.</p> <p>Under (4), when an insurer does have a contract with a MCO, a transfer of care request must be granted or denied by insurer within 10 days after receipt of a written request; if not, then the request shall be deemed granted; a hearing or appeals officer may order a change of providers; and the injured employee has 14 days after receipt of insurer's panel list to select a provider.</p> <p>Under (5) a change in providers may be made at any time subject to the insurer's approval or by a hearing or appeals officer's order.</p> <p>Under (7), Administrator shall suspend or remove health care provider from panel of treating physicians for death or disability; license revocation or suspension; conviction of a felony or crime under chptr. 616D of NRS; or removed from the DIR Panel (Sec. 2(10)).</p> <p>Under (8), injured employee may receive treatment from more than 1 health care provider if insurer authorizes, or a hearing or appeals officer orders.</p> <p>Under (9), Administrator shall design a form notifying injured employees of their right to select an alternative health care provider under (3), (4) and (5).</p>	1/1/2020
616C.180	AB 492, Sec. 2	<p>Amends NRS 616C.180 by amending (4) that an injury or disease caused by stress for a first responder and proves by clear and convincing medical or psychiatric evidence that</p> <p>(a) employee has a mental injury caused by extreme stress due to directly witnessing:</p> <p>(1) death or aftermath of a death as a result of a violent event; or</p> <p>(2) an injury of aftermath of an injury that involves grievous bodily harm of a nature that shocks the conscience; and</p> <p>(b) primary cause of the mental injury was an event witnessed during the course of employment.</p> <p>Under (5), that stress for an employee of the state or any of its agencies or political subdivisions proves by clear and convincing medical or psychiatric evidence that:</p> <p>(a) employee has a mental injury caused by extreme stress in responding to a mass casualty incident; and</p> <p>(b) the primary cause of the injury was responding to the mass casualty incident during the course of employment.</p> <p>(6) An agency which employs first responders shall provide training related to awareness, prevention, mitigation and treatment of mental health issues.</p> <p>(8) defines "directly witness" as seeing or hearing for oneself; "first responder" as firefighter, police officer, emergency dispatcher, EMT or paramedic; and "mass casualty incident" is an incident designated as a mass casualty incident by one or more governmental agencies.</p>	6/3/2019
616C.260	SB 381, Sec. 16	Amends NRS 616C.260, fees and charges for accident benefits, by striking "services" after "health care" in (2).	1/1/2020
616C.400	AB 492, Sec. 3	Amends NRS 616C.400 to conform to NRS 616C.180 (Sec. 2) as amended.	6/3/2019



NRS	BILL	DESCRIPTION	EFFECTIVE DATE
616C.420	AB 492, Sec. 3.5	Amends average monthly wage NRS 616C.420 (Also amended in AB 377, Sec 2.8) in new (2) to include concurrent wages if the wages are earned from employers who are insured for workers' compensation or government disability benefits by a private carrier, plan of self-insurance, workers' compensation insurance system of any other state or federal workers' compensation or disability benefit plan. (3) concurrent wages include, without limitation, (a) active or reserve duty in the armed forces, merchant marine or national guard; (b) employment by the federal government, state, county, municipal or local government of any state or territory of the United States; or (c) a private employer. (4) defines concurrent wages as the sum of wages earned or deemed to have been earned at each place of employment for two or more employers during the one year period preceding the date of injury or the onset of the occupational disease, whether measured by an hourly rate, salary, piecework, commissions, gratuities, bonuses, per diem, value of meals, value of housing or other employment benefit that can be fairly measured to a monetary value expressed in an average monthly wage.	7/1/2019
616C.420	SB 377, Sec. 2.8	Amends NRS 616C.420 (Average monthly wage) by adding subsection 2 requiring the calculation be based on a 12 week history of wages; wages for 1 year or the full period of employment if 12 weeks not representative; wages for 1 year if the claimant is a member of a labor organization; if information concerning payroll is not available, wages may be averaged for the available period, but not less than 4 weeks; if payroll information for 4 weeks is not available, then wages are projected using rate of pay on date of injury and projected work schedule; if wages earned are based on piecework and wage history for at least 4 weeks is not available, then wages earned must be equal to the average wages earned by other employees doing the same work; if none of these methods cannot be applied reasonably and fairly then the AMW must be calculated at 100% of: the sum as defined by regulations under this section or projected at the hourly wage on the date of injury and the projected work schedule. "Wages earned" includes concurrent wages.	7/1/2019
616C.453	SB 377, Sec. 5	Repeals NRS 616C.453 (DIR PTD distribution for certain injured employees)	7/1/2019
616C.473	SB 377, Sec. 3	Amends NRS 616C.473 (PTD COLA) by adding subsection 2 for 2.3% annual increase starting on January 1, 2020 and each January 1 thereafter for claims occurring before January 1, 2004.	7/1/2019
616C.475	SB 381, Sec. 25	Amends NRS 616C.475, amount and duration of compensation, to conform to the amendment of NRS 616C.090 (Sec. 8).	1/1/2020
616C.490	SB 381, Sec. 26	Amends NRS 616C.490, permanent partial disability, by adding (3) which authorizes an injured employee or the representative to have DIR assign a rating physician or chiropractor. Administrator upon receipt of the request "shall immediately select" the rater.	1/1/2020
616C.495	SB 381, Sec. 27	Amends NRS 616C.495, lump sum PPD benefits, to cite the revised subsection of NRS 616C.490 (Sec. 26).	1/1/2020
616C.555	AB 128, Sec. 1	Amends NRS 616C.555(3) increasing maximum vocational rehabilitation program limit of 9 months for 0% PPD; 12 months for 1% up to 6 % PPD months; and up to 24 months for 6% PPD or more; and in (10) eliminates prohibition on a claimant's right to appeal an authorization of a third or latter program.	7/1/2019
616C.560	AB 128, Sec. 2	Amends NRS 616C.560 removing all restrictions on insurer's granting extensions to voc rehab programs and adds that an extension may be granted by an order of a Hearing or Appeals Officer.	7/1/2019
616C.595	AB 128, Sec. 3	Amends NRS 616C.595 by striking the 40% limitation on lump sum voc rehab programs and increases to 55%.	7/1/2019
617.420.	AB 492, Sec. 5	Amends NRS 617.420 to conform to NRS 616C.180 (Sec.2) as amended.	6/3/2019

NRS	BILL	DESCRIPTION	EFFECTIVE DATE
617.453.	SB 215, Sec. 1	<p>Amends NRS 617.453, the professional or volunteer firefighter OD cancer statute, by: maintaining the service requirement of 5 years or more for cancer to develop or manifest (Sec. 1(1)(a)); adding arson investigators (Sec. 1. (1)(a)(1)(II)) and an instructor or training officer for the provision of training concerning fire or hazardous materials (Sec 1(1)(a)(1)(III)); amended subsection 1(b) to require exposure during employment to a known carcinogen or a substance reasonably anticipated to be a human carcinogen and the carcinogen or substance is associated with the disabling cancer.</p> <p>Subsection 2 covers professional or volunteer firefighters, investigator, instructor or training officer and an extensive list of additional substances known to be carcinogens associated with specific disabling cancers.</p> <p>Subsection 3 states that the list in (2) does not create an exclusive list and does not preclude any person from proving other exposures and cancers.</p> <p>Subsection 5 is a new provision that disabling cancer is "rebuttably presumed" to have arisen out of and in the course of employment if diagnosed during employment.</p> <p>Subsection 6 if firefighter, investigator, instructor or training officer retired prior to July 1, 2019 or volunteer firefighter, regardless of date of retirement, disabling cancer is rebuttably presumed to have arisen out of and in the course of employment if diagnosed within a period not to exceed 60 months which is calculated at 3 months times the full number of years actually worked in the qualifying capacity from the last date the employee actually worked.</p> <p>Subsection 7 if firefighter, investigator, instructor or training officer (does not include volunteer firefighter) retired on or after July 1, 2019, disabling cancer is rebuttably presumed to have arisen out of and in the course of employment: if the person ceases employment before completing 20 years, then the cancer must be diagnosed within a period equal to the number of years worked; or if the person ceases employment after completing 20 years, then at any time during the person's life.</p> <p>Subsection 8 service credit purchased in a retirement system must not be used to calculate the number of years of service.</p> <p>Subsection 9 the rebuttable presumption created in (5), (6) or (7) must control the awarding of benefits unless evidence to rebut the presumption is presented.</p> <p>Subsection 10 a person who files a claim for disabling cancer under (7) after retirement is not entitled to receive any compensation for that disease other than medical benefits.</p>	7/1/2019

