

ASSEMBLY BILL NO. 3—COMMITTEE
ON COMMERCE AND LABOR

(ON BEHALF OF THE DEPARTMENT OF
BUSINESS AND INDUSTRY)

PREFILED NOVEMBER 15, 2016

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to the administration
of workers' compensation claims. (BDR 53-161)

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

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

AN ACT relating to industrial insurance; revising the requirement for certain notices to claimants concerning the closure of workers' compensation claims; revising requirements for nurses who act on behalf of certain persons in the administration of workers' compensation claims; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, when an insurer determines that a workers' compensation claim should be closed before all benefits to which the claimant may be entitled have been paid, the insurer must send to the claimant and his or her attorney, if any, a written notice of the insurer's intent to close the claim. The notice must include, on a separate page, a statement of the effects of the closing of the claim and a statement that the claimant has the right to request the resolution of a dispute concerning the closing of the claim. (NRS 616C.235) **Section 1** of this bill revises the requirements for this notice by requiring the notice to contain a statement declaring the insurer's intent to close the claim that is prominently displayed on the first line of print and immediately followed by a statement: (1) describing the scope of the claim and the effects of closing the claim; and (2) concerning dispute resolution required under existing law.

Existing law provides that if, during the first 12 months after a workers' compensation claim is opened, the medical benefits required to be paid for the claim are less than \$300, the insurer may close the claim by providing certain notice to the claimant. (NRS 616C.235) **Section 1** revises the requirements for this notice by: (1) requiring certain statements to be prominently displayed on the first



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line of print; and (2) removing a requirement that the notice include certain statements concerning an evaluation for a permanent partial disability and, instead, authorizing the notice to include such statements.

Section 2 of this bill requires a nurse who is acting on behalf of an insurer, employer, organization for managed care or third-party administrator to disclose that the nurse is an agent of such a person and that the injured employee has the right to exclude the nurse from certain medical examinations, evaluations or consultations.

Existing law: (1) prohibits an insurer, employer, organization for managed care or third-party administrator, or the representative of those persons, the Nevada Attorney for Injured Workers or certain other representatives of an injured employee from initiating any oral communication relating to the medical disposition of a workers' compensation claim with an injured employee's treating physician or chiropractor without maintaining a written log of the communication and making that log available upon request to certain parties; and (2) prohibits such persons from initiating any written communication relating to the medical disposition of a claim with the injured employee's treating physician or chiropractor without providing a copy of the communication to the injured employee. **Section 3** of this bill clarifies that such requirements apply to nurses who are employed by or contracting with an insurer, employer, organization for managed care or third-party administrator.

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

Section 1. NRS 616C.235 is hereby amended to read as follows:

616C.235 1. Except as otherwise provided in subsections 2, 3 and 4:

(a) When the insurer determines that a claim should be closed before all benefits to which the claimant may be entitled have been paid, the insurer shall send a written notice of its intention to close the claim to the claimant by first-class mail addressed to the last known address of the claimant and, if the insurer has been notified that the claimant is represented by an attorney, to the attorney for the claimant by first-class mail addressed to the last known address of the attorney. The notice must ~~include, on a separate page,~~ *contain a statement declaring the intent of the insurer to close the claim prominently displayed on the first line of print followed immediately by* a statement ~~describing~~ :

(1) Describing the scope of the claim and the effects of closing a claim pursuant to this section ; and ~~a statement~~

(2) Declaring that if the claimant does not agree with the determination, the claimant has a right to request a resolution of the dispute pursuant to NRS 616C.305 and 616C.315 to 616C.385, inclusive, including, without limitation, a statement which prominently displays the limit on the time that the claimant has to request a resolution of the dispute as set forth in NRS 616C.315. A



1 suitable form for requesting a resolution of the dispute must be
2 enclosed with the notice. ~~{The closure of a claim pursuant to this~~
3 ~~subsection is not effective unless notice is given as required by this~~
4 ~~subsection.}~~

5 (b) If the insurer does not receive a request for the resolution of
6 the dispute, it may close the claim.

7 (c) Notwithstanding the provisions of NRS 233B.125, if a
8 hearing is conducted to resolve the dispute, the decision of the
9 hearing officer may be served by first-class mail.

10 *↪ The closure of a claim pursuant to this subsection is not*
11 *effective unless notice is given as required by paragraph (a).*

12 2. If, during the first 12 months after a claim is opened, the
13 medical benefits required to be paid for a claim are less than \$300,
14 the insurer may close the claim at any time after the insurer sends,
15 by first-class mail addressed to the last known address of the
16 claimant, written notice that includes a statement which prominently
17 displays *on the first line of print* that:

18 (a) The claim is being closed pursuant to this subsection;

19 (b) The injured employee may appeal the closure of the claim
20 pursuant to the provisions of NRS 616C.305 and 616C.315 to
21 616C.385, inclusive; and

22 (c) If the injured employee does not appeal the closure of the
23 claim or appeals the closure of the claim but is not successful, the
24 claim cannot be reopened.

25 3. In addition to the notice described in subsection 2, an insurer
26 shall send to each claimant who receives less than \$300 in medical
27 benefits within 6 months after the claim is opened a written notice
28 that explains the circumstances under which a claim may be closed
29 pursuant to subsection 2. The written notice provided pursuant to
30 this subsection does not create any right to appeal the contents of
31 that notice. The written notice must be:

32 (a) Sent by first-class mail addressed to the last known address
33 of the claimant; and

34 (b) A document that is separate from any other document or
35 form that is used by the insurer.

36 4. The closure of a claim pursuant to subsection 2 is not
37 effective unless notice is given as required by subsections 2 and 3.

38 5. In addition to the requirements of this section, an insurer
39 ~~{shall}~~ *may* include ~~{in}~~ *with* the written notice described in
40 subsection 2 ~~{,}~~ *, on a separate page:*

41 (a) If an evaluation for a permanent partial disability has been
42 scheduled pursuant to NRS 616C.490, a statement to that effect; or

43 (b) If an evaluation for a permanent partial disability will not be
44 scheduled pursuant to NRS 616C.490, a statement explaining that



1 the reason is because the insurer has determined there is no
2 possibility of a permanent impairment of any kind.

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

5 *1. A nurse who communicates with an injured employee on*
6 *behalf of an insurer, employer, organization for managed care or*
7 *third-party administrator, or the representative of any of those*
8 *persons, shall disclose to the injured employee, in written form*
9 *delivered to the injured employee, the following information:*

10 (a) *That the nurse is an agent of the insurer, employer,*
11 *organization for managed care, third-party administrator or*
12 *representative; and*

13 (b) *That the injured employee has the right to exclude the*
14 *nurse from any examination, evaluation or consultation with the*
15 *injured employee's examining or treating physician or*
16 *chiropractor.*

17 *2. If the Administrator determines that a person has violated*
18 *the provisions of this section, the Administrator shall:*

19 (a) *For an initial violation, issue a notice of correction.*

20 (b) *For a second violation, impose an administrative fine of*
21 *not less than \$500 but not more than \$5,000.*

22 (c) *For a third or subsequent violation, impose an*
23 *administrative fine of \$5,000.*

24 **Sec. 3.** NRS 616D.330 is hereby amended to read as follows:

25 616D.330 1. An insurer, an employer, an organization for
26 managed care, a third-party administrator or the representative of
27 any of those persons, *including, without limitation, a licensed*
28 *nurse employed by or contracting with any of those persons,* the
29 Nevada Attorney for Injured Workers or an attorney or other
30 compensated representative of an injured employee shall not
31 initiate:

32 (a) Any oral communication relating to the medical disposition
33 of the claim of an injured employee with the injured employee's
34 examining or treating physician or chiropractor unless the initiator
35 of the oral communication:

36 (1) Maintains, in written form or in a form from which a
37 written record may be produced, a log that includes the date, time
38 and subject matter of the communication; and

39 (2) Makes the log available, upon request, to each insurer,
40 organization for managed care and third-party administrator
41 interested in the claim or the representative of each of those persons,
42 the Administrator and the injured employee, the injured employee's
43 representative and the injured employee's employer; or

44 (b) Any written communication relating to the medical
45 disposition of the claim with the injured employee's examining or



- 1 treating physician or chiropractor unless a copy of the
2 communication is submitted to the injured employee or the injured
3 employee's representative in a timely manner.
- 4 2. If the Administrator determines that a person has violated
5 the provisions of this section, the Administrator shall:
- 6 (a) For an initial violation, issue a notice of correction.
7 (b) For a second violation, impose an administrative fine of not
8 more than \$250.
9 (c) For a third or subsequent violation, impose an administrative
10 fine of not more than \$1,000.
- 11 **Sec. 4.** This act becomes effective upon passage and approval.



