

CHAPTER.....

AN ACT relating to employee leasing companies; transferring the duties for the licensing and certain regulation of certain companies which lease employees from the Administrator of the Division of Industrial Relations of the Department of Business and Industry to the Labor Commissioner; authorizing the Labor Commissioner to impose administrative penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law governs the operation of employee leasing companies, companies which, pursuant to an agreement with a client company, place certain employees of the client company on the payroll of the employee leasing company and lease those employees back to the client company for a fee. (NRS 616B.670-616B.697) **Section 1.5** of this bill: (1) replaces the defined term “employee leasing company” with the term “professional employer organization”; and (2) includes within the definitions of “client company” and “professional employer organization” certain labor compliance services which a professional employer organization may provide.

Existing law prohibits a person from operating an employee leasing company in this State without obtaining a certificate of registration issued by the Administrator of the Division of Industrial Relations of the Department of Business and Industry. (NRS 616B.673) **Section 2** of this bill: (1) prohibits a person from operating a professional employer organization without a license; and (2) transfers the duty to issue a license from the Administrator to the Labor Commissioner.

Existing law requires an applicant for the issuance or renewal of a certificate of registration to operate an employee leasing company to submit to the Administrator a written application upon a form provided by the Administrator. (NRS 616B.676) **Section 3** of this bill requires an applicant for a license to operate a professional employer organization to instead submit an application to the Labor Commissioner upon a form provided by the Labor Commissioner.

Existing law: (1) requires each application for a certificate of registration to operate an employee leasing company to include any information the Administrator requires; (2) requires an applicant to submit to the Administrator any change in the required application information; and (3) authorizes the Administrator to revoke the certificate of registration of an employee leasing company that fails to comply with certain requirements in existing law. (NRS 616B.679) **Section 4** of this bill: (1) requires each application for a license to operate a professional employer organization to include certain information required by state law and the Labor Commissioner; (2) requires an applicant to submit to the Labor Commissioner any change in the required application information; and (3) transfers the authority to refuse to issue or revoke a license for a professional employer organization that fails to comply with the requirements in existing law to the Labor Commissioner. **Section 4** of this bill also provides a professional employer organization with the right to appeal a decision by the Labor Commissioner to refuse to issue or revoke a license.

Existing law vests in the Administrator the authority to adopt regulations setting forth qualifications for an assurance organization to act on behalf of an employee leasing company in complying with certain requirements in existing law.



(NRS 616B.693) **Section 5** of this bill places the authority to adopt regulations setting forth qualifications for an assurance organization to act on behalf of a professional employer organization in complying with certain requirements in existing law with the Labor Commissioner.

Existing law vests the authority to adopt regulations governing employee leasing companies with the Administrator. (NRS 616B.694) **Section 6** of this bill places the authority to adopt regulations governing professional employer organizations with the Labor Commissioner and authorizes the Labor Commissioner to investigate compliance with or enforce applicable law and regulations that govern professional employer organizations.

Existing law authorizes an action for damages for a failure of an employee leasing company to comply with certain provisions of state law. (NRS 616B.697) **Section 7** of this bill authorizes: (1) an action for damages for such a failure by a professional employer organization; and (2) the Labor Commissioner to impose an administrative penalty of not more than \$5,000 for each such failure.

Existing law requires the Division of Industrial Relations of the Department of Business and Industry to determine whether an employee leasing company is entitled to a certificate of registration. (NRS 616A.465) **Section 1** of this bill eliminates that requirement. However, the Division retains its authority in existing law relating to the enforcement of the obligation of professional employer organizations to provide workers' compensation coverage for the employees they lease. (NRS 616B.692)

Sections 4.2-4.8, 8-15 and 19 of this bill make conforming changes to reflect the changes in terminology from "employee leasing company" to "professional employer organization" and "registration" or "certificate of registration" to "license." (NRS 363C.210, 616B.685, 616B.688, 616B.691, 616B.692, 616C.010, 616D.120, 689C.015, 689C.065, 689C.066, 689C.111, 689C.425)

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

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

Section 1. NRS 616A.465 is hereby amended to read as follows:

616A.465 1. Except as otherwise provided in this section, the Division shall:

(a) Regulate insurers pursuant to chapters 616A to 617, inclusive, of NRS;

(b) Investigate insurers regarding compliance with statutes and the Division's regulations; *and*

(c) ~~Determine whether an employee leasing company is entitled to a certificate of registration pursuant to NRS 616B.673; and~~

~~—(d) Regulate [employee leasing companies]~~ *professional employer organizations* pursuant to the provisions of NRS ~~[616B.670 to 616B.697, inclusive.]~~ *616B.692.*



2. The Commissioner is responsible for reviewing rates, investigating the solvency of insurers, authorizing private carriers pursuant to chapter 680A of NRS and certifying:

- (a) Self-insured employers pursuant to NRS 616B.300 to 616B.330, inclusive, and 616B.336;
- (b) Associations of self-insured public or private employers pursuant to NRS 616B.350 to 616B.446, inclusive; and
- (c) Third-party administrators pursuant to chapter 683A of NRS.

3. The Department of Administration is responsible for contested claims relating to industrial insurance pursuant to NRS 616C.310 to 616C.385, inclusive. The Administrator is responsible for administrative appeals pursuant to NRS 616B.215.

4. The Nevada Attorney for Injured Workers is responsible for legal representation of claimants pursuant to NRS 616A.435 to 616A.460, inclusive, and 616D.120.

5. The Division is responsible for the investigation of complaints. If a complaint is filed with the Division, the Administrator shall cause to be conducted an investigation which includes a review of relevant records and interviews of affected persons. If the Administrator determines that a violation may have occurred, the Administrator shall proceed in accordance with the provisions of NRS 616D.120 and 616D.130.

6. As used in this section, ~~["employee leasing company"]~~ ***"professional employer organization"*** has the meaning ascribed to it in NRS 616B.670.

Sec. 1.5. NRS 616B.670 is hereby amended to read as follows:

616B.670 As used in NRS 616B.670 to 616B.697, inclusive, unless the context otherwise requires:

1. "Applicant" means a person seeking a ~~[certificate of registration]~~ ***license*** pursuant to NRS 616B.670 to 616B.697, inclusive, to operate ~~[an employee leasing company.]~~ ***a professional employer organization.***

2. "Client company" means a company which ~~[Leases]~~ :

(a) Utilizes a professional employer organization, for a fee, to provide labor compliance services, including, without limitation, the management of human resources, employee benefits, payroll and workers' compensation; or

(b) Leases employees, for a fee, from ~~[an employee leasing company]~~ ***a professional employer organization*** pursuant to a written or oral agreement.

3. ~~["Employee leasing company" means a company which, pursuant to a written or oral agreement intended by the parties to create an ongoing relationship, places any of the regular, full time~~



~~employees of a client company on its payroll and, for a fee, leases them to the client company.~~

~~—4.]~~ “Ongoing relationship” means a relationship wherein the rights, duties and obligations of an employer which arise out of an employment relationship are allocated between the ~~[employee leasing company]~~ *professional employer organization* and the client company on an ongoing, long-term basis. The term does not include a temporary or project-specific agreement between ~~[an employee leasing company]~~ *a professional employer organization* and a client company.

4. “Professional employer organization” means a company which, pursuant to a written or oral agreement intended by the parties to create an ongoing relationship:

(a) Provides labor compliance services for a fee, including, without limitation, the management of human resources, employee benefits, payroll and workers’ compensation; or

(b) Places any of the regular, full-time employees of a client company on its payroll and, for a fee, leases them to the client company.

Sec. 2. NRS 616B.673 is hereby amended to read as follows:

616B.673 1. A person shall not operate ~~[an employee leasing company]~~ *a professional employer organization* in this State unless the person has complied with the provisions of NRS 616B.670 to 616B.697, inclusive. The ~~[Administrator]~~ *Labor Commissioner* shall issue a ~~[certificate of registration]~~ *license* to each applicant who complies with the provisions of NRS 616B.670 to 616B.697, inclusive.

2. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

3. Each ~~[certificate of registration]~~ *license* issued by the ~~[Administrator]~~ *Labor Commissioner* pursuant to NRS 616B.670 to 616B.697, inclusive, expires 1 year after it is issued unless renewed before that date.

Sec. 3. NRS 616B.676 is hereby amended to read as follows:

616B.676 An applicant for the issuance or renewal of a ~~[certificate of registration]~~ *license* must submit to the ~~[Administrator]~~ *Labor Commissioner* a written application upon a form provided by the ~~[Administrator]~~ *Labor Commissioner*.

Sec. 4. NRS 616B.679 is hereby amended to read as follows:

616B.679 1. Each application must include:

(a) The applicant’s name and title of his or her position with the ~~[employee leasing company.]~~ *professional employer organization.*



(b) The applicant's age, place of birth and social security number.

(c) The applicant's address.

(d) The business address of the ~~employee leasing company.~~ **professional employer organization.**

(e) The business address of the registered agent of the ~~employee leasing company.~~ **professional employer organization,** if the applicant is not the registered agent.

(f) If the applicant is a:

(1) Partnership, the name of the partnership and the name, address, age, social security number and title of each partner.

(2) Corporation, the name of the corporation and the name, address, age, social security number and title of each officer of the corporation.

(g) Proof of:

(1) Compliance with the provisions of chapter 76 of NRS.

(2) The payment of any premiums for industrial insurance required by chapters 616A to 617, inclusive, of NRS ~~and~~ **and compliance with NRS 616B.692.**

(3) The payment of contributions or payments in lieu of contributions required by chapter 612 of NRS.

(4) Insurance coverage for any benefit plan from an insurer authorized pursuant to title 57 of NRS that is offered by the ~~employee leasing company.~~ **professional employer organization** to its employees.

(h) A financial statement of the applicant setting forth the financial condition of the ~~employee leasing company.~~ **professional employer organization.** Except as otherwise provided in subsection 5, the financial statement must include, without limitation:

(1) For an application for issuance of a ~~certificate of registration.~~ **license,** the most recent audited financial statement that includes the applicant, which must have been completed not more than 13 months before the date of application; or

(2) For an application for renewal of a ~~certificate of registration.~~ **license,** an audited financial statement that includes the applicant and which must have been completed not more than 180 days after the end of the applicant's fiscal year.

(i) ~~A registration.~~ **An issuance** or renewal fee of \$500.

(j) Any other information the ~~Administrator.~~ **Labor Commissioner** requires.

2. Each application must be notarized and signed under penalty of perjury:



(a) If the applicant is a sole proprietorship, by the sole proprietor.

(b) If the applicant is a partnership, by each partner.

(c) If the applicant is a corporation, by each officer of the corporation.

3. An applicant shall submit to the ~~Administrator~~ **Labor Commissioner** any change in the information required by this section within 30 days after the change occurs. The ~~Administrator~~ **Labor Commissioner** may *refuse to issue a license to or* revoke the ~~certificate of registration~~ **license** of ~~an employee leasing company~~ **a professional employer organization** which fails to comply with the provisions of NRS 616B.670 to 616B.697, inclusive. *If the Labor Commissioner refuses to issue or revokes a license pursuant to this subsection, the professional employer organization has the right to appeal the decision of the Labor Commissioner.*

4. If an insurer cancels ~~an employee leasing company's~~ **a professional employer organization's** policy, the insurer shall immediately notify the ~~Administrator~~ **Labor Commissioner** in writing. The notice must comply with the provisions of NRS 687B.310 to 687B.355, inclusive, and must be served personally on or sent by first-class mail or electronic transmission to the ~~Administrator~~ **Labor Commissioner**.

5. A financial statement submitted with an application pursuant to this section must be prepared in accordance with generally accepted accounting principles, must be audited by an independent certified public accountant certified or licensed to practice in the jurisdiction in which the accountant is located and must be without qualification as to the status of the ~~employee leasing company~~ **professional employer organization** as a going concern. Except as otherwise provided in subsection 6, ~~an employee leasing company~~ **a professional employer organization** that has not had sufficient operating history to have an audited financial statement based upon at least 12 months of operating history must present financial statements reviewed by a certified public accountant covering its entire operating history. The financial statements must be prepared not more than 13 months before the submission of an application and must:

(a) Demonstrate, in the statement, positive working capital, as defined by generally accepted accounting principles, for the period covered by the financial statements; or

(b) Be accompanied by a bond, irrevocable letter of credit or securities with a minimum market value equaling the maximum



deficiency in working capital for the period covered by the financial statements plus \$100,000. The bond, irrevocable letter of credit or securities must be held by a depository institution designated by the ~~[Administrator]~~ **Labor Commissioner** to secure payment by the applicant of all taxes, wages, benefits or other entitlements payable by the applicant.

6. An applicant required to submit a financial statement pursuant to this section may submit a consolidated or combined audited financial statement that includes, but is not exclusive to, the applicant.

Sec. 4.2. NRS 616B.685 is hereby amended to read as follows:

616B.685 If a person operates ~~[an employee leasing company]~~ **a professional employer organization** and a temporary employment service in this State, the person:

1. Shall maintain separate payroll records for the ~~[company]~~ **organization** and the service. The records must be maintained in this State.

2. Shall not maintain a policy of workers' compensation insurance which covers both employees of the ~~[employee leasing company]~~ **professional employer organization** and employees of the temporary employment service.

Sec. 4.4. NRS 616B.688 is hereby amended to read as follows:

616B.688 The employment relationship with workers provided by ~~[an employee leasing company]~~ **a professional employer organization** to a client company must be established by written agreement between the ~~[employee leasing company]~~ **professional employer organization** and the client company. The ~~[employee leasing company]~~ **professional employer organization** shall give written notice of the employment relationship to each leased employee assigned to perform services for the client company.

Sec. 4.6. NRS 616B.691 is hereby amended to read as follows:

616B.691 1. A client company of ~~[an employee leasing company]~~ **a professional employer organization** as defined in NRS 616B.670 shall be deemed to be the employer of the employees it leases for the purposes of chapter 612 of NRS.

2. ~~[An employee leasing company]~~ **A professional employer organization** shall be deemed to be an employer of its leased employees for the purposes of offering, sponsoring and maintaining any benefit plans. The provisions of this subsection do not affect the employer-employee relationship that exists between a leased employee and a client company.

3. ~~[An employee leasing company]~~ **A professional employer organization** shall not offer, sponsor or maintain for its leased



employees any self-funded insurance program. ~~[An employee leasing company]~~ *A professional employer organization* shall not act as a self-insured employer or be a member of an association of self-insured public or private employers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS or title 57 of NRS.

4. If ~~[an employee leasing company]~~ *a professional employer organization* fails to:

- (a) Pay any contributions, premiums, forfeits or interest due; or
 - (b) Submit any reports or other information required,
- ↳ pursuant to this chapter or chapter 616A, 616C, 616D or 617 of NRS, the client company is jointly and severally liable for the contributions, premiums, forfeits or interest attributable to the wages of the employees leased to it by the ~~[employee leasing company.]~~ *professional employer organization.*

Sec. 4.8. NRS 616B.692 is hereby amended to read as follows:
616B.692 1. ~~[An employee leasing company]~~ *A professional employer organization* may satisfy its obligation to provide coverage for workers' compensation for the employees that the ~~[employee leasing company]~~ *professional employer organization* leases to each client company by:

(a) Confirming that the client company has obtained a policy of workers' compensation insurance directly from an insurer, and maintains that policy, which covers all of the employees of the client company, including, without limitation, the employees leased from the ~~[employee leasing company,]~~ *professional employer organization,* subject to the same requirements and conditions as if the client company were the sole employer of the leased employees for the purpose of providing coverage for workers' compensation;

(b) Confirming that the client company is a member of an association of self-insured employers which is certified by the Commissioner and which has assumed responsibility, and maintains responsibility, for covering all of the employees of the client company, including, without limitation, the employees leased from the ~~[employee leasing company,]~~ *professional employer organization,* subject to the same requirements and conditions as if the client company were the sole employer of the leased employees for the purpose of providing coverage for workers' compensation;

(c) Confirming that the client company is certified by the Commissioner as a self-insured employer which self-insures all of the employees of the client company, including, without limitation, the employees leased from the ~~[employee leasing company,]~~ *professional employer organization,* subject to the same requirements and conditions as if the client company were the sole



employer of the leased employees for the purpose of providing coverage for workers' compensation;

(d) Obtaining a policy of workers' compensation insurance directly from an insurer on a multiple coordinated policy basis, and maintaining that policy, which covers all of the employees leased to the client company or all of the employees leased to the client company and other client companies affiliated with the client company such that:

(1) The policy covers the liability of both the ~~employee leasing company~~ *professional employer organization* and the client company or companies for payments required by chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(2) A separate policy is issued to or on behalf of each client company or group of affiliated client companies under the multiple coordinated policy; and

(3) The ~~employee leasing company~~ *professional employer organization* controls payments and communications related to the policy; or

(e) Obtaining a policy of workers' compensation insurance on a master policy basis directly from an insurer, and maintaining that policy, which:

(1) Covers some or all of the employees of the ~~employee leasing company~~ *professional employer organization* who are leased to one or more client companies; and

(2) May cover all of the employees of the ~~employee leasing company~~ *professional employer organization* who work directly for the ~~employee leasing company~~ *professional employer organization* and are not leased to any client company.

2. With respect to a policy of workers' compensation insurance described in paragraph (a) of subsection 1:

(a) The policy may name the ~~employee leasing company~~ *professional employer organization* as an additional insured; and

(b) If the ~~employee leasing company~~ *professional employer organization* is licensed as a producer of insurance pursuant to NRS 683A.261 and is authorized by the insurer, the ~~employee leasing company~~ *professional employer organization* may negotiate coverage, collect premiums on behalf of the insurer and otherwise act as an intermediary with respect to the policy.

3. If ~~an employee leasing company~~ *a professional employer organization* or a client company maintains a policy of workers' compensation insurance which provides coverage for leased employees, each insurer insuring leased employees shall report to the Advisory Organization, as defined in NRS 686B.1752:



(a) Payroll and claims data for each client company in a manner that identifies both the client company and the ~~{employee leasing company;}~~ *professional employer organization;* and

(b) The status of coverage with respect to each client company in accordance with any applicable requirements regarding proof of coverage.

4. If the services that ~~{an employee leasing company;} a professional employer organization~~ offers to a client company do not include obtaining and maintaining a policy of workers' compensation insurance for the employees which the ~~{employee leasing company;} professional employer organization~~ will lease to the client company, the ~~{employee leasing company;} professional employer organization~~ shall:

(a) Before entering into an agreement with the client company to provide services as ~~{an employee leasing company;} a professional employer organization,~~ provide written notice to the client company that the client company will remain responsible for providing coverage for workers' compensation for all of the employees of the client company, including, without limitation, the employees leased from the ~~{employee leasing company;} professional employer organization;~~ and

(b) In the written agreement with the client company to provide services as ~~{an employee leasing company;} a professional employer organization,~~ clearly set forth the responsibility of the client company to provide coverage for workers' compensation for all of the employees of the client company, including, without limitation, the employees leased from the ~~{employee leasing company;} professional employer organization.~~

5. If ~~{an employee leasing company;} a professional employer organization~~ offers to provide coverage for workers' compensation for the employees that the ~~{employee leasing company;} professional employer organization~~ leases to a client company in accordance with paragraph (d) or (e) of subsection 1:

(a) The coverage for workers' compensation must not take effect until the client company executes the written agreement required by NRS 616B.688 between the ~~{employee leasing company;} professional employer organization~~ and the client company; and

(b) The written agreement required by NRS 616B.688 between the ~~{employee leasing company;} professional employer organization~~ and the client company must:

(1) Explain that coverage for workers' compensation does not take effect until the effective date designated by the insurer in the policy of workers' compensation insurance;



(2) Provide that, while the policy of workers' compensation insurance is in force, the ~~employee leasing company~~ **professional employer organization** will pay all premiums required by the policy, including, without limitation, any adjustments or assessments, and will be entitled to any refunds of premiums;

(3) Set forth the procedures by which the client company or the ~~employee leasing company~~ **professional employer organization** may terminate the agreement and any fees or costs payable upon termination;

(4) Provide that, except as otherwise provided by law, all services provided by the ~~employee leasing company~~ **professional employer organization** to the client company will cease immediately on the effective date of any termination of the agreement;

(5) Provide that the insurer from whom the policy of workers' compensation insurance is obtained by the ~~employee leasing company~~ **professional employer organization** has the right to inspect the premises and records of the client company;

(6) Provide that the loss experience of the client company will continue to be reported in the name of the client company to the Commissioner and will be available to subsequent insurers upon request;

(7) Provide that the policy of workers' compensation insurance covers only those employees acknowledged in writing by the ~~employee leasing company~~ **professional employer organization** to be employees of the ~~employee leasing company~~ **professional employer organization** who are being leased to the client company;

(8) Explain that the client company is responsible at all times for providing coverage for workers' compensation for any employees of the client company who are not leased from the ~~employee leasing company;~~ **professional employer organization;** and

(9) Provide that the client company must provide satisfactory evidence of the coverage required by subparagraph (8) to the insurer from whom the policy of workers' compensation insurance is obtained by the ~~employee leasing company.~~ **professional employer organization.**

6. Nothing in this section prohibits the employees of ~~an employee leasing company~~ **a professional employer organization** who are leased to one or more client companies from being considered as a group for the purposes of any eligibility for



dividends, discounts on premiums, rating arrangements or options or obtaining policies with large deductibles.

7. The exclusive remedy provided by NRS 616A.020 applies to the ~~{employee leasing company,}~~ **professional employer organization**, the client company and to all employees of the client company, including, without limitation, the employees leased from the ~~{employee leasing company,}~~ **professional employer organization**, whether the ~~{employee leasing company}~~ **professional employer organization** or the client company provides the coverage for workers' compensation.

8. The Administrator and the Commissioner may adopt regulations to carry out the provisions of this section.

9. *As used in this section:*

(a) *"Client company" has the meaning ascribed to it in NRS 616B.670.*

(b) *"Professional employer organization" has the meaning ascribed to it in NRS 616B.670.*

Sec. 5. NRS 616B.693 is hereby amended to read as follows:

616B.693 1. The ~~{Administrator}~~ **Labor Commissioner** may adopt regulations authorizing and setting forth qualifications for an assurance organization selected by ~~{an employee leasing company}~~ **a professional employer organization** to act on behalf of the ~~{employee leasing company}~~ **professional employer organization** in complying with the requirements of NRS 616B.670 to 616B.697, inclusive, and any regulations adopted pursuant thereto, including, without limitation, any requirements regarding obtaining or renewing a ~~{certificate of registration,}~~ **license**. Such an assurance organization must be independent of the ~~{employee leasing company}~~ **professional employer organization** and approved by the ~~{Administrator,}~~ **Labor Commissioner**.

2. Nothing in this section or any regulations adopted pursuant thereto:

(a) Limits or otherwise affects the authority of the ~~{Administrator}~~ **Labor Commissioner** to issue or revoke a ~~{certificate of registration}~~ **license** of ~~{an employee leasing company}~~ **a professional employer organization** subject to the appeals process;

(b) Limits or otherwise affects the authority of the ~~{Administrator}~~ **Labor Commissioner** to investigate compliance with or enforce any provision of NRS 616B.670 to 616B.697, inclusive, and any regulations adopted pursuant thereto; or



(c) Requires ~~[an employee leasing company]~~ ***a professional employer organization*** to authorize an assurance organization to act on its behalf.

3. As used in this section, “assurance organization” means a person who meets the qualifications set forth by the ~~[Administrator]~~ ***Labor Commissioner*** pursuant to regulations adopted pursuant to subsection 1.

Sec. 6. NRS 616B.694 is hereby amended to read as follows:

616B.694 The ~~[Administrator]~~ ***Labor Commissioner***:

1. Shall administer the provisions of NRS 616B.670 to 616B.697, inclusive, and may adopt ***reasonable*** regulations to carry out ~~[the] those~~ provisions . ~~[of NRS 616B.670 to 616B.697, inclusive.]~~

2. May investigate compliance with or enforce any provision of NRS 616B.670 to 616B.697, inclusive, and any regulations adopted pursuant thereto.

Sec. 7. NRS 616B.697 is hereby amended to read as follows:

616B.697 ***1.*** An action for damages caused by the failure of ~~[an employee leasing company]~~ ***a professional employer organization*** to comply with the provisions of NRS 616B.670 to 616B.697, inclusive, may be brought against any person who is required to sign the application for a ~~[certificate of registration]~~ ***license*** for the ~~[employee leasing company.]~~ ***professional employer organization.***

2. In addition to any other remedy or penalty prescribed by law, the Labor Commissioner may impose against the person an administrative penalty of not more than \$5,000 for each such failure.

Sec. 8. NRS 616C.010 is hereby amended to read as follows:

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

2. When an employer learns of an accident, whether or not it is reported, the employer may direct the employee to submit to, or the employee may request, an examination by a physician or chiropractor, in order to ascertain the character and extent of the injury and render medical attention which is required immediately. The employer shall:

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



(1) Two or more physicians or chiropractors who are qualified to conduct the examination and who are available pursuant to the terms of the contract, if there are two or more such physicians or chiropractors within 30 miles of the employee's place of employment; or

(2) One or more physicians or chiropractors who are qualified to conduct the examination and who are available pursuant to the terms of the contract, if there are not two or more such physicians or chiropractors within 30 miles of the employee's place of employment.

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

(1) Two or more physicians or chiropractors who are qualified to conduct the examination, if there are two or more such physicians or chiropractors within 30 miles of the employee's place of employment; or

(2) One or more physicians or chiropractors who are qualified to conduct the examination, if there are not two or more such physicians or chiropractors within 30 miles of the employee's place of employment.

3. From among the names furnished by the employer pursuant to subsection 2, the employee shall select one of those physicians or chiropractors to conduct the examination, but the employer shall not require the employee to select a particular physician or chiropractor from among the names furnished by the employer. Thereupon, the examining physician or chiropractor shall report forthwith to the employer and to the insurer the character and extent of the injury. The employer shall not require the employee to disclose or permit the disclosure of any other information concerning the employee's physical condition except as required by NRS 616C.177.

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

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

6. ~~[An employee leasing company]~~ *A professional employer organization* must provide to each employee covered under an employee leasing contract instructions on how to notify the ~~[leasing company supervisor and]~~ client company *and the employee's*



supervisor at the professional employer organization of an injury in plain, clear language placed in conspicuous type in a specifically labeled area of instructions given to the employee.

Sec. 9. NRS 616D.120 is hereby amended to read as follows:

616D.120 1. Except as otherwise provided in this section, if the Administrator determines that an insurer, organization for managed care, health care provider, third-party administrator, employer or ~~employee leasing company~~ *professional employer organization* has:

(a) Induced a claimant to fail to report an accidental injury or occupational disease;

(b) Without justification, persuaded a claimant to:

(1) Settle for an amount which is less than reasonable;

(2) Settle for an amount which is less than reasonable while a hearing or an appeal is pending; or

(3) Accept less than the compensation found to be due the claimant by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to chapters 616A to 617, inclusive, of NRS;

(c) Refused to pay or unreasonably delayed payment to a claimant of compensation or other relief found to be due the claimant by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS, if the refusal or delay occurs:

(1) Later than 10 days after the date of the settlement agreement or stipulation;

(2) Later than 30 days after the date of the decision of a court, hearing officer, appeals officer or the Division, unless a stay has been granted; or

(3) Later than 10 days after a stay of the decision of a court, hearing officer, appeals officer or the Division has been lifted;

(d) Refused to process a claim for compensation pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(e) Made it necessary for a claimant to initiate proceedings pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS for compensation or other relief found to be due the claimant by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS;



(f) Failed to comply with the Division's regulations covering the payment of an assessment relating to the funding of costs of administration of chapters 616A to 617, inclusive, of NRS;

(g) Failed to provide or unreasonably delayed payment to an injured employee or reimbursement to an insurer pursuant to NRS 616C.165;

(h) Engaged in a pattern of untimely payments to injured employees; or

(i) Intentionally failed to comply with any provision of, or regulation adopted pursuant to, this chapter or chapter 616A, 616B, 616C or 617 of NRS,

↳ the Administrator shall impose an administrative fine of \$1,500 for each initial violation, or a fine of \$15,000 for a second or subsequent violation.

2. Except as otherwise provided in chapters 616A to 616D, inclusive, or chapter 617 of NRS, if the Administrator determines that an insurer, organization for managed care, health care provider, third-party administrator, employer or ~~employee leasing company~~ **professional employer organization** has failed to comply with any provision of this chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted pursuant thereto, the Administrator may take any of the following actions:

(a) Issue a notice of correction for:

(1) A minor violation, as defined by regulations adopted by the Division; or

(2) A violation involving the payment of compensation in an amount which is greater than that required by any provision of this chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted pursuant thereto.

↳ The notice of correction must set forth with particularity the violation committed and the manner in which the violation may be corrected. The provisions of this section do not authorize the Administrator to modify or negate in any manner a determination or any portion of a determination made by a hearing officer, appeals officer or court of competent jurisdiction or a provision contained in a written settlement agreement or written stipulation.

(b) Impose an administrative fine for:

(1) A second or subsequent violation for which a notice of correction has been issued pursuant to paragraph (a); or

(2) Any other violation of this chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted pursuant thereto, for which a notice of correction may not be issued pursuant to paragraph (a).



↳ The fine imposed must not be greater than \$375 for an initial violation, or more than \$3,000 for any second or subsequent violation.

(c) Order a plan of corrective action to be submitted to the Administrator within 30 days after the date of the order.

3. If the Administrator determines that a violation of any of the provisions of paragraphs (a) to (e), inclusive, (h) or (i) of subsection 1 has occurred, the Administrator shall order the insurer, organization for managed care, health care provider, third-party administrator, employer or ~~employee leasing company~~ **professional employer organization** to pay to the claimant a benefit penalty:

(a) Except as otherwise provided in paragraph (b), in an amount that is not less than \$5,000 and not greater than \$50,000; or

(b) Of \$3,000 if the violation involves a late payment of compensation or other relief to a claimant in an amount which is less than \$500 or which is not more than 14 days late.

4. To determine the amount of the benefit penalty, the Administrator shall consider the degree of physical harm suffered by the injured employee or the dependents of the injured employee as a result of the violation of paragraph (a), (b), (c), (d), (e), (h) or (i) of subsection 1, the amount of compensation found to be due the claimant and the number of fines and benefit penalties, other than a benefit penalty described in paragraph (b) of subsection 3, previously imposed against the insurer, organization for managed care, health care provider, third-party administrator, employer or ~~employee leasing company~~ **professional employer organization** pursuant to this section. The Administrator shall also consider the degree of economic harm suffered by the injured employee or the dependents of the injured employee as a result of the violation of paragraph (a), (b), (c), (d), (e), (h) or (i) of subsection 1. Except as otherwise provided in this section, the benefit penalty is for the benefit of the claimant and must be paid directly to the claimant within 10 days after the date of the Administrator's determination. If the claimant is the injured employee and the claimant dies before the benefit penalty is paid to him or her, the benefit penalty must be paid to the estate of the claimant. Proof of the payment of the benefit penalty must be submitted to the Administrator within 10 days after the date of the Administrator's determination unless an appeal is filed pursuant to NRS 616D.140. Any compensation to which the claimant may otherwise be entitled pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS must not be reduced by the amount of any benefit penalty received pursuant to



this subsection. To determine the amount of the benefit penalty in cases of multiple violations occurring within a certain period of time, the Administrator shall adopt regulations which take into consideration:

(a) The number of violations within a certain number of years for which a benefit penalty was imposed; and

(b) The number of claims handled by the insurer, organization for managed care, health care provider, third-party administrator, employer or ~~employee-leasing company~~ **professional employer organization** in relation to the number of benefit penalties previously imposed within the period of time prescribed pursuant to paragraph (a).

5. In addition to any fine or benefit penalty imposed pursuant to this section, the Administrator may assess against an insurer who violates any regulation concerning the reporting of claims expenditures or premiums received that are used to calculate an assessment an administrative penalty of up to twice the amount of any underpaid assessment.

6. If:

(a) The Administrator determines that a person has violated any of the provisions of NRS 616D.200, 616D.220, 616D.240, 616D.300, 616D.310 or 616D.350 to 616D.440, inclusive; and

(b) The Fraud Control Unit for Industrial Insurance of the Office of the Attorney General established pursuant to NRS 228.420 notifies the Administrator that the Unit will not prosecute the person for that violation,

↳ the Administrator shall impose an administrative fine of not more than \$15,000.

7. Two or more fines of \$1,000 or more imposed in 1 year for acts enumerated in subsection 1 must be considered by the Commissioner as evidence for the withdrawal of:

(a) A certificate to act as a self-insured employer.

(b) A certificate to act as an association of self-insured public or private employers.

(c) A certificate of registration as a third-party administrator.

8. The Commissioner may, without complying with the provisions of NRS 616B.327 or 616B.431, withdraw the certification of a self-insured employer, association of self-insured public or private employers or third-party administrator if, after a hearing, it is shown that the self-insured employer, association of self-insured public or private employers or third-party administrator violated any provision of subsection 1.



9. If the Administrator determines that a vocational rehabilitation counselor has violated the provisions of NRS 616C.543, the Administrator may impose an administrative fine on the vocational rehabilitation counselor of not more than \$250 for a first violation, \$500 for a second violation and \$1,000 for a third or subsequent violation.

10. The Administrator may make a claim against the bond required pursuant to NRS 683A.0857 for the payment of any administrative fine or benefit penalty imposed for a violation of the provisions of this section.

Sec. 10. NRS 363C.210 is hereby amended to read as follows:

363C.210 1. In computing the commerce tax owed by a business entity pursuant to this chapter, the business entity is entitled to deduct from its gross revenue the following amounts, to the extent such amounts are included in gross revenue of the business entity:

(a) Any gross revenue which this State is prohibited from taxing pursuant to the Constitution or laws of the United States or the Nevada Constitution.

(b) Any gross revenue of the business entity attributable to dividends and interest upon any bonds or securities of the Federal Government, the State of Nevada or a political subdivision of this State.

(c) If a business entity is required to pay a license fee pursuant to NRS 463.370, the amount of its gross receipts used to determine the amount of that fee.

(d) If the business entity is required to pay a tax on the net proceeds from mineral extraction and royalties subject to the excise tax pursuant to the provisions of NRS 362.100 to 362.240, inclusive, the amount of the gross proceeds used to determine the amount of that tax.

(e) If the business entity is required to pay the tax imposed by chapter 369 of NRS, an amount equal to the amount of the excise tax paid pursuant to that chapter by the business entity.

(f) If the business entity is required to pay the tax imposed pursuant to chapter 680B of NRS:

(1) The amount of the total income derived from direct premiums written and all other considerations for insurance, bail or annuity contracts used to determine the amount of the tax imposed pursuant to chapter 680B of NRS;

(2) Any amounts excluded from total income derived from direct premiums pursuant to NRS 680B.025; and



(3) Gross premiums upon policies on risks located in this State received by a factory mutual and amounts deducted from such gross premiums to determine the amount of the tax imposed by NRS 680B.027 upon the factory mutual pursuant to NRS 680B.033.

(g) If the business entity is required to pay the tax imposed pursuant to NRS 694C.450, the amount of the net direct premiums, as defined in that section, used to determine the amount of that tax.

(h) If the business entity is required to pay the tax imposed pursuant to NRS 685A.180, the amount of the premiums, as defined in that section, used to determine the amount of that tax.

(i) Except as otherwise provided by paragraph (j), the total amount of payments received by a health care provider:

(1) From Medicaid, Medicare, the Children's Health Insurance Program, the Fund for Hospital Care to Indigent Persons created pursuant to NRS 428.175 or TRICARE;

(2) For professional services provided in relation to a workers' compensation claim; and

(3) For the actual cost to the health care provider for any uncompensated care provided by the health care provider, except that if the health care provider later receives payment for all or part of that care, the health care provider must include the amount of the payment in his or her gross receipts for the calendar quarter in which the payment is received.

(j) If the business entity is engaging in a business in this State as a health care provider that is a health care institution, an amount equal to 50 percent of the amounts described in paragraph (i) that are received by the health care institution.

(k) If the business entity is engaging in business in this State as ~~[an employee leasing company,]~~ *a professional employer organization*, the amount of any payments received from a client company for wages, payroll taxes on those wages, employee benefits and workers' compensation benefits for employees leased to the client company.

(l) The amount of any pass-through revenue of the business entity.

(m) The tax basis of securities and loans sold by the business entity, as determined for the purposes of federal income taxation.

(n) The amount of revenue received by the business entity that is directly derived from the operation of a facility that is:

(1) Located on property owned or leased by the Federal Government; and

(2) Managed or operated primarily to house members of the Armed Forces of the United States.



(o) Interest income other than interest on credit sales.

(p) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity.

(q) Receipts from the sale, exchange or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, 26 U.S.C. § 1221 or 1231, without regard to the length of time the business entity held the asset.

(r) Receipts from a hedging transaction, as defined in section 1221 of the Internal Revenue Code, 26 U.S.C. § 1221, or a transaction accorded hedge accounting treatment under Statement No. 133 of the Financial Accounting Standards Board, Accounting for Derivative Instruments and Hedging Activities, to the extent the transaction is entered into primarily to protect a financial position, including, without limitation, managing the risk of exposure to foreign currency fluctuations that affect assets, liabilities, profits, losses, equity or investments in foreign operations, to interest rate fluctuations or to commodity price fluctuations. For the purposes of this paragraph, receipts from the actual transfer of title of real or tangible personal property to another business entity are not receipts from a hedging transaction or a transaction accorded hedge accounting treatment.

(s) Proceeds received by a business entity that are attributable to the repayment, maturity or redemption of the principal of a loan, bond, mutual fund, certificate of deposit or marketable instrument.

(t) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan.

(u) Proceeds received from the issuance of the business entity's own stock, options, warrants, puts or calls, from the sale of the business entity's treasury stock or as contributions to the capital of the business entity.

(v) Proceeds received on account of payments from insurance policies, except those proceeds received for the loss of business revenue.

(w) Damages received as a result of litigation in excess of amounts that, if received without litigation, would not have been included in the gross receipts of the business entity pursuant to this section.

(x) Bad debts expensed for the purposes of federal income taxation.

(y) Returns and refunds to customers.



(z) Amounts realized from the sale of an account receivable to the extent the receipts from the underlying transaction were included in the gross receipts of the business entity.

(aa) If the business entity owns an interest in a passive entity, the business entity's share of the net income of the passive entity, but only to the extent the net income of the passive entity was generated by the gross revenue of another business entity.

2. As used in this section:

(a) "Children's Health Insurance Program" means the program established pursuant to 42 U.S.C. §§ 1397aa to 1397jj, inclusive, to provide health insurance for uninsured children from low-income families in this State.

(b) "Client company" has the meaning ascribed to it in NRS 616B.670.

(c) ~~"Employee leasing company" has the meaning ascribed to it in NRS 616B.670.~~

~~(d)~~ "Health care institution" means:

(1) A medical facility as defined in NRS 449.0151; and

(2) A pharmacy as defined in NRS 639.012.

~~(e)~~ (d) "Health care provider" means a business that receives any payments listed in paragraph (i) of subsection 1 as a provider of health care services, including, without limitation, mental health care services.

~~(f)~~ (e) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

~~(g)~~ (f) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(g) *"Professional employer organization" has the meaning ascribed to it in NRS 616B.670.*

Sec. 11. Chapter 689C of NRS is hereby amended by adding thereto a new section to read as follows:

"Professional employer organization" has the meaning ascribed to it in NRS 616B.670.

Sec. 12. NRS 689C.015 is hereby amended to read as follows:

689C.015 Except as otherwise provided in this chapter, as used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 689C.017 to 689C.106, inclusive, *and section 11 of this act* have the meanings ascribed to them in those sections.



Sec. 13. NRS 689C.065 is hereby amended to read as follows:
689C.065 1. “Eligible employee” means a permanent employee who has a regular working week of 30 or more hours.

2. The term includes a sole proprietor, a partner of a partnership or an employee of ~~[an employee-leasing company,]~~ *a professional employer organization*, if the sole proprietor, partner or employee of the ~~[employee-leasing company]~~ *professional employer organization* is included as an employee under a health benefit plan of a small employer.

Sec. 14. NRS 689C.111 is hereby amended to read as follows:

689C.111 ~~[An employee-leasing company]~~ *A professional employer organization* which has more than 50 employees, including leased employees at client locations, and which sponsors a fully insured health benefit plan for those employees shall be deemed to be a large employer for the purposes of this chapter.

Sec. 15. NRS 689C.425 is hereby amended to read as follows:

689C.425 A voluntary purchasing group and any contract issued to such a group pursuant to NRS 689C.360 to 689C.600, inclusive, are subject to the provisions of NRS 689C.015 to 689C.355, inclusive, *and section 11 of this act* to the extent applicable and not in conflict with the express provisions of NRS 687B.408 and 689C.360 to 689C.600, inclusive.

Sec. 16. A person who, on July 1, 2021:

1. Is the holder of a valid certificate of registration issued pursuant to NRS 616B.673, and who is otherwise qualified to hold such a certificate of registration on that date, shall be deemed to hold a license issued pursuant to that section, as amended by section 2 of this act.

2. Has submitted an application for a certificate of registration pursuant to NRS 616B.676 shall be deemed to have submitted an application for a license pursuant to that section, as amended by section 3 of this act.

Sec. 17. 1. Any administrative regulations adopted by an officer or an agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remain in force until amended by the officer or agency to which the responsibility for the adoption of the regulations has been transferred.

2. Any contracts or other agreements entered into by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency are binding upon the officer or agency to which the responsibility for the administration of the provisions of



the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer or agency to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.

3. Any action taken by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remains in effect as if taken by the officer or agency to which the responsibility for the enforcement of such actions has been transferred.

Sec. 18. The Legislative Counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes:

(a) Appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

(b) Move the provisions of NRS 616B.670 to 616B.691, inclusive, and NRS 616B.693, 616B.694 and 616B.697, from chapter 616B of the Nevada Revised Statutes to chapter 611 of the Nevada Revised Statutes and appropriately change any internal references to reflect the change in location and numbering.

2. In preparing supplements to the Nevada Administrative Code:

(a) Appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

(b) Substitute appropriately the term “professional employer organization” for the term “employee leasing company” in the regulations described in section 17 of this act.

(c) Substitute appropriately the term “license” for the terms “certificate of registration” and “registration” in the regulations described in section 17 of this act.

Sec. 19. NRS 689C.066 is hereby repealed.

Sec. 20. This act becomes effective on July 1, 2021.

