



NEVADA WORKERS' COMPENSATION CHRONICLE



Department of Business & Industry (B&I)
A Publication of the Workers' Compensation Section (WCS)

Division of Industrial Relations (DIR)
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This newsletter is not intended to provide legal advice to the reader. Legal opinions or interpretations of statutes and regulations referenced here should be sought from competent legal professionals.

WCS Experts' Forum Attracts Max Audience

General and specified Workers' Compensation Section trainings focus on many parts of Nevada's multifaceted workers' compensation system. In October, key subject matter experts came together for a unique question & answer forum to answer a wide range of questions from the attendees spanning all aspects of the system.

The October 4 Workers' Compensation Experts' Forum in Henderson drew an overflow crowd and brought together the following leaders:

- Brian Kunzi, Director, Attorney General's Workers' Compensation Fraud Unit
- Nancyann Leeder, Nevada Attorney for Injured Workers
- Paul Lychuk, Appeals Officer, Hearings Division
- Valerie Rosalin, Director, Governor's Office for Consumer Health Assistance



October 4, 2007 Forum - Experts Panel: (from left to right) Nancyann Leeder, NAIW; Ken Webb, WCS; Brian Kunzi, AG's Office

- Ken Webb, WCS Southern District Manager

Attendees had the opportunity to submit questions in advance as well as have their questions answered on the spot. Anyone interested in receiving information about future training opportunities should sign up on the WCS e-mail list:

<http://dirweb.state.nv.us/wcs/elecroll.htm>

HOT TOPIC

Minor B/P Infractions Reduced

Benefit penalties have been a HOT TOPIC for quite some time, but recent legislative changes bring good news for some. For those who don't know, a benefit penalty is levied against an insurer, third-party administrator or employer who violates specific statutes and is paid directly to the injured worker. A new subsection has been added to **NRS 616D.120**. Subsection 3(b) allows the Division of Industrial Relations administrator to levy a reduced benefit amount. 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, then the benefit penalty will only be \$3,000. In the past, a minimum B/P of \$5,000 was applied. In the case of these less serious infractions, the legislators felt a "mini-B/P" would be more appropriate. WCS did not propose this change but did not oppose it either. In a perfect world, WCS would not have to levy benefit penalties and fines, but since they replace bad faith action, it is a tool to ensure the injured worker is treated fairly and his claim is handled properly. That is our overall goal and part of our mission statement.

Ken Webb, WCS,
Southern District Manager

Reviewing Occupational Disease Claim Procedures

Most of the focus on Nevada's workers' compensation system centers on Nevada Revised Statute Chapters 616 A-D which address industrial injuries. However, in 2006 there were 442 occupational disease claims in Nevada. **NRS Chapter 617** is the set of workers' comp laws that deal with occupational diseases. **NRS 617.450** lists 21 specific occupational diseases along with a description of the disease contraction process.

The process for filing a claim for an occupational disease closely mimics procedures for industrial injury claims, although the notion of disease "disablement" (**NRS 617.060**), its timing, and discovery create different reporting considerations than with workplace injuries. "Knowledge of the disability and its relationship to his employment" may not be apparent to the injured employee until many weeks, months or even years later.

The following procedures describe the occupational disease (Continued on Page 3)

Hail and Farewell



The Workers' Compensation Section staff and Education Committee welcome a new member to the WCS Education Committee. **Nancy Jennings** officially joined the committee in October and attended her first quarterly meeting in November. She brings to the committee more than 30 years of workers' compensation experience with the State Industrial Insurance System and Meadowbrook Insurance Group, having been a claims adjuster, supervisor and claims manager. In addition, she served for nine years as a state employee union representative with the State of Nevada Employees' Association. The Committee looks forward to her invaluable insights into issues affecting the regulated community. Nancy joins the Education Committee with the departure of **Lynn Grandlund-Terry** who served on the committee for seven years - since its inception with the (Continued on Page 4)

INSIDE THIS NEWSLETTER

- ① WCS Oct. 4 Experts Panel Recap
- ① Education Committee Hail & Farewell
- ① Occupational Disease Claims
- ② Confusion Corner: Complaint Process
- ② Fraud Watch: Drug Diversion
- ③ State Holiday Office Closures
- ③ Winter Training: Dec. 1 - Feb. 29
- ③ Locating 2007 NRS Changes
- ④ WCS Contact Information
- ④ Reporting Reminders



CONFUSION CORNER

MAKE THE COMPLAINT PROCESS WORK FOR YOU

A cursory scan of business news reveals a common theme in the race to get ahead: improving customer service. Here in Nevada, to ensure optimum service for all stakeholders, the workers' compensation system has many avenues for those in the system — injured employees, employers, health care providers and insurers/third-party administrators — to make complaints to the state's Workers' Compensation Section. WCS receives more than 6,000 complaints annually, and each is taken very seriously.

In fact, the WCS Web site has easy-to-use complaint report forms for Northern [<http://dirweb.state.nv.us/Forms/wescompec.pdf>] and Southern region [<http://dirweb.state.nv.us/Forms/wescomplv.pdf>] complaints. Complainants need to remember that using the proper complaint form is based on the physical location of the insurer or TPA — not where the injury took place, the complainant's residence or the employer's address. Nevada's basic north-south boundary runs from southwest to northeast, through Tonopah and Ely.

WCS receives a variety of complaints every month ranging from issues in determining the correct average monthly wage to employers' failure to follow legal guidelines or late payments or responses by an insurer or TPA. The auditors who follow up these complaints strongly advise complainants to use the complaint forms provided to document the basic information of their complaint and to whom they spoke and when. Complaints should be specific, concise and legible and include necessary documentation. For example, if the complaint concerns a specific letter or decision, include a copy of that letter or decision. WCS determinations are made based on the "file of record" (i.e. the claim file).

If the complaint concerns a possible benefit penalty, a specific process is required by **NRS 616D.120** and ensures that the WCS investigation will be completed within 90 days. Though not required by law, WCS strives to resolve other complaints within 90 days as well.

WCS's Medical (Continued on page 4)



FRAUD WATCH

PRESCRIPTION DRUG DIVERSION: THE HIGH COST OF DRUG ABUSE



Workers' Compensation providers spent over \$3 billion providing prescriptions to injured workers last year; 52 % of that amount was spent on "painkillers." The illegal use or subsequent sale of prescription drugs puts a huge strain on our health system. Drug diversion can increase costs to health care insurers by a whopping \$27 billion per year. Drug diversion is defined as any use of legal prescription medications for other than the legitimate medical purpose for which the drug was prescribed. We cannot continue to overlook this type of fraud.

A recent study examined the comparative health costs of treating a drug abuser versus a non-abuser. The findings were no surprise. The average cost of treating a non-abuser was \$1,830. The cost associated with a drug abuser swelled to \$16,000.

Workers' Compensation providers are in the best position to be able to determine if drug diversion is occurring. The person paying the bills knows, or should know with a little due diligence, the amount of prescriptions being obtained by the recipient. Plan administrators are in the best position to detect if medications are being obtained from multiple sources or if a physician is not prescribing medications in a medically appropriate manner. In either event, these suspicions need to be referred for an investigation.

An interesting trend is emerging with an increase in drug diversions. The number of injured workers taking side jobs to help offset their loss of income while receiving benefits has been decreasing nationally; primarily due to workers finding a more lucrative and untraceable source of income — the sale of their prescription meds.

The street value for pain medication is staggering. OxyContin, for example, has a 430% street markup. By prolonging treatment to obtain unnecessary pain medication, vast amounts of money can be made. In addition to extending treatment with nonexistent pain symptoms, several other drug diversion tactics are common.

Forged or altered prescriptions are a popular way to obtain illegal quantities of prescriptions. Older methods of using correction fluid to blot out the amount of pills to be obtained have given way to the use of fingernail polish remover. Prescriptions can also be altered instead of "washed." A prescription for 10 tablets can be easily made to look like 70. The patient then returns to the medical provider after a week for another prescription and the doctor is none the wiser. "Doctor shopping" is another method. Doctor shoppers visit multiple practitioners, which can easily occur if the injured worker is obtaining medications from a health insurance provider in addition to the workers' compensation provider.

Although the vast majority of practitioners are honest and provide legitimate medical care, a small percentage does engage in true criminal behavior. Investigations have focused on physicians who exchange improper prescriptions for money, other street drugs or in some instances, sex. These physicians are nothing less than drug dealers and should be treated as such.

Plan managers must become more aggressive in looking for potential drug diversions. The time for blindly writing the checks for prescription medications has long passed. If the cost of drug diversion is not reason enough, the potential for liability should be a wake up call. Recently, pharmacies have been held liable for failing to exercise due diligence by allowing overuse of pain medications. The same rationale may be applied to plan administrators if the overuse of pain medications is blindly approved time after time.

The abuse of prescription medications certainly has become a national problem. The Center for Disease Control now lists the unintentional death from prescription medications as the number two killer in the United States. With cooperation between plan administrators, health care providers and law enforcement, we can start to take a bite out of this form of fraud. For more information, readers are encouraged to contact the National Association of Drug Diversion Investigators (NADDI) or visit their Web site at www.naddi.org.

Anyone suspecting this type of fraud or any fraud associated with workers' compensation should contact the Attorney General's fraud hotline at **1-800-266-8688**. Other information about detecting workers' compensation fraud is also available on our Web site: <http://www.ag.state.nv.us/org/wcfu/wcfu.htm>.

Brian Kunzi; Director, Workers' Compensation Fraud Unit



(Occ. Disease, Cont. from pg. 1)

claim sequence; and filing requirements of the employee, employer and treating physician or chiropractor. References to Nevada law and information about the associated forms may be found on the Workers' Compensation Section Web site

<http://dirweb.state.nv.us/WCS/wcs.htm> under "Nevada Law" & "Workers Compensation Forms" links in the left-hand column.

1. Notice of Occupational Disease: (NRS 617.342) – An employee or, in the event of the employee's death, one of his dependents, shall provide written notice of an occupational disease for which compensation is payable as soon as practicable, but within 7 days after attaining knowledge of the disability and its relationship to their employment. A Form C-1, "Notice of Injury or Occupational Disease" filed with the employer satisfies this requirement.

2. Employee's Claim for Compensation: (NRS 617.344) – An employee or their representative shall ensure filing of a claim for compensation for an occupational disease within 90 days after obtaining knowledge of the disability and its relationship to their employment. In the event of death resulting from the occupational disease, a dependent or a person acting on their behalf shall ensure filing of the claim within 1 year after the employee's death. The Claim for Compensation must be completed by the employee and treating physician or chiropractor, and filed by the treating physician or chiropractor. The correct form is a Form C-4, "Employee's Claim for Compensation/Report of Initial Treatment."

3. Duty of Treating Physician or Chiropractor: (NRS 617.352) – A treating physician or chiropractor shall, within 3 working days after first providing treatment to an employee with an occupational disease, complete and file a Form C-4, claim for compensation, with the employer and the employer's insurer.

4. Duty of the Employer: (NRS 617.354) – Within 6 working days after receiving a C-4 for compensation from the treating physician or chiropractor, an employer shall complete and file with his insurer or third party administrator a Form C-3, "Employer's Report of Industrial Injury or Occupational Disease." Additionally, a Form D-8, "Employer's Wage Verification Form" must be completed and filed with the insurer within 6 working days of receipt of the Form C-4 if re-

quested by the insurer (if the C-4 indicates the employee will be off work for 5 days or more in a 20 day period).

5. Duty of the Insurer: (NRS 617.356) – An insurer shall accept or deny the submitted claim within 30 working days after the claim is received. Documents required by the insurer include both the Forms C-3 and C-4, and Form D-8 if required. Insurers must also report certain occupational disease claims to WCS **(NRS 617.357)**.

In short, procedures for reporting of both industrial injuries and occupational diseases are similar. But the timing for

STATE OF NEVADA Holiday Office Closures:

Christmas Day
Tuesday, December 25, 2007



New Year's Day
Tuesday, January 1, 2008

Martin L King Jr Day
Monday, January 21, 2008

Presidents' Day
Monday, February 18, 2008

WINTER 2007-2008 TRAINING SESSIONS

The **WCS Orientation** is a comprehensive overview of workers' compensation in Nevada. This session is beneficial for anyone involved. **Specified Forums** offer specified advanced topics. All training sessions are free and open to the public.

SOUTHERN NEVADA

Division of Industrial Relations
1301 North Green Valley Pkwy.,
Ste. 200, Henderson, NV 89074

WCS Orientation:

January 8, 2008

WCS Specified Forum:

December 19, 2007

February 7, 2008

For reservations, please contact:

✉ tsemi@business.nv.gov

☎ (702) 486-9019

NORTHERN NEVADA

The Carson City/Reno sessions are tentatively scheduled at Western Nevada Community College in Carson City.

WCS Orientation:

December 13, 2008

February 21, 2008

WCS Specified Forum:

January 17, 2008

For reservations, please contact:

✉ ktravers@business.nv.gov

☎ (775) 684-7261

Locating the 2007 NRS Updates

The changes made by the 2007 Nevada legislative session are now available online in the completely updated **Nevada Revised Statutes (NRS)**. As an ongoing service, you can find the **NRS** and **Nevada Administrative Code (NAC)** relating to workers compensation and occupational disease on the Workers Compensation Section Web site at:

<http://dirweb.state.nv.us/WCS/wcs.htm>

The statutes and regulations are divided into sections. The sections that relate to workers' compensation and occupational diseases are **NRS 616** and **NRS 617**, respectively. The sections are then divided into chapters:

- **Chapter 616A** INDUSTRIAL INSURANCE: ADMINISTRATION
- **Chapter 616B** INDUSTRIAL INSURANCE: INSURERS -- LIABILITY FOR PROVISION OF COVERAGE
- **Chapter 616C** INDUSTRIAL INSURANCE: BENEFITS FOR INJURIES OR DEATHS
- **Chapter 616D** INDUSTRIAL INSURANCE: PROHIBITED ACTS -- PENALTIES -- PROSECUTION
- **Chapter 617** OCCUPATIONAL DISEASES

Once you decide which Chapter you need, you can do a **Find** operation. (Most browsers work the same way.) To search, follow the directions below:

1. Go to the WCS Web site.
2. In the menu on the top left hand side go to the bottom item: **Nevada Law > Nevada Revised Statutes**.
3. Choose the appropriate chapter.

Find Citations

1. Scroll to find the exact citation number you require.
2. Use the shortcuts on the left to direct you to the paragraph needed.
3. Embedded shortcuts within the statute will direct you to other relevant information.

Find Text

1. Find a Chapter you want to search.
2. On the edit menu, click on **Find**.
3. In the **Find What** box, type the text or citation number you need.
4. Click on **Find Next**.
5. Your browser searches the selected chapter.
6. Repeat step four until you have located the appropriate text or your browser displays a message that you have reached

(Continued on Page 4)

(Hail & Farewell, Cont. from pg. 1)
 advent of privatizing Nevada's workers' compensation system. Lynn's hallmarks during her tenure were an extensive knowledge of workers' compensation legislation past and present; solid labor-employer relations acumen and an unflagging sense of humor and humanity. All of us in WCS wish her the best.

- **Mike Brooks, Editor,**
Workers' Compensation Chronicle



REPORTING REMINDERS
ALL NEVADA WORKERS' COMPENSATION INSURERS,

including private carriers, SIEs (both active and inactive), and associations, are required to submit the following reports or face possible administrative fines.

✓ **FY07 Workers' Compensation Claims Activity Report** and **Insurer Information Form** pursuant to **NRS 616B.009** and **NAC 616B.016** were due **October 5, 2007**.

Blank forms and instructions were distributed via e-mail on August 17, 2007 and can be found on our Web site at <http://dirweb.state.nv.us/wcs/wcsanrp.htm> or by e-mailing us at WCSRA@business.nv.gov.

✓ **Permanent Total (PT) Disability Claim Reports (NRS 616C.453)** The 2007 Form and Instructions were distributed via e-mail in July and were due to WCS on **August 3, 2007**. They can be found on our Web site at <http://dirweb.state.nv.us/wcs/wcs.htm> under "Insurer Reporting."

✓ **Occupational Disease Claim Report(s) (OD-8) or Statement of Inactivity (NRS 617.357)** is an ongoing reporting requirement. Certain occupational diseases of the heart, lungs, diseases that are infectious or relate to cancer are required to be reported as outlined in **NRS 617.357**. Insurers with no occupational disease claims to report pursuant to **NRS 617.357** during any calendar year must submit a **Statement of Inactivity** by the first week of January of the following year.

PRIVATE CARRIERS must also report **Proof of Coverage (POC)** information to NCCI within 15 days of the effective date of the issuance, renewal, cancellation, non-renewal, reinstatement or reissuance of a policy of workers' compensation insurance. Carriers must also report endorsements that materially affect the proof of coverage (i.e. insured name or address changes) within 15 days of their effective date. **NAC 616B.100-616B.148** outline the requirements for reporting proof of coverage and possible penalties for failure to report.

Questions may be directed to WCS Research and Analysis at (702) 486-9080.

(2007 NRS, Cont. from page 3)
 the end of the text.

Efficient ways to search for text

1. If you want to find a specific word, such as "PUB," and you want to ignore the word when it occurs as part of another word such as "publication," click the **Match Whole Word Only** checkbox to add a check mark.

2. If you want to find text that matches the exact combination of capital and lower case letters you typed in the **Find What** box, click the **Match Case** checkbox to add a check mark.

If you prefer, you may order hard copy and CD-ROM versions of the **Nevada Revised Statutes**, the **Nevada Administrative Code** and other official publications from Nevada Legislative Publications: <http://leg.state.nv.us/publications/> or (775) 684-6835.

Direct comments or suggestions about this newsletter to:
 Mike Brooks, Editor, or Terry Simi, Assistant Editor, in the Workers' Compensation Section, Henderson Office (702) 486-9019 or to: WCSHelp@business.nv.gov

WCS EDUCATION COMMITTEE

- Dock Williams, Chair, WCS
- Mike Brooks, WCS
- Ken Webb, WCS
- Christi Mosher, Genex
- Suhair Susan Sayegh, Sierra Nv Adm
- Nancy Jennings, Meadowbrook



WCS Mission Statement

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

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

E-mail Notification

Stay connected to what's new in the Nevada workers' compensation system by registering to receive e-mail notification of upcoming training sessions, hearings and other important events.

Simply go to the WCS Web site: <http://dirweb.state.nv.us/WCS/wcs.htm>, click on the "Update" icon and fill out the E-mail Enrollment Request Form as a new subscriber or to make updates to your current subscription.



(Confusion Corner, Cont. from pg. 2)

Unit also processes a steady stream of complaints from injured workers and their attorneys; insurers/TPAs; and medical providers. Complaints range from billing issues to medical care to improper or incomplete Form C-4s (Employee's Claim for Compensation/Report of Initial Treatment). While the Medical Unit also encourages complaints on the "Complaint Report," they will act on any complaint received in writing if complainants include the nature of the complaint, substantiating copies of documentation, the complainant's name and address along with name and address information for whom the complaint is against, as well as the name or names of whom they've been working with to resolve the problem. The name of the workers' compensation insurer and the claim number are also required.

The WCS Medical Unit begins an investigation within five working days after receiving a complaint, and it can take up to six weeks for a determination — much of that investigation time depends on the response from the company or individual the complaint is lodged against. A 30-day response time is normally given, and once a response is received, assuming no additional information is required, WCS normally makes a determination within one week.

HOW TO CONTACT WCS

Department of Business and Industry (DBI)
 Division of Industrial Relations (DIR)
 Workers' Compensation Section (WCS)
HENDERSON
 1301 North Green Valley Pkwy, Ste. 200
 Henderson, Nevada 89074
 Ph: (702) 486-9080 / Fax: (702) 990-0364
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 400 West King Street, Ste. 400
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 350 Silver Street, Ste. 210
 Elko, NV 89801
 Ph: (775) 778-3312/Fx: (775) 778-3412
Web site: www.4safenv.state.nv.us
 Or contact us toll free at:
 1 (877) 4SAFENV / (877) 472-3368
To register for training classes
 ✉ Castruita.mary@dol.gov