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**DIVISION OF INDUSTRIAL RELATION'S RESPONSE TO
PETITION REQUESTING AMENDMENT TO NAC 616C.502
TO UPDATE PRESENT VALUE TABLE**

To: Virginia L. Hunt, Esq.
3057 E. Warm Springs Road, #400
Las Vegas, NV 89120

The Department of Business and Industry, Division of Industrial Relations ("Division") received a Petition Requesting Amendment to NAC 616C.502 to Update Present Value Table on July 31, 2015, pursuant to NRS 233B.100 and NAC 616A.440. This Petition is hereby denied for the reasons set forth below.

DIR's obligation to update the chart in NAC 616C.502

NRS 616C.495 authorizes payment in a lump sum of permanent partial disability awards in a Nevada workers' compensation claim and authorizes the adoption of an actuarial annuity table for that purpose by the Division. NRS 616C.495(5) states:

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

As required, the Division adopted NAC 616C.502 on June 29, 1984. Since adoption, this specific regulation has been amended on November 12, 1985; July 1, 1986; August 31, 1987; and October 27, 1997. This regulation states, in part:

The factors in the following table must be applied whenever present value is computed to make a lump-sum payment for an award for a permanent partial disability. The determination of the age of an injured employee must be made by subtracting the birthdate of the injured employee from the date of the request by the injured employee for a lump-sum payment. Only the month and year may be used in the determination.

1 The most recent review factors table embodied in NAC 616C.502 by a consulting actuary occurred
2 on April 13, 2000.

3 Since receipt of this Petition the Division has entered into discussions with the Department
4 of Business and Industry, Division of Insurance to determine the feasibility of using existing state
5 resources, i.e., an actuary employed in the Division of Insurance, to review the factors adopted in
6 NAC 616C.502. Until such time as the Division has received the report of the consulting actuary, it
7 would be premature to draft or propose an amendment or amendments to the existing regulation.

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9 The Petitioner also suggests that "an equitable discount rate would be in the 2.25% to 4%
10 range." The Division performed a survey of current discount rates adopted by other jurisdictions.
11 The survey shows a range of discount rates from 10% in Arkansas, A.C.A. 11-9-804, to 0% in
12 Alaska, Alaska Stat. 23.30.190. For example, the Nevada discount rate of 6% is the current
13 discount rate in Kentucky, K.S.A. 342.265(3). Until such time as the Division has received the
14 report of the consulting actuary, it would be premature to draft or propose an amendment to the
15 current discount rate of 6%.

16
17 The Petitioner asserts that NAC 616C.502 has not been reviewed as required by NRS
18 233B.050(1)(e). This assertion is not accurate. Pursuant to Executive Order 2011-01 signed by
19 Nevada Governor Brian Sandoval on January 3, 2011, the Division undertook and completed a
20 comprehensive review of all of the regulations subject to its enforcement. This review included
21 NAC 616C.502.

22
23 **The DIR must amend regulations on lump sums**

24 The Petition also suggests that the Division should propose an amendment to NAC
25 616C.498, because of the amendment of NRS 616C.495 in Senate Bill 232 in the 2015
26 legislative session. The Division has already started the process to amend NAC 616C.498.
27 On July 17, 2015, the Division forwarded its proposed regulation language to the Legislative
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1 Counsel Bureau ("LCB"), which appears in the Nevada Register as No. R059-15I dated July
2 22, 2015. The LCB returned its proposed language to the Division on August 20, 2015,
3 which appears in the Nevada Register as No. R059-15P dated August 21, 2015. The
4 Division is currently reviewing the LCB's language and anticipates scheduling a Public
5 Workshop within the next thirty (30) days.

6 **The Petition is denied for all of the reasons set forth above.**

7 DATED this 31 day of August, 2015.

8
9 DIVISION OF INDUSTRIAL RELATIONS

10 
11 Steve George, Administrator