

AMENDED IN ASSEMBLY MARCH 23, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1994**

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**Introduced by Assembly Member Skinner**

February 17, 2010

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An act to add Section 3212.13 to the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1994, as amended, Skinner. Hospital employees: presumption.

Existing law provides that an injury of an employee arising out of and in the course of employment is generally compensable through the workers' compensation system. Existing law provides that, in the case of certain public employees, the term "injury" includes heart trouble, hernia, pneumonia, human immunodeficiency virus, lower back impairment, and other injuries and diseases.

This bill would provide, with respect to hospital employees *who provide direct patient care in an acute care hospital*, that the term "injury" includes a blood-borne infectious disease, neck or back impairment, methicillin-resistant *Staphylococcus aureus* (MRSA), or H1N1 influenza virus that develops or manifests itself during the period of the person's employment with the hospital.

This bill would further create a rebuttable presumption that the above injury arises out of and in the course of the person's employment if it develops or manifests as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) A person’s risk of developing a variety of work-related  
4 illnesses and injuries is influenced by the physical nature of his or  
5 her work and high risk exposure to diseases in the workplace.

6 (b) By the nature of their profession, health care workers are in  
7 constant danger of being directly exposed to many infectious  
8 diseases and indirectly exposed through contact with various pieces  
9 of equipment and clothing.

10 (c) According to the Office of Statewide Health Planning and  
11 Development, in 1999 there were 13,000 MRSA-infected patients  
12 at hospitals across the state. By 2007, that number had grown  
13 fourfold, to about 52,000 cases.

14 ~~(d) According to the Bureau of Labor Statistics, health care~~  
15 ~~workers, 95 percent of whom are women, lead the nation in the~~  
16 ~~highest musculoskeletal disorder (MSD) injury rates. As a whole,~~  
17 ~~the health care sector suffered 66,060 MSDs.~~

18 *(d) Work-related musculoskeletal disorders (MSDs), such as*  
19 *back strains and damage to spinal discs in nurses and other health*  
20 *care workers persist as the leading and most costly occupational*  
21 *health problem in the United States.*

22 *(e) In 2007, direct-care registered nurses ranked seventh among*  
23 *all occupations for the number of cases of MSDs resulting in days*  
24 *away from work in the United States. Furthermore, the rate of*  
25 *MSDs in health care workers exceeds that of workers in*  
26 *construction, mining, and manufacturing.*

27 ~~(e)~~

28 *(f) The National Institute for Occupational Safety and Health*  
29 *(NIOSH) has estimated that 600,000 to 800,000 needlestick and*  
30 *other percutaneous injuries occur annually in hospitals in the*  
31 *United States.*

32 ~~(f)~~

33 *(g) Public safety employees, such as police officers and*  
34 *firefighters, already have guaranteed access to the workers’*  
35 *compensation system for MRSA, HIV, cancer, leukemia,*  
36 *meningitis, back injuries, and other work-related illnesses and*  
37 *injuries. However, presumptive eligibility for workers’*  
38 *compensation is nonexistent for health care workers.*

1 (g)

2 (h) Due to the rise in work-related illnesses and injuries,  
3 including MSD, MRSA, H1N1 influenza virus, and other  
4 blood-borne diseases, it is most appropriate to protect health care  
5 workers by ensuring access to workers' compensation for health  
6 care workers who suffer workplace injuries or contract infectious  
7 diseases.

8 SEC. 2. Section 3212.13 is added to the Labor Code, to read:

9 3212.13. (a) In the case of a hospital employee *who provides*  
10 *direct patient care in an acute care hospital, referred to in this*  
11 *section as hospital employee,*, the term "injury," as used in this  
12 section, includes a blood-borne infectious disease, neck or back  
13 impairment, methicillin-resistant Staphylococcus aureus (MRSA),  
14 or H1N1 influenza virus that develops or manifests itself during  
15 a period of the person's employment with the hospital. The  
16 compensation awarded for that injury shall include full hospital,  
17 surgical, medical treatment, disability indemnity, and death  
18 benefits, as provided by this division.

19 (b) (1) The blood-borne infectious disease, neck or back  
20 impairment, MRSA, or H1N1 influenza virus so developing or  
21 manifesting itself shall be presumed to arise out of and in the course  
22 of employment. This presumption is disputable and may be  
23 controverted by other evidence, but unless so controverted, the  
24 appeals board shall so find.

25 (2) The blood-borne infectious disease ~~and neck or back~~  
26 ~~impairment presumptions~~ *presumption* shall be extended to a  
27 hospital employee following termination of service for a period  
28 of ~~three calendar months for each full year of the requisite service,~~  
29 ~~but not exceed 60 months in any circumstance, commencing with~~  
30 ~~the last date~~ *180 days, commencing with the last date* actually  
31 worked.

32 (3) The ~~MRSA neck or back impairment, MRSA,~~ and H1N1  
33 influenza presumptions shall be extended to a hospital employee  
34 following termination of service for a period of 90 days,  
35 commencing with the last day actually worked.

36 (c) A blood-borne infectious disease so developing or  
37 manifesting itself in these cases shall not be attributed to any  
38 disease existing prior to that development or manifestation.

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