ASSEMBLY BILL No. 1994

Introduced by Assembly Member Skinner

February 17, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1994, as introduced, 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, 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:

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

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

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

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

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

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

(f) Public safety employees, such as police officers and firefighters, already have guaranteed access to the workers' compensation system for MRSA, HIV, cancer, leukemia, meningitis, back injuries, and other work-related illnesses and injuries. However, presumptive eligibility for workers' compensation is nonexistent for health care workers.

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

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

3212.13. (a) In the case of a hospital employee, the term "injury," as used in this section, 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 a period of the person's employment with the hospital. The compensation awarded for that injury shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by this division.

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

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

(3) The MRSA and H1N1 influenza presumptions shall be extended to a hospital employee following termination of service for a period of 90 days, commencing with the last day actually worked.

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

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