AMENDED IN ASSEMBLY MAY 27, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 375

Introduced by Assembly Member Skinner

February 14, 2011

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

LEGISLATIVE COUNSEL'S DIGEST

AB 375, 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 bloodborne infectious disease~~, neck or back impairment,~~ or methicillin-resistant Staphylococcus aureus (MRSA) 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) According to *the* United States Department of Labor, health care is the second fastest growing sector of the United States economy, employing over 12 million workers. Women represent nearly 80 percent of the health care work force.

(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, chemicals, and clothing.

(c) Registered nurses constitute the largest occupation within the health care sector and number over 2.5 million, of which 70 percent are employed in hospitals.

(d) In 2008, nearly two-thirds of nurses reported needlestick and other percutaneous injuries and studies show that injuries have increased 6.5 percent in surgical settings.

(e) Health care acquired infections in California hospitals account for an estimated 200,000 infections and 12,000 deaths annually, according to the State Department of Public Health.

(f) According to the Office of Statewide Health Planning and Development, in 2007 there were 52,000 cases of MRSA-infected patients at hospitals across the state.

~~(g) Each year thousands of nurses, nursing aides, and health care workers sustain musculoskeletal disorders (MSDs) from manual lifting of patients and residents. These injuries leave 50 percent or more working in chronic pain and at least 12 percent leave the profession, many with permanent disabling injuries.~~

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

~~(i)~~

(g) 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.

~~(j)~~

(h) Due to the rise in work-related illnesses and injuries, including ~~MSD, MRSA,~~ *MRSA* and other bloodborne 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 who provides direct patient care in an acute care hospital, referred to in this section as hospital employee, the term "injury," as used in this section, includes a bloodborne infectious disease~~, neck or back impairment,~~ or methicillin-resistant Staphylococcus aureus (MRSA) 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 bloodborne infectious disease~~, neck or back impairment,~~ or MRSA 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 bloodborne infectious disease presumption shall be extended to a hospital employee following termination of service for a period of 180 days, commencing with the last date actually worked.

(3) The~~ neck or back impairment, and~~ MRSA 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 bloodborne 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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