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June 20, 2014

Senator Ben Hueso, Chair
Senate Labor & Industrial Relations Committee
1020 N. Street, Room 545
Sacramento, CA 95814

Re: AB 2616 (Skinner), amended April 29, 2014
Scheduled for Hearing in the Senate Labor & Industrial Relations Committee on June 25, 2014
Position: OPPOSE

Dear Senator Hueso:

I regret to inform you that the University of California (University) opposes AB 2616, which would establish a legal presumption for certain hospital employees in the workers' compensation system that any Methicillin-Resistant *Staphylococcus aureus* skin infection (MRSA) is caused by their employment.

The workers compensation system is designed to protect employees from workplace injury. There is no evidence that hospital workers currently filing claims for injuries are being denied benefits under the existing system. In fact, historical workers compensation claims data for employees at the UC medical centers demonstrate that claims filed for workplace injuries are generally accepted.

Proponents of AB 2616 argue that the establishment of a presumption for these injuries is needed because hospital workers have an increased likelihood of exposure to MRSA. Although the spread of MRSA and hospital acquired infections is a national priority, the percent of healthcare workers affected is small and diminishing. There were 127 studies from 1980 to 2006 that revealed that less than five percent of healthcare workers were carriers of MRSA with the ability to spread MRSA without exhibiting symptoms.[1] Of this small group, only around five percent eventually developed symptoms[2]. In the past decade, infection prevention in our hospitals has become such a high priority that there has been a national decline in MRSA rates by half[3]. There is no need for a presumption for an issue with such narrow scope.

Presumptions circumvent the basic test of compensability in the existing workers' compensation system and shift the burden of proof to the employer to prove an employee's job duties did not cause

[1] Albrich WC, Harbarth S. Health-care workers: source, vector, or victim of MRSA? Lancet Infect Dis. 2008 May;8(5):289-301.Review. PubMed PMID: 18471774.
[2] Albrich WC, Harbarth S. Health-care workers: source, vector, or victim of MRSA? Lancet Infect Dis. 2008 May;8(5):289-301.Review. PubMed PMID: 18471774.
[3] Center of Disease Control. MRSA Tracking. Updated April 30, 2014. Accessed Online at http://www.cdc.gov/mrsa/tracking/index.html. Accessed June 2, 2014

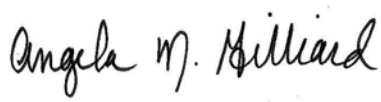
their injury. Although these presumptions are considered rebuttable, the everyday application of these presumptions leads to an insurmountable burden that employers cannot overcome.

Moreover, acquisition of MRSA at a healthcare facility cannot be presumed. Healthcare professionals live in the community and often work at more than one healthcare setting. There are more cases of community acquired MRSA than there are of MRSA acquired within healthcare facilities.[1] In fact, the majority of patients that present to the ER with skin infections have no healthcare contact. Community-associated MRSA has been noted in a variety of community settings, including schools, child care settings, gyms, sport teams, and retail meat.[2] In the 1980s there were distinct genetic strains of MRSA that could be categorized as community or hospital acquired. Since then, there has been mixing of these strains between the hospital and community, making it impossible to categorize a strain as hospital or community acquired based on genetic makeup of the strain. Therefore, the ability to ascertain culpability if the healthcare professional was exposed to MRSA in the hospital is not something that can be deciphered with a scientific test.

Although there is a history of legal presumptions being applied to certain public employees and safety officers, AB 2616 establishes a costly precedent by creating the first such presumption to *private sector* employees who face specific types of work-related risks. Employees in a variety of occupations face inherent employment risks. The current workers' compensation system is a fair standard that is applied to all injuries for all other employees.

The University appreciates your consideration of its concerns. Should you have any questions concerning the University's position on this bill, please do not hesitate to call me at (916) 445-9924.

Sincerely,



Angela M. Gilliard, JD
Legislative Director

cc: Assembly Member Skinner
Members, Senate Labor & Industrial Relations Committee
President Janet Napolitano
Senior Vice President John Stobo
Senior Vice President Daniel Dooley
Associate Vice President and Director Steve Juarez

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[1] Moran GJ, Krishnadasan A, Gorwitz RJ, Fosheim GE, McDougal LK, Carey RB, Talan DA; EMERGEncy ID Net Study Group. Methicillin-resistant S. aureus infections among patients in the emergency department. N Engl J Med. 2006 Aug 17;355(7):666-74. PubMed PMID: 16914702.
[2] Lautenbach E, Zaoutis T. Preventing MRSA Infection in the Community. LDI Issue Brief. 2009 Aug;14(6):1-4.