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September 8, 2014

The Honorable Edmund G. Brown, Jr.
Governor of California
State Capitol Building
Sacramento, CA 95814

RE: AB 2616 (Skinner) amended August 18, 2014
Request Governor Veto

Dear Governor Brown:

The University of California (UC) writes to request a Veto on 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 UC operates the largest health sciences system in the nation. Collectively referred to as UC Health, this system includes 17 health professional schools on seven UC campuses, and 10 hospitals operated by the UC medical centers. AB 2616 proposes changes that could impact UC in many important ways given the University's roles as educators of health professionals; providers of clinical care in UC hospitals and clinics; and employers facing rising health benefit costs for our UC employees.

The workers compensation system is designed to protect employees from workplace injury. This bill is not necessary because 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.

Fiscal Impact

The creation of a presumption as described in AB 2616 will likely result in an increase in the number of reported MRSA claims, thereby increasing total claim costs. Based on recent increases in the California medical fee schedule and increases in Permanent Disability compensation as a result of SB 863 (workers comp reform in 2012), and taking into consideration that UC would likely see more claims, UC believes that AB 2616 could increase contagious disease claim costs by 20-25%. However, any one claim could far exceed this general increase if that claim were to result in permanent disability or even a year's worth of temporary disability benefits which could cost for example, \$55,881 for one Temporary Disability claim.

August 18th Amendments Likely to Increase Costs

Existing workers compensation law requires a treating physician to determine what portion of any permanent disability claim was directly caused by workplace injury or by other factors either before or after the injury occurred. The August 18 amendments to AB 2616 would alter existing apportionment statutes to no longer apply to a MRSA skin infection within a hospital setting, only further increase the potential costs of the legislation.

Unsupported by Science

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 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.⁴ 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.⁵ In 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

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

⁴ 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.

⁵ Lautenbach E, Zaoutis T. Preventing MRSA Infection in the Community. *LDI Issue Brief.* 2009 Aug;14(6):1-4.

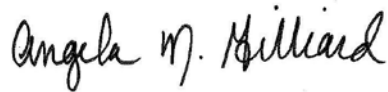
culpability if the healthcare professional was exposed to MRSA in the hospital is not something that can be deciphered with a scientific test.

Public vs. Private Employees

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,

A handwritten signature in black ink that reads "Angela M. Gilliard". The signature is written in a cursive, flowing style.

Angela M. Gilliard, JD
Legislative Director

cc: Assembly Member Skinner
President Janet Napolitano
Senior Vice President John Stobo
Senior Vice President Daniel Dooley
Associate Vice President and Director Steve Juarez