



County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE

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Chief Administrative Officer

March 21, 2007

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To: Supervisor Zev Yaroslavsky, Chairman
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From: 
David E. Janssen
Chief Administrative Officer

SACRAMENTO UPDATE

Pursuit of County Position on Workers' Compensation Legislation

AB 166 (Bass) as introduced on January 22, 2007, would add provisions to the Labor Code that would expand the presumption of job-related injury for public safety employees to include contracting methicillin resistant staphylococcus aureus (MRSA) skin infections.

Under current law, certain medical conditions are disputably presumed to be job-related for the purposes of determining the applicable workers' compensation benefits. For law enforcement employees these conditions can include hernia, pneumonia, heart trouble, tuberculosis, meningitis, and certain blood borne infections.

Under AB 166, the presumption would apply to those public safety employees that currently are assigned to positions that are not at a significantly increased risk for exposure to MRSA bacteria than the general population. Also of concern is the extension of the presumption for MRSA infections for 60 months when the incubation period is over a much shorter period of time.

CAO Risk Management indicates that the County received 25 reports of MRSA infections by Sheriff Department employees in FY 2005-06. To date in the current fiscal year, 22 reports have been received. As most of the reported cases related to

employment in the jails, the relationship to employment is generally determined and the employee is eligible to the appropriate benefits.

Consistent with County policy to oppose legislation that expands existing or creates new presumptions related to injury, illnesses, diseases or physical conditions that can be claimed as job-related for workers' compensation or disability retirement purposes, our **Sacramento advocates will oppose AB 166**. This measure is scheduled to be heard before the Assembly Insurance Committee on April 11, 2007.

AB 596 (Dymally), as introduced on February 21, 2007, would amend the provisions of the 1937 County Retirement Law to classify physicians working in a county jail or county mental health facility, in Alameda or Los Angeles Counties, as safety members without the need for county board of supervisors' action. This would change current law which grants the authority to county boards of supervisors to classify non-law enforcement employees as safety members.

CAO Risk Management indicates that Los Angeles County currently does not authorize the safety designation for physicians employed in County jails or mental health facilities. To do so prospectively would substantially increase the pension costs to the County. AB 596 would remove the discretion of the Board to make this determination to consider this benefit in the context of the overall employee compensation. In addition, AB 596 would appear to provide an enhanced benefit to physicians retroactively, and thereby impose additional employer costs for services already provided. As a result, the County would incur substantial additional costs and receive no additional benefit.

AB 596 is sponsored by the author and there is no registered support or opposition to date. The California State Association of Counties is opposed to this bill as it would impose a mandated cost upon the affected counties.

Consistent with County policy to oppose legislation that removes the Board's control over benefit increases or decreases that would increase the County's cost, our **Sacramento advocates will oppose AB 596**. This measure is currently pending a hearing in the Assembly Public Employees, Retirement and Social Security Committee.

AB 644 (Dymally), as introduced February 21, 2007, would amend the Labor Code to require that physicians performing utilization review of the medical treatment on a workers' compensation case have an "intimate knowledge" of the issues presented for review. Further, it would require the reviewing physician to look at the treatment requested by the treating physician and not the specialty of practice.

Under current law, employers have established a medical treatment utilization review process for workers' compensation claims. Only a competent, licensed physician is able to modify, delay or deny requests for authorization of medical treatment. These

provisions were part of the comprehensive workers' compensation reform legislation passed and signed by the Governor in 2003 and 2004.

According to CAO Risk Management, the definition of intimate knowledge in this bill is rather vague and could result in delays and increase the likelihood that the utilization process would become a subject of litigation and appeal. In addition, excluding a review of the specialty qualifications of the treating physicians would mean a reviewing physician could not verify that the treatment being requested is within the scope of practice of the treating physician.

Consistent with County policy to oppose legislation that would erode reforms accomplished by the 2003-04 session workers' compensation reform legislation, our **Sacramento advocates will oppose AB 644**. This measure has been referred to the Assembly Committees on Insurance, and Labor and Employment. The hearing in the Insurance Committee has been scheduled for April 11, 2007.

AB 1073 (Nava) as introduced on February 23, 2007, would amend the Labor Code to expand the number of chiropractic, occupational therapy, and physical therapy treatment sessions available to workers for industrial injuries. It would also limit the reviews of treatment utilization to physicians licensed in California.

Under current law, employees are limited to 24 visits for chiropractic, occupational therapy and physical therapy services for each work related injury. Employers can authorize additional visits in writing. According to CAO Risk Management, the language of this bill would limit the ability of the employer to contain treatment costs, as it takes away the ability to control the number of medical visits after injury, even if those treatments are not contributing to the rehabilitation of the injured employee. In addition, it would increase the costs of utilization review as it limits the use of out of state reviewers.

The author's office has not identified any support or opposition for this bill at this time.

Consistent with County policy to oppose legislation that would erode medical reforms accomplished by the 2003-04 session workers' compensation reform legislation, our **Sacramento advocates will oppose AB 1073**. This measure is eligible for hearing on March 27, 2007, and has been referred to the Assembly Committee on Insurance. No hearing date has been set as of this time.

SB 352 (Padilla) as introduced on February 20, 2007, would amend the Labor Code to eliminate current restrictions on chiropractic, occupational therapy and physical therapy visits by law enforcement employees recovering from work related injuries.

Under current law, employees are limited to 24 visits for chiropractic, occupational therapy and physical therapy services for each work related injury. Employers may

authorize additional visits in writing as needed. Existing law also requires employers to establish a medical treatment utilization review process for workers' compensation claims. Under this process, a licensed physician is able to modify, delay or deny requests for authorization of medical treatment. These provisions were part of the comprehensive workers' compensation reform package signed by the Governor in 2003 and 2004.

According to CAO Risk Management, the language of the bill would limit the ability of the employer to contain treatment costs as it takes away the ability to control the number of medical visits an employee may have after an injury even if those treatments are not contributing to the rehabilitation of the injured employee. SB 352 would remove the current limits on these services for employees of police, sheriff and firefighting departments. In total, the workers' compensation reforms passed by the Legislature have saved Los Angeles County approximately \$20 million a year. Approximately eight percent of the savings (\$1.6 million) has been attributed to the current limits on chiropractic, occupational therapy and physical therapy treatments.

According to the California State Association of Counties, this legislation is supported by the Association of Los Angeles County Deputy Sheriffs. The author's office has not identified any opposition at this time.

Consistent with County policy to oppose legislation that would erode medical reforms accomplished by the 2003-04 session workers' compensation reform legislation, our **Sacramento advocates will oppose SB 352**. This measure is scheduled for hearing before the Senate Committee on Labor and Industrial Relations on March 28, 2007.

We will continue to keep you advised.

DEJ:GK
MAL:EW:SK:acn

c: All Department Heads
Legislative Strategist
Local 660
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
Buddy Program Participants