



1-1-1989

Worker's Compensation

University of the Pacific; McGeorge School of Law

Follow this and additional works at: <https://scholarlycommons.pacific.edu/mlr>



Part of the [Legislation Commons](#)

Recommended Citation

University of the Pacific; McGeorge School of Law, *Worker's Compensation*, 20 PAC. L. J. 745 (1989).

Available at: <https://scholarlycommons.pacific.edu/mlr/vol20/iss2/32>

This Greensheet is brought to you for free and open access by the Journals and Law Reviews at Scholarly Commons. It has been accepted for inclusion in McGeorge Law Review by an authorized editor of Scholarly Commons. For more information, please contact mgibney@pacific.edu.

Worker's Compensation

Worker's Compensation; death benefits

Labor Code § 4701 (amended).

SB 1787 (B. Greene); 1988 Cal. STAT. Ch. 584

Under existing law, employers¹ are liable for death benefits and reasonable burial expenses incurred by employees² fatally injured in the course of employment.³ In apparent response to the California Supreme Court's decision in *County of Los Angeles v. State*,⁴ Chapter 584 eliminates the distinction between public and private sector employees for maximum burial allowances.⁵

SJH

1. CAL. LAB. CODE § 3300 (definition of employer).

2. *Id.* § 3351 (definition of employee).

3. *Id.* § 4701. Employers are liable for death benefits to an employee's dependents. *Id.* § 4701(b). *See id.* § 3600 (conditions of compensation liability). *But see* City and County of San Fran. v. Workers' Comp. Appeals Bd., 36 Cal. App. 3d 412, 415, 111 Cal. Rptr 387, 388 (1973) (WCAB could not lawfully award burial expenses to mother-in-law, but must award to widow subject to lien in favor of mother-in-law).

4. 43 Cal. 3d 46, 729 P.2d 202, 233 Cal. Rptr. 38, (1987). The court held that California Constitution article XIII-B, section 6 is not applicable to costs incurred by local public agencies in providing their employees the same increase in Workers' Compensation benefits received by employees of private individuals or organizations. *Id.* at 57-58, 233 Cal. Rptr. at 44. *See* CAL. CONST. art. XIII-B, § 6 (local government costs mandated by the state must be funded by the state).

5. CAL. LAB. CODE § 4701. Prior law limited employer liability for burial expenses in the private sector to \$2,000, but limited liability for burial expenses to \$1,500 for local public agencies unless the public agency agreed to the \$2,000 limit. 1985 Cal. Stat. ch. 1567, sec. 1, at 843-44 (amending CAL. LAB. CODE § 4701).

Worker's Compensation; unemployment compensation— disability benefits

Unemployment Insurance Code § 2708 (amended).

SB 1819 (B. Greene); 1988 STAT. Ch. 191

Under existing law, the first claim for disability benefits for each

uninterrupted period of disability¹ must be supported by the certificate of a physician,² licensed dentist, or podiatrist.³ Chapter 191 allows a first claim related to normal pregnancy or childbirth to be supported by the certificate of a nurse-midwife,⁴ or by the certificate of a nurse practitioner.⁵

JMS

1. CAL. UNEMP. INS. CODE § 2626 (definition of disability).

2. CAL. LAB. CODE § 3209.3(a) (definition of physician).

3. CAL. UNEMP. INS. CODE § 2708. The certificate must contain the following: (1) A statement of the medical facts within the knowledge of the physician, dentist, or podiatrist, (2) a conclusion with respect to the disability of the claimant, and (3) an opinion with respect to the probable duration of the disability. *Id.*

4. *Id.* See CAL BUS. & PROF. CODE § 2505 (authorizing and limiting the practice of midwifery). See generally Comment, *Choice in Childbirth: Parents, Lay Midwives, and Statutory Regulation*, 30 ST. LOUIS U.L.J. 985 (1986) (providing an overview of recent statutory and judicial regulations concerning midwifery).

5. CAL. UNEMP. INS. CODE § 2708 (the nurse practitioner must be duly licensed and certified under California state law and must be acting within the scope of his or her practice). See generally CAL. BUS. & PROF. CODE §§ 2835.5-2836 (providing licensing requirements and standards for nurse practitioners).