



# Personal Insurance Federation of California

California's Personal Lines Trade Association

REPRESENTING THE LEADING AUTOMOBILE AND HOMEOWNERS INSURERS

State Farm • Farmers • 21st Century Insurance Group • SAFECO • Progressive • NAMIC

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## MEMORANDUM

**Date:** April 30, 2005

**To:** The Honorable Joseph Dunn, Chair  
Members, Senate Judiciary Committee

**From:** Dan C. Dunmoyer, President  
Rex D. Frazier, Vice President & General Counsel  
Michael A. Gunning, Senior Legislative Advocate  
Michael A. Paiva, Senior Legislative Advocate

**Re:** SB 399 (Escutia): Health Services: Third-Party Liability  
As Amended April 28, 2005  
Senate Judiciary Committee Hearing: May 3, 2005  
**PIFC Position: Oppose**

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The Personal Insurance Federation of California (PIFC), representing insurers who write over 50% of all personal lines insurance sold in California, including State Farm, Farmers, Safeco, 21<sup>st</sup> Century, Progressive, and NAMIC, **opposes SB 399** by Senator Escutia. If enacted, SB 399 will lead to higher insurance premiums due to the inflated medical and settlement costs created by this measure.

SB 399 allows county providers to charge any price for the services they provide resulting in the gouging of third parties who are financially responsible for the payment of the treatment provided. This bill would allow medical providers participating in the Medi-Cal system to place a lien against any settlement that is reached between the beneficiary and the responsible third-party for an amount the provider claims was their costs (reasonable and necessary), not what would have been paid under contract within the Medi-Cal system. This would have a direct impact not only on insurers, but also on third-parties (retailers, small businesses, and city governments) that are responsible for liability claims.

Workers' compensation premiums in recent years have skyrocketed due in part to uncontrolled medical costs. Allowing providers to charge "reasonable and necessary" charges or whatever they want under SB 399 will have the same effect on auto insurance premiums. The California State Auditor has released a report on the workers' compensation system stating that health experts consider the basis of usual, customary, and reasonable charges to be inflationary and contributing to the escalating costs in the workers' compensation system. Cities and counties will also have to pay inflated medical costs to settle claims for injuries where the injured party received treatment under the Medi-Cal program.

In addition, SB 399 will increase the awards to personal injury attorneys. SB 399 will substantially raise the amount of special damages presented at trial and ultimately paid by the responsible party's insurance carrier. This creates a windfall for plaintiff attorneys because they will be able to recover inflated legal fees on the increased lien amount. Unfortunately, the net effect of this bill will be to push up liability insurance costs and rates.

The bill states that its intent is to help public hospitals that are on the brink of closure. If it is sincerely the desire of the Legislature to address the public hospital crisis, then it is the funding of Medi-Cal that needs to be addressed. The problems of Medi-Cal should not be balanced on the backs of auto insurance and other liability policies of the state.

For the reasons stated above, **PIFC opposes SB 399 and urges your veto.** Please contact either Michael Gunning or Rex Frazier at (916) 442-6646 if you have any questions regarding our position.

cc: Senator Escutia, Author  
Gloria Ochoa, Senate Judiciary Committee  
Mike Petersen, Senate Republican Caucus  
Richard Costigan, Office of the Governor  
Cynthia Bryant, Office of the Governor  
Scott Reid, Office of the Insurance Advisor  
Senate Floor Analyses

4.SB399-SJud