



# 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

## STAFF

Dan Dunmoyer  
President

Diane Colborn  
Vice President of Legislative  
& Regulatory Affairs

Michael Gunning  
Senior Legislative Advocate

Jerry Davies  
Director of Communications

## MEMORANDUM

Date: Assembly Member Rebecca Cohn, Chair  
Members, Assembly Health Committee

From: Dan C. Dunmoyer, President  
G. Diane Colborn, Vice-President of Legislative and Regulatory Affairs  
Michael A. Gunning, Senior Legislative Advocate

Subj: SB 494 (Escutia): Hospital Liens, Medi-Cal  
PIFC Position: **OPPOSE**  
Assembly Health Committee – June 8<sup>th</sup>, 2004

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The Personal Insurance Federation of California, representing insurers writing nearly 50% of the personal lines insurance sold in California, opposes SB 494 (Escutia). If enacted, SB 494 will lead to higher insurance premiums due to the inflated settlement costs created by this measure. In addition, this bill will encourage hospitals to alter their pricing in a way that gouges third parties who may be liable for the treatment provided. This bill failed passage last year in the Assembly Health Committee and is up for “vote only” on June 8<sup>th</sup>.

This bill allows medical providers participating in the Medi-Cal system to place a lien against any settlement that is reached between the beneficiary and a responsible third party for an amount the provider claims was their costs, not what would have been paid under the Medi-Cal system.

In the case of *Hanif v. Housing Authority*, the court ruled that a “reasonable value” measure of recovery does not mean a plaintiff can recover more than the actual amount paid for the health care received. Since Federal Medicare law prohibits balanced billing there is no chance that the plaintiff would be liable for the difference in the two amounts. SB 494 would overturn that decision.

Workers’ compensation premiums in recent years skyrocketed due in part to uncontrolled medical costs. Allowing providers to charge whatever they want under SB 494 will have the same effect on auto insurance premiums. The State Auditor released a report last year 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.

SB 494 increases awards to trial attorneys. SB 494 substantially raises the amount of special damages presented at trial and ultimately paid by the responsible party’s insurance carrier. It creates a windfall to the plaintiff attorneys because they would

recover inflated fees on the increased lien amount. Unfortunately, the net effect of this bill will be to push up liability insurance costs and rates.

This bill will lead to extensive padding of medical bills in cases where the cost of the treatment provided may be recovered from the potentially responsible party's insurance carrier. To make matters worse this bill provides a rebuttable presumption that the amount of the "reasonable and necessary" charges submitted by the health care provider is correct. *This rebuttable presumption will certainly be abused.*

For these reasons, PIFC opposes **SB 494** and urges a "**no**" vote. Please contact Diane Colborn if you have any questions regarding PIFC's position.

cc: Senator Martha Escutia, Author  
Consultant, Assembly Health Committee  
Cynthia Bryant, Office of the Governor  
Scott Reid, Office of the Governor  
Assembly Republican Caucus