



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

MEMORANDUM

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Date: June 18, 2004

To: The Honorable Ellen Corbett, Chair
Members, Assembly Judiciary Committee

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

Re: SB 494 (Escutia): Hospital Liens, Medi-Cal
Assembly Judiciary Committee: June 22, 2004
PIFC Position: OPPOSE As Amended May 28, 2004

The Personal Insurance Federation of California, representing insurers who write over 50% of the personal lines insurance sold in California, **opposes SB 494** by Senator Escutia. If enacted, SB 494 will lead to higher insurance premiums due to the inflated medical and settlement costs created by this measure.

SB 494 encourages hospitals and medical providers to alter their pricing in a way that gouges third parties who may be financially responsible for 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, not what would have been paid under the Medi-Cal system. 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.*

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 between the two amounts. SB 494 would overturn that decision.

Workers' compensation premiums in recent years have 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 California 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.

In addition, SB 494 will increase the 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. This creates a windfall for plaintiff attorneys because they would 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.

For the reasons stated above, **PIFC opposes SB 494 and urges a "no" vote.** Please contact Michael A. Gunning at (916)442-6646 if you have any questions regarding our position.

cc: Senator Martha Escutia, Author
Cynthia Bryant, Office of the Governor
Scott Reid, Office of the Insurance Advisor
Kevin Baker, Assembly Judiciary Committee
Mark Redmond, Assembly Republican Caucus