



# 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

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## MEMORANDUM

**Date:** September 3, 2003

**To:** Assembly Member Ellen M. Corbett, Chair  
Assembly Judiciary Committee

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

**Re:** SB 494 (Escutia): Hospital Liens, Medi-Cal  
PIFIC Position: **Oppose**

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The Personal Insurance Federation of California, representing insurers writing nearly 35% of the personal lines insurance sold in California, **opposes SB 494 (Escutia) as proposed to be amended**. 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 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 are skyrocketing due in part to uncontrolled medical costs. Allowing providers to charge whatever they want will have the same effect on auto insurance premiums. The State Auditor recently 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 MediCal program.

SB 494 increases awards to trial attorneys. SB 494 substantially raise 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.*

Finally, we must object to the lack of hearing and debate give to this complex issue. There is no reason to rush this bill through the legislature in the last week of session. The original Hospital Lien Act, SB 1471 1999-2000 session, was the result of months of negotiations with all the effected parties. In addition, it is our understanding that the issues addressed in this bill are under court review. The courts should be allowed to finish their review prior to the legislature rushing to make this change.

cc: Honorable Martha Escutia, Author  
Members, Assembly Judiciary Committee  
Ann Richardson, Office of the Governor  
Richard Figueroa, Office of the Governor  
Mark Redmond, Assembly Republican Caucus  
Kathy Sher, Assembly Judiciary Committee