



## Update from Sacramento

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May 2024

# Medi-Cal liens processing speed should be improving

ALSO: ADDRESSING SENIOR ABUSE AT NURSING HOMES AND FINANCIAL SCAMS AGAINST SENIORS

CAOC leadership met with the Department of Health Care Services to discuss Medi-Cal liens and the difficulties our members experience on behalf of their clients in obtaining lien amounts from the department in a timely manner. We can report that the department is willing to provide a preliminary lien upon proof of a hearing, settlement conference, or mediation scheduled within the next 30 days. CAOC raised concerns that mediation is not currently included in the categories listed on the department's website. As a result of our conversation and emphasis that preliminary liens are necessary to determine case values at mediation, the department has now updated its website and procedures.

DHCS is currently in the process of creating an online portal that allows access to payments made and lien status, similar to the Medicare portal. In response to CAOC's concern about how long it takes to receive a final lien amount, the department stated that their hands are tied by the one year period providers have to submit their bills to Medi-Cal. The department's analysis determined that providers usually bill at the 4-to-5-month mark, so the department has instituted a practice that it will build a lien 120 days after either the final date of treatment or settlement of the case.

### New bills to support your practice

With the 2024 legislative session well underway, here's a look at the bills CAOC is sponsoring to support your practice and your clients.

#### **AB 2773 (Kalra) – Protecting seniors abused by nursing homes and assisted living facilities**

AB 2773, co-sponsored by California Advocates for Nursing Home Reform, will protect seniors abused in nursing homes and discourage facilities from intentionally destroying legal evidence in violation of the law. Normally, to show elder abuse, the victim must show "reckless neglect" by clear and convincing evidence. However, to deprive victims of exactly that evidence, some defendant nursing homes intentionally destroy that

very evidence. AB 2773 will address this narrow issue by stating that when a judge has found that a nursing home has intentionally destroyed legal evidence, the victim's burden of proving the case is by a preponderance-of-evidence standard, and not the higher clear-and-convincing standard. The bill requires: 1) that the destroyed evidence be "materially prejudicial" to the case, and 2) that the evidence be "specifically required to be maintained or preserved by the defendant under applicable law or regulation." AB 2773 gives seniors and their families a chance at justice after a nursing home or RCFE destroys evidence when elder abuse has occurred.

#### **SB 278 (Dodd) – Holding banks accountable for assisting financial scams against elder Californians**

This bill was introduced in 2023 and was carried over to this year, with amendments. Financial scams against elders are on the rise in California, and too often banks turn a blind eye while scammers rob older Californians, with estimates of annual economic losses of \$3 billion. As mandated reporters, banks, credit unions, and other financial institutions are uniquely positioned to detect when a customer might be the victim of a scam or other financial abuse – and to take action to protect elders from the devastating loss of their life savings. Unfortunately, the language of California's current financial elder-abuse statute (Welfare & Institutions Code § 15610.30) is unclear. As a result, recent court rulings are in conflict with the law and have set an impossible standard of proof required to hold banks accountable for assisting scammers. By adding a simple clarification to existing law, SB 278 will assure justice for the countless elderly victims of financial scams whose bank should have protected them.

#### **AB 2288 (Kalra) – Allowing injunctive relief for workers with labor violations**

AB 2288, co-sponsored by CAOC and the California Labor Federation, will amend the Private Attorneys General Act (PAGA) to strengthen worker protection by allowing injunctive relief. Injunctive relief in PAGA claims will allow courts to order employers to quickly correct and

remediate violations that have occurred in the workplace, in a manner that benefits all employees. For example, if an employer fails to provide workers with paid sick days, the court could order injunctive relief that would require the employer to establish a lawful paid sick-day policy. Allowing injunctive relief under PAGA will make it easier for workers to get meaningful change in the workplace, especially when they are bound by forced arbitration. PAGA now stands as one of the last remaining tools for workers to take collective action to remedy violations of their rights under the Labor Code.

#### **SB 1386 (Caballero) – Protect rape survivors: Clarifying the civil rape shield law**

Co-sponsored by CAOC and Equal Rights Advocates, SB 1386 would clarify that evidence of a victim's unrelated sexual assault or sexual history may not be brought in to impeach their testimony as to consent or damages. This clarifying change will protect survivors from being further victimized when seeking justice, consistent with the intent of California's long-standing civil rape shield laws. This bill addresses the California Supreme Court decision in *Superior Court of Los Angeles County, Respondent; Mountain View School District, Real Party in Interest*, 2023.

#### **AB 3061 (Haney) – Data for testing and deployment of autonomous vehicles**

CAOC is co-sponsoring AB 3061 with the Consumer Federation of California and the California Teamsters Public Affairs Council to enact a statutory minimum for data collection regarding the testing and deployment of autonomous vehicles in California. Driverless vehicles have made headlines for injuring pedestrians, shutting down and blocking intersections, causing gridlock and obstructing emergency vehicles. There is a public interest in the highest level of transparency as the state determines the level and extent of the deployment of autonomous vehicles. Thus, a statutory minimum is essential to ensure that the need is met with public transparency and safety.

