



April 14, 2025

TO: Members, Assembly Insurance Committee

**SUBJECT: AB 1398 (VALENCIA) WORKERS' COMPENSATION.
SUPPORT – AS INTRODUCED FEBRUARY 21, 2025**

The California Chamber of Commerce is proud to **SUPPORT AB 1398 (Valencia)**. Fraud and illegal referrals within the workers' compensation system are of the utmost concern to the employer community. **AB 1398** improve enforcement against bad actors by allowing fraud claims to be prosecuted as felonies and providing additional clarity regarding certain financial disclosures.

In 2023, an appellate court decision (*People v. Moses Luna*, 89 Cal. Comp Cases 22) ruled that the felony Penal Code Section 550(b)(3) was preempted by the more specific misdemeanor Labor Code Section 139.32, and that the Labor Code section failed to clearly define to whom financial disclosures should be made. Both statutes seek to prohibit illegal patient referrals for financial gain.

Illegal referrals have a significant impact on the workers' compensation system. Investigations have shown complex illegal referral systems involving interpreters, document preparers, durable medical equipment providers, attorneys and medical providers. Each party in the system refers the injured worker to the next, and every party collects an illegal payment or kick-back. For example, the Orange County District Attorney's office- just one of the many offices that investigate these schemes- has investigated 18 major fraud cases in the last ten years. One of the cases handled by that office is *People v. Jon Woods*. Mr. Woods was an attorney who participated in an illegal referral scheme. This single attorney was responsible for \$26,860,000 in fraudulent workers' compensation liens.

Labor Code Section 139.32(c) includes specific language prohibiting these referrals in the workers' compensation system. Prosecutors who investigate and charge these crimes routinely choose Penal Code Section 550(b)(3) because it is a felony code section with a four-year statute of limitations. By ruling that Labor Code Section 139.32 preempted Penal Code Section 550(b)(3), the court limited prosecutors to the misdemeanor section's one-year statute of limitations. A one-year statute of limitations would deal a fatal blow to nearly every medical billing fraud investigation in California because these are large scale and complex cases that take over a year to investigate. The Orange County District Attorney's office reports that all the 18 major fraud cases they investigated during the last ten years took well over a year to investigate.

In its ruling, the Appellate Court called on the Legislature to address the issue and rectify the court's interpretation stating: "*if this is not the case, the Legislature can easily say so by amending the statute to clarify that a violation of its provisions does not preclude the applicability of any other provision of law.*" The court stated: "*The legislature has utilized this procedure in response to past judicial decisions, and there is no reason it cannot do so in response to this case, if need be.*"

The court's decision effectively created a misdemeanor one-year statute of limitations for complex medical fraud investigations. This would have a severe impact on law enforcement's ability to fight fraud in California's workers' compensation system. **AB 1398** clarifies that workers' compensation fraud can be prosecuted by utilizing additional code sections outside of Labor Code Section 139.32.

For these reasons, we **SUPPORT AB 1398 (Valencia)**.

Sincerely,



Ashley Hoffman
Senior Policy Advocate
California Chamber of Commerce

American Property Casualty Insurance Association, Laura Curtis
California Association of Winegrape Growers, Michael Miiller
California Coalition on Workers' Compensation, Jason Schmelzer
California Hotel and Lodging Association, A.J. Rossitto
California Farm Bureau, Bryan Little

cc: Legislative Affairs, Office of the Governor
Consultant, Assembly Insurance Committee
Sarah Bridges, Office of Assemblymember Valencia
Bill Lewis, Assembly Republican Caucus

AH:am