

April 9, 2008

The Honorable Mervyn Dymally, Chair
Assembly Health Committee
State Capitol
Sacramento, 95814

Re: SUPPORT– AB 2146 (Feuer)

Dear Chairman Dymally,

CALPIRG is a statewide membership-based public interest group that stands up to powerful interests, working to win concrete results for Californians' health and well-being. With researchers, advocates, organizers, and students, we advocate on behalf of consumers and all California's residents.

In 2002, the National Quality Forum identified a set of "never events" – clear, significant medical errors that are entirely preventable and represent a failure to live up to the minimum standards of the medical profession. This list of 27 adverse events includes dispensing the wrong medication, operating on the wrong body part, or giving a transfusion of the wrong blood type. They are called never events because, quite simply, they should never happen.

Recognizing the importance of monitoring these mistakes, California passed legislation in 2006 requiring the reporting of all never events. But hospitals and other providers are still allowed to bill patients for the treatments caused by their own errors. A recent nation-wide survey found that half of the responding hospitals did not have policies waiving the costs directly related to a never event.¹ And another study has found that hospitals on average pass on to other payers 70 percent of the costs arising from negligently-caused medical errors.²

There is no excuse for these errors, which can cause tremendous, unnecessary physical and emotional suffering to the affected patients. There is even less excuse for requiring these same patients to bear the costs of the mistake.

¹ Leapfrog Group, *Half of U.S. Hospitals Reporting to Leapfrog Say They Won't Bill for a "Never Event"*, Sept. 26, 2007, at http://www.leapfroggroup.org/media/file/Release_-_Adoption_of_Leapfrog_Never_Events_Policy_2007.pdf.

² M. M. Mello, D. M. Studdert, E. J. Thomas, et al., *Who Pays for Medical Errors?: An Analysis of Adverse Event Costs, the Medical Liability System, and Incentives for Patient Safety Improvement*, *Journal of Empirical Legal Studies* December 2007 4(4):835–60

AB 2146 will protect consumers from the financial consequences of never events by preventing providers from billing for them. Beyond the immediate protection it offers to consumers, this legislation will also help reduce the incidence of these events, by properly aligning incentives and causing the costs to fall on the party most able to prevent the mistakes in the first place.

We urge your committee's support of this important legislation.

Sincerely,

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