

A Federal Court Upholds the Legality of California Workers' Compensation Anti-Fraud Legislation With Additional Procedural Due Process Warranties

By David R. Ruiz

Starting January 1, 2017, two Workers' Compensation anti-fraud provisions came into effect that affect the ability of medical providers charged or convicted of fraud-related offenses to collect on their liens. Shortly thereafter, the provisions were challenged by a medical provider alleging in federal court that the provisions failed to guarantee due process. In an effort to prevent an injunction curtailing the application of the anti-fraud provisions, the California Legislature soon thereafter enacted AB 1422 clarifying the anti-fraud provisions. The federal court upheld the legality of the California anti-fraud provisions and added some limited notice and hearing requirements to guarantee due process to medical providers.

Labor Code section 4615 as amended by Senate Bill 1160 and effective January 1, 2017, provided for an automatic stay of the adjudication of medical treatment and medical-legal liens of those providers charged with a fraud-related offense. The stay was to be in effect from the time the charges were filed until the disposition of the criminal proceedings.



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On May 17, 2017, a charged medical provider challenged this legislation in federal court claiming that a blanket automatic stay of all their liens would deprive medical providers charged yet not convicted of due process and hinder their ability to pay for counsel. (*Vanguard Medical Management Billing, Inc., et al. v. Christine Baker et al.*, CV17-00965 (C.D.Cal., filed May 17, 2017).) The medical provider requested injunctive relief to stop the application of the automatic stay until the case was adjudicated. The court issued a tentative decision in July 2017 upholding the legality of the anti-fraud provisions, but giving credence to the medical providers' argument that they were deprived of due process by their liens being automatically stayed without the possibility of a hearing.

On September 26, 2017, before the court was to rule on the medical providers' request for injunctive relief, California enacted AB 1422, which will become effective on January 1, 2018. As mentioned previously, AB 1422 clarified the prior anti-fraud bills and attempted to ensure procedural due process in the application of the lien automatic stay by providing that the automatic stay does not preclude the Workers' Compensation Appeals Board from inquiring into and determining within a workers' compensation proceeding whether a lien is stayed or whether a lien claimant is controlled by a suspended or charged physician, practitioner, or provider.

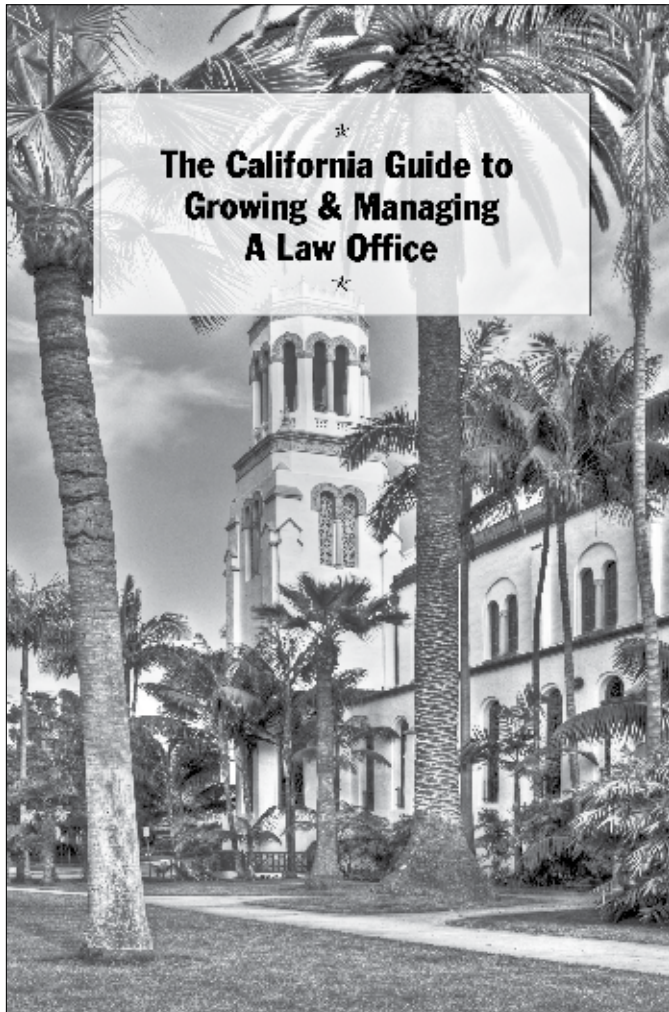
On October 30, 2017, the federal court issued its final ruling on the medical provider request for injunctive relief. The Court denied the injunction upholding the legality of the anti-fraud provisions,

but granted injunctive relief on procedural due process grounds on a very narrow issue: the stay needs to allow for basic notice and hearing requirements for procedural due process to exist. However, the court delayed ruling on the exact wording of the injunctive relief to give an opportunity to the parties to come up with its language.

On December 22, 2017, the court issued its final order. Regarding the notice requirement, the court ordered that medical providers' liens cannot be treated as stayed unless notice is provided via the lists posted on the Department of Industrial Relations website. As to the hearing requirement, the court ordered that

medical providers have to be given the opportunity to be heard within any case where a lien can be stayed for the sole purpose of preventing the erroneous application of the stay. This hearing cannot be used to challenge the propriety of any criminal charges giving rise to the stay or to dispute whether a lien arises from the alleged conduct-giving rise to the criminal charges.

The court's decision provides for due process protections that are narrow and targeted to prevent an erroneous application of an automatic stay. More importantly, the anti-fraud provisions remain intact, except for the newly added protections.



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