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FAX TO GOV. BROWN: VETO AB 655 (HAYASHI)

15 SEPT 2011

This bill has as its good intention to facilitate transfer or peer review information. All the same, my recommendation is for veto for reasons previously provided and now the following:

AB 655 (Hayashi) conflicts with a case recently decided and certified for partial publication, Court of Appeal of the State of California, 2nd Appellate District, Division 4, B209056, filed 8/19/11 (Los Angeles County Super., Ct. # BS105623).

The case is that of Osamah A. El-Attar v. Hollywood Presbyterian Med Ctr.

The court's ruling includes this language: "Peer review that is not conducted fairly and results in the unwarranted loss of a qualified physician's right or privilege to use a hospital's facilities deprives the physician of a property interest directly connected to the physician's livelihood."

The CMA stated that "peer review, fairly conducted, is essential to preserving the highest standards of medical practice" and that "peer review that is not conducted fairly results in harm to both patients and healing arts practitioners by limiting access to care."

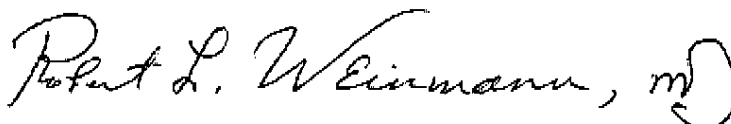
CMA staff lobbyists could not have known about this Appellate decision when they began working for passage of AB 655 because the court's decision wasn't filed until 19 August 2011.

The irony is that CMA sponsored the amicus brief for Dr. El-Attar while at the same time CMA staff promoted passage of AB 655.

El-Attar points out why peer review needs to be protected while AB 655 offers a mechanism to get around fairness in peer review by offering a mechanism for transfer of peer review material that would allow inclusion of false and defamatory material, namely, sham peer review.

Previously, I recommended making AB 655 a two-year bill. Now I'm obliged to ask for a veto.

Yours truly,



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