



April 17, 2012

**Via E-Mail and U.S. Mail**

The Honorable Ed Hernandez  
Chairman, Senate Health Committee  
State Capitol, Room 4085  
Sacramento, CA 95814

***Re: Opposition to SB 1431***

Dear Chairman Hernandez:

I am writing on behalf of the Self-Insurance Institute of America, Inc. (SIIA) to express strong opposition to the above referenced legislation. SIIA is a non-profit trade association that represents self-insured employers and their business partners including third party administrators (TPAs) and stop-loss insurance carriers. Our organization has many members who are based in California and/or provide products and services to self-insured employers in the state.

As I am sure you are aware, the cost of health insurance premiums has spiked for all California employers and this is especially challenging for smaller employers who wish to provide quality health benefits for their workers. SB 1431 would make this problem worse by effectively eliminating the self-insurance option for many companies within the state that otherwise must choose between absorbing increased costs every year or to drop health coverage altogether.

While self-insurance may not be a viable option for many smaller employers, an increasing number of such employers are operating successful self-insured group health plans. These plans provide cost containment advantages and they are often customized to meet the specific needs of the plan participants.

Medical stop-loss insurance is a critical component for most self-insured employers as such insurance provides a financial reimbursement mechanism should actual health care claims exceed pre-determined levels. SB 1431 would impose restrictions on stop-loss insurance in a way that it would no longer be available with policy terms appropriate for smaller employers and therefore subject them to unacceptable financial risk. Quite simply, if employers cannot retain stop-loss insurance with terms consistent with their financial risk transfer needs, they are not able to self-insure.

It is also SIIA's position that SB 1431 is likely preempted by the Employee Retirement Income Security Act (ERISA), which prohibits states from imposing regulations that affect the administration of self-insured group health plans. Because this legislation would restrict employer risk transfer arrangements, this directly affects plans administration and therefore would invite an ERISA preemption challenge.

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We recognize that there has been some confusion among policy-makers about how self-insured group health plans actually operate and the role of medical stop-loss insurance, which has led to erroneous conclusions about regulatory deficiencies and adverse selection outcomes. These issues can be easily addressed through a better understanding of actual marketplace practices.

In this regard, I am pleased to confirm my attendance at your committee hearing April 25 where I intend to provide additional testimony on this matter and more fully describe why SB 1431 is unnecessary and will only exasperate the problem that small employers in California face in being able to afford the rising cost of providing quality health benefits to their employees. We trust that you and the other members of your committee share this concern.

Should you have any questions in the meantime, please contact SIIA Government Relations Director Jay Fahrer at 202/463-8161, or via e-mail at [jfahrer@siaa.org](mailto:jfahrer@siaa.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Ferguson", with a long horizontal flourish extending to the right.

Mike Ferguson  
Chief Operating Officer  
Self-Insurance Institute of America, (SIIA)

cc: Senate Health Committee Members