



July 6, 2021

To: Honorable Assemblymember Gonzalez  
 Chair Assembly Appropriations Committee  
 Members, Assembly Appropriations Committee

Re: **SB 447 (Laird) as Amended April 22, 2021- OPPOSE**

The above coalition of organizations must respectfully **OPPOSE** SB 447, a CJAC Triple Threat<sup>1</sup> bill, which will upend over 170 years of California legal precedent by allowing pain and suffering damages in survivor actions, for the following reasons:

1. **California already provides for generous damages for survivors, in line with other states.**  
 Under current law, survivors can seek punitive damages and compensatory damages on behalf of the decedent. Many states limit recovery to either punitive *or* pain and suffering damages – *not both* – due their open-ended and immeasurable nature. Providing both is also redundant because they serve a similar purpose. *If SB 447 passes, CA will allow excessive double-dipping of damages that other states avoid.*
2. **The big winner will be plaintiffs' attorneys – richer fees from the excessive damages awards.**  
 SB 447 will allow plaintiffs' attorneys to collect more fees than ever at the expense of no-fault consumers who will see higher insurance premiums and higher prices for goods and services. *Liability costs could skyrocket not only for businesses, but also the state and local governments who are frequently sued.* Plaintiffs' attorneys, on the other hand, still won't have to pay any pain and suffering damages themselves when they commit devastating malpractice against their clients.<sup>2</sup>
3. **The wording of the four-year sunset allows the bill to continue beyond the sunset.**  
 While the coalition appreciates the author's willingness to add a sunset to the bill, as written, the sunset provision is too broad and will not limit the bill to four years. It applies the damages expansion to all cases *accrued* or merely discovered, rather than filed, by January 1, 2026. *This wording is vague and allows SB 447 to apply to lawsuits after the sunset.*
4. **Bill sponsors are using the pandemic as cover to undermine over a century of legal precedent.**  
 SB 447 uses the pandemic crisis as an excuse to change a policy that has withstood decades of proper legislative scrutiny and debate. California already provides a process to allow the elderly and

<sup>1</sup> Triple Threat Bills contain the following three threats: 1) attract unwarranted or abusive litigation, 2) lead to excessive attorneys' fees and 3) increase costs for businesses, consumers and the state. <https://www.cjac.org/triple-threats>

<sup>2</sup> See, e.g., *Camenisch v. Superior Court* (1996) 44 Cal.App.4th 1689, 1693 (emotional distress damages not recoverable in attorney malpractice cases related to litigation); *Holliday v. Jones* (1989) 215 Cal.App.3d 102, 112 (plaintiffs not entitled to recover pain and suffering damages inflicted on them by attorney's malpractice).

those with health issues to have quicker trials, as well as shortened depositions to further reduce delay. ***If trials were delayed during COVID, this coalition requests that SB 447 be amended to address the delayed cases.***

For the foregoing reasons, the above coalition respectfully **OPPOSE SB 447** and urges your **NO** vote. If you have any questions, contact Jaime Huff at [jhuff@cjac.org](mailto:jhuff@cjac.org) or 916-956-2905.

Sincerely,



Jaime Huff

Vice President and Counsel, Public Policy

On behalf of the below-listed organizations:

American Academy of Pediatrics, California – Lydia Bourne  
America’s Physician Groups - David Gonzalez  
American Property Casualty Insurance Association - Mark Sektan  
California Association of Joint Powers Authority – Faith Borges  
California Assisted Living Association – Heather Harrison  
California Building Industry Association – Nick Cammarota  
California Business Properties Association – Matthew Hargrove  
California Chamber of Commerce – Jennifer Barrera  
California Manufacturers & Technology Association – Nicole Rice  
California Podiatric Medical Association – Ryan Spencer  
California Retailers Association – Steve McCarthy  
California Society of Dermatology & Dermatologic Surgery – Don Schinske  
Civil Justice Association of California – Jaime Huff  
National Association of Mutual Insurance Companies – Christian Rataj  
Pacific Association of Domestic Insurance Companies – Shari McHugh  
Personal Insurance Federation of California – Seren Taylor  
Public Risk Innovation, Solutions, and Management – Michael W. Pott