

OPINION from *The Sacramento Bee* (Published July 3, 2001)

# Doctors want the right to collude, fix prices

By Daniel Weintraub

California doctors want the right to fix prices, legally. If they make more money, the doctors say, patients will fare better. It's not clear whether this is supposed to be extortion or health care reform. Either way, it could be a prescription for disaster.

Not that doctors don't have reason to fret. California's managed health care system is making them feel more like overworked wage slaves than the highly educated professionals they are. Many doctors' offices have long since begun to look, and feel, like assembly lines. But turning physicians into the equivalent of union members would only make a bad situation worse.

AB 1600, which has cleared the Assembly and is scheduled for its first Senate committee hearing today, would give doctors an exemption from federal antitrust laws, which were enacted to protect consumers from anti-competitive collusion. With this new power, all the doctors in a community could meet, discuss prices, and agree to bargain as a bloc seeking higher reimbursement from the insurance companies -- and patients.

The problem the doctors are trying to fix is the recent downward pressure on health care premiums. After years of rapidly rising rates, California workers in the 1990s resisted paying ever more for health care. Their employers then put pressure on the health plans to cut costs. The plans, in turn, pressured the doctors

to take less money. The result: Californians pay 24 percent less than the national average for insurance, the California Medical Association says.

This was supposed to be a success story. But the doctors say the pendulum has swung too far. Their implication -- though they can never say it directly -- is that doctors are scrimping on care for their patients because the health plans aren't paying them enough to get by.

The HMOs say the pressure doctors are feeling is part of a normal market in action. They say doctors -- and the medical groups within which they increasingly practice -- become more efficient as they compete for the health plans' business. When all the fat has been burned out of the system, doctors will push back. The health plans eventually will be forced to raise the rates they charge employers, and the system will remain in balance.

But the doctors say they can't push back because years of mergers have given a handful of HMOs control over the marketplace. In many communities, the majority of patients get their health care through three or four major plans. If a doctor or a medical group won't agree to the health plans' terms, they lose the business. In some places that can mean losing so many patients that the doctor can't afford to practice or the medical group goes belly up.

"In most parts of the state, physicians have no negotiating power at all," said Steve Thompson, the California Medical Association's chief lobbyist. "Each physician or small physician group is an isolated entity."

Medical groups in which the doctors share services and a common bottom line -- like the Sutter or UC Davis medical groups in Sacramento -- already are exempt from antitrust laws and in fact sometimes enjoy as much market power as the HMOs. This bill would extend that exemption to ad-hoc collections of doctors who have no affiliation except that they practice medicine in the same region. Thompson says the system would be voluntary for the health plans, giving doctors the right to bargain collectively only with HMOs that agree to that kind of

negotiation. But in practice the bill's provisions would be more far-reaching. Once one health plan agreed to collective bargaining, the inside information gleaned by the doctors could be used in negotiations with the other plans. And the bill might allow doctors to collude even before they have found a health plan willing to negotiate with them as a group.

The doctors' legislation is opposed by the health plans, of course, but also by consumer groups and businesses who fear it would drive up the price of health care without improving the quality. In response, the bill's sponsors have inserted provisions giving the state broad new powers to oversee contracts signed between doctors and health plans. But this is a potential nightmare of regulation in which state bureaucrats examine every fee paid to every doctor and try to determine whether it is fair and reasonable.

The doctors may be right when they say that California's health care system is careening toward collapse. But the problem is at the core of a system that has muddled the roles between insurers, who should be concerned with financial risk, and doctors, who should be concerned with providing care. Within that twisted framework, giving doctors the right to fix prices would surely make health care more expensive. It would not necessarily make it any better.

## **FINAL EXAMINATION QUESTION**

Read the editorial by Daniel Weintraub and answer the following question. Remember to write in a large blue book, double space and use one side of the page only. You may use a dictionary but no notes or other aids will be permitted.

**BASED UPON WHAT YOU HAVE LEARNED IN ENGLISH 20 THIS SEMESTER, WRITE AN ESSAY IN WHICH YOU DISCUSS WHETHER OR NOT YOU BELIEVE MR. WEINTRAUB HAS PRESENTED A CONVINCING ARGUMENT.**