



May 15, 2024

The Honorable Monique Limon
Member, California State Senate
1021 O Street, Suite 6510
Sacramento, CA 95814

RE: SB 1061 (Limon): Consumer Debt: Medical Debt – OPPOSE UNLESS AMENDED

Dear Senator Limon,

The above noted organizations, representing original lenders doing business in California, must oppose Senate Bill 1061 as amended on April 29, 2024 unless it is amended to address our concerns. We recognize the importance of addressing difficulties consumers may face in both accessing and paying for healthcare, and we believe that supporting consumers' access to credit may in turn improve access to care for consumers who face difficulties in that regard. For these reasons, we thank you for introducing SB 1061 on this important topic; however, we must oppose the measure as amended on April 29, 2024.

As amended, SB 1061 presents a number of concerns, as outlined below. These concerns are addressed by ensuring that the definition of qualifying medical debt in SB 1061 is clearly described as debts that are owed directly to a medical provider or facility. Currently, the measure attempts to cast a net well beyond those parameters, impacting both credit cards and secured debts – with the threat of voiding those debts entirely if they are reported to a credit reporting agency.

First, we appreciate the insertion in the March 11 amendments of a definition for the term “medical debt” in 1785.3(j) as well as amendments that create consistency between (j)(1) and (j)(2) regarding the usage of the “medical services, products or devices” language, however further clarification is necessary. Specifically, medical debt should be defined as those debts owed directly to a medical provider or facility; the April 29 amendments continue to impact financial products, like credit cards, that are not owed directly to a medical provider but that do play a crucial role in facilitating access to health and wellbeing care. These credit products give consumers financial options to plan for and pay not only copayments, deductibles and prescriptions, but also health and personal care products, in addition to beauty, wellness and even veterinarian services and products – as well as everyday purchases at places like Rite Aid

and LensCrafters. Simply put, SB 1061 will negatively impact these credit products; reducing access to these credit products would reduce consumers' access to a wide variety of personal care products and services.

There is a very real distinction between these credit card products versus payments that result from an emergency or unplanned medical situation. According to the Department of Financial Protection and Innovation (DFPI), the majority of medical debts are the result of one-time medical expenses arising from an acute medical need – and SB 1061 should reflect that. Unlike debts that arise due to an emergency situation, these credit products allow consumers the ability to plan for a wide variety of health and wellness-related products and services. If enacted, SB 1061 could undermine the viability of these credit products; and reducing consumers' access to these credit products would reduce consumers' ability to access, afford and budget for a wide variety of wellness products and services. In order to avoid mass disruption in the delicate balance of financial products designed to assist consumers in managing healthcare expenses, SB 1061 should follow the existing standard set forth in similar Massachusetts law, expressly stating that medical debt is owed directly to a medical facility, provider of health care or provider of emergency services.

In this context it is also worth noting that the April 29 amendments in 1785.3(j)(3) around reconstructive and/or cosmetic surgeries will create confusion in the marketplace and is not a sound compliance practice for original lenders. Financial institutions do not – and should not – know details about the procedure that an individual receives and pays for with their credit. Credit card issuers do not – and should not – know nor determine whether a procedure is deemed medically necessary. As currently written, SB 1061 would force patient consumers to provide “proof” to their credit card companies about various procedures and expenses. This is an invasion to private medical information, placing personal information in the hands of those who are merely facilitating a financial transaction and who are *not* medical professionals involved in the treatment/care of that individual. This invasion of personal health information is avoided by ensuring that qualifying medical debts are those owed directly to a medical provider or facility.

The April 29 amendments also contain a knowledge standard associated with secured debts. To avoid mass disruption in the financial marketplace, it is important that the measure ensures that secured debts are not included in the definition of medical debt. It is unclear how this would impact home equity lines of credit (HELOC) or similar financial products, one of which may be used for a wide variety of multiple transactions. For example, how does the measure contemplate situations where a consumer takes out a second mortgage to pay for a boat, cosmetic procedures, and a medical service? Again, ensuring that qualifying medical debts are those owed to a medical provider or facility alleviates these concerns.

We also appreciate the conversation in Senate Judiciary Committee and subsequent April 8 amendments that add a knowing standard to Section 1785.27, related to the voiding of debts that are furnished to a consumer credit reporting agency. However, that standard is reliant on a clear definition of the term “medical debt,” which this measure currently lacks. We

appreciate the need for an accountability mechanism, however wholly voiding a debt is a disproportionate penalty for what may be a differing interpretation of qualifying debts. Saddling the current definition of medical debt – which presents areas of ambiguity and includes both credit cards and secured debts – with the possibility of voiding debts is of major concern to original lenders, who depend on repayments of valid loans in order to continue to extend credit opportunities and financial products to the communities that they serve.

It is worth noting that we support and encourage policies that promote a variety of fair and responsible options to pay for healthcare-related expenses, permitting consumers to choose the option that meets their needs. To the degree that there exist problems with unscrupulous non-bank lenders, we welcome a dialog around solutions that bring the oversight of those lenders to regulatory parity of our financial institution members, who are already subject to robust oversight by multiple, on-site prudential regulators.

And lastly, in order for credit markets to function, all parties must have accurate information. Because this measure reaches far beyond conventional medical debts, we are concerned that, despite SB 1061's good intentions, this measure may result in significant debts – both medical and non-medical alike – being hidden from lenders, therefore causing lenders to provide more credit – and more debt – to consumers who cannot afford it. The overextension of credit poses significant risks to the solvency of lenders. The Great Recession provides an all-too-recent example of the potential risks of large-scale lending to borrowers who cannot afford to repay their loans. Lending to borrowers who cannot afford to repay their loans is lose-lose for both the borrower and the financial institution.

We appreciate the opportunity to express our concerns and look forward to working with you to resolve these issues.

Sincerely,

California Bankers Association – Melanie Cuevas, Vice President of Government Relations

American Financial Services Association – Danielle Fagre Arlowe, Senior Vice President of State Government Affairs

California Chamber of Commerce – Robert Moutrie, Senior Policy Advocate

California Financial Services Association – Scott Govenar, Contract Lobbyist

California Mortgage Bankers Association – Indira McDonald, Contract Lobbyist

California Mortgage Association – Mike Belote, Contract Lobbyist

Card Coalition – Toni A. Bellissimo, Executive Director

Electronic Transactions Association – Brian Yates, Senior Director of State Government Affairs