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Consumers initially had the upper hand in the fight, as SB 1096 was defeated in the Senate with a few votes to spare. The victory was a fleeting one. The legislature routinely allows bill authors to bring back defeated bills for another vote and SB 1096 passed the Senate by a single vote just a few days later.

As the bill headed to the Assembly Health Committee hopes had dimmed as to whether we could stop the big business forces aggressively backing the bill.

But that's when our prospects began to change, and a kind of legislative "perfect storm" was created. Advocacy groups like CFC and Consumer Watchdog developed an effective opposition campaign that targeted both the public and the press. David Lazarus of the Los Angeles Times and Elizabeth Fernandez of the San Francisco Chronicle wrote articles scrutinizing the bill's ramifications. Together, this gave rise to a significant public outcry against the legislation.

Lawmakers were listening, as evidenced by the legislation's near unanimous and bipartisan defeat in the Assembly Health Committee – where it failed to garner a single "Yes" vote (9 Noes, 0 Yeas, and 8 Not Voting).

SB 1096's defeat is an important victory for California's landmark medical records privacy law. **CFC**

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Senator Darrell Steinberg – 2008 Consumer Leadership Award – has championed many consumer causes as an Assemblymember and State Senator, including recent efforts to set standards for health coverage and weed out "junk" insurance.

Senator Alan Lowenthal – 2008 Consumer Champion Award – recently authored a CFC sponsored bill to make it easier for cell-phone owners to terminate their contracts, transfer their phones to different carriers and dispute billing discrepancies.

Consumer Voter Education Award

Hannah-Beth Jackson – 2008 Consumer Voter Education Award – was a consumer rights and privacy champion in the state legislature before founding Speak Out California, one of the state's preeminent, and progressive, voter education websites.

Consumer Journalist Award

Frank Russo – 2008 Consumer Journalist Award – is the tireless editor and founder of the website magazine the California Progress Report, which consistently provides prolific, comprehensive, and insightful coverage of consumer legislative issues in Sacramento that go unreported by the corporate media.

Lifetime Achievement Award

Albin Gruhn – 2008 Lifetime Achievement Award – was one of the founders of the Association of California Consumers, which was renamed the Consumer Federation of California in 1972. He served as CFC President for many years. After retiring in 1999, the CFC Board named him our President Emeritus. **CFC**

About Us

The Consumer Federation of California (CFC) is a non-profit advocacy organization. Since 1960, CFC has been a powerful voice for consumer rights, campaigning for state and federal laws that place consumer protection ahead of corporate profit. Each year, CFC testifies before the California legislature on dozens of bills that affect millions of our state's consumers and appears before state agencies in support of consumer regulations.

Contributions are not tax deductible.

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The California Consumer

THE QUARTERLY NEWSLETTER OF THE CONSUMER FEDERATION OF CALIFORNIA

SUMMER 2008

Assembly stops attack on prescription drug record privacy

Legislation to permit drug stores to share confidential patient prescription information with third parties died in the State Assembly after the CFC and privacy advocates raised strong objections.

CFC vigorously opposed Senate Bill 1096 (Calderon) because it raised significant privacy and health care concerns for patients. The bill would have created an exception to California's Medical Information Act, and allowed the sharing of confidential patient drug prescription information among pharmacies, third party corporations and pharmaceutical companies without a patient's consent.

Californians expect that their private medical records will be held in confidence by their doctors and pharmacists. SB 1096 would have allowed pharmacies to share prescription information with businesses that provide mailings to the patient—ostensibly reminders that patients should continue to take their medications. The reminder would appear to come from the pharmacy, but in fact it would be paid for by the drug manufacturer.

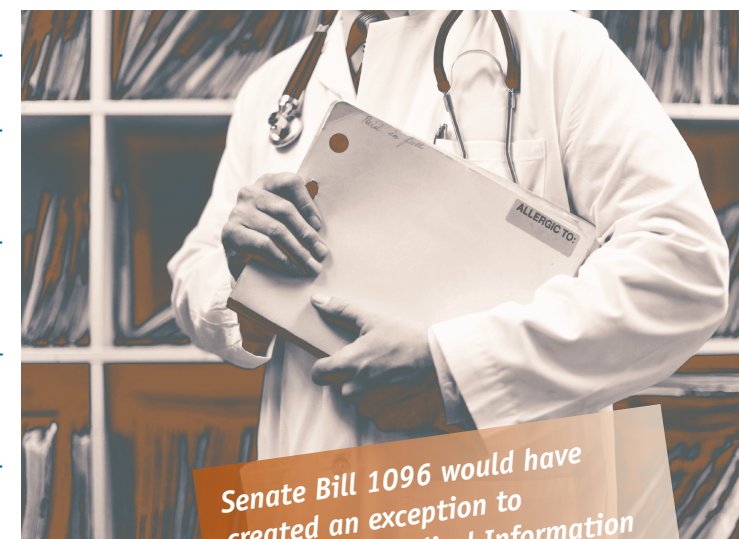
The bill's main backer, Adheris Inc., is a subsidiary of inVentiv Health Inc., a drug marketing company currently being sued for privacy breaches related to patient prescription records.

A patient's doctor—not a third party marketing company—is the best source for informing a patient about how to manage his or her health condition. By

intruding upon and confusing this relationship, this bill could have put patients' health, as well as privacy, at risk.

For example, a physician might discontinue a prescription if a patient complained of an adverse reaction. Unaware of the changed course of treatment, the drug marketing company would continue sending reminders that appear to come from the drug store, urging the patient to keep taking the old prescription. The bill placed no liability on drug marketers that provide bad information to patients.

The legislative battle was a fierce and contentious one, pitting privacy and



Senate Bill 1096 would have created an exception to California's Medical Information Act, and allowed the sharing of confidential patient drug prescription information among pharmacies, third party corporations and pharmaceutical companies without a patient's consent.

consumer groups and physicians against drug store chains and drug marketers.

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2008 LEGISLATIVE UPDATE

CFC supported bills signed by Governor

SB 1137 (Perata) will implement important foreclosure process reforms to protect the hundreds of thousands of Californians who are in danger of losing their homes due to the mortgage crisis.

SB 612 (Simitian) will allow prosecution for identity theft cases in the county where the victim resides rather than where the theft occurred.

AB 372 (Salas) would require a consumer credit reporting agency to place a security freeze within 3 business days after receiving a request from a consumer.

CFC supported bills approved by senate

SB 840 (Kuehl) would make all California residents eligible for specified health care benefits under a single-payer Universal Healthcare System.

SB 30 (Simitian) would protect the privacy of Californians by regulating the use of Radio Frequency Identification Devices (RFID) in government-issued identification documents.

SB 1440 (Kuehl) would require full service health care plans and health insurers to expend on health care benefits no less than 85% of the aggregate dues, fees, premiums, and other periodic payments they receive.

SB 364 (Simitian) would require businesses and state agencies to provide specified notification of security breaches to the Office of Information Security and Privacy Protection and to consumers in plain English.

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2008 LEGISLATIVE UPDATE

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SB 1313 (Corbett) would prohibit the use of food packaging materials that contain specified toxic chemicals and new toxic alternatives that could replace them.

CFC supported bills approved by assembly

AB 583 (Hancock) would authorize public campaign financing for eligible candidates for the office of Secretary of State.

AB 1943 (Leno) would establish rights for passengers who are detained on an airline for over three hours.

AB 408 (Levine) would protect the income security of skycaps and honors the intentions of the airline passenger who wishes to tip them.

AB 1860 (Huffman) would strengthen product recall laws and consumer safety by prohibiting the manufacture, remanufacture, retrofit, distribution, or sale of a product that is known to be unsafe.

CFC opposed bills killed in legislature

SB 1096 (Calderon) would have created an exception to California's Medical Information Act, and allow the sharing of confidential patient drug prescription information without a patient's consent.

CFC supported bills killed in the legislature

AB 3011 (Huffman) would have clarified existing law which prohibits the disclosure of a person's residential landline calling records to apply to cell phone consumers as well.

SB 823 (Perata) would re-establish state regulation of private postsecondary schools in California through the creation of a Board for Private Postsecondary Education in the Department of Consumer Affairs.

SB 1423 (Kuehl) would have eliminated charges for an unlisted residential telephone number.

CFC opposed bills approved by Assembly

AB 2800 (Huffman) would amend the mandatory insurance rating factors approved by the voters in 1988 as part of Proposition 103.

AB 1051 (Calderon) would eliminate refunds of insurance premiums that are found to be excessive.



Cell phone privacy legislation defeated

If you've ever had to wait in line at your local wireless store, you know how cell phone use has exploded over the past few years. According to a recent *USA Today* article, "while there are roughly 170 million land lines in use nationwide, industry officials estimate there are close to 250 million cell phones."

Our state's privacy laws haven't kept pace with the rapid expansion of cell phone usage.

For many years, California law, Public Utilities Code §2891, has prohibited phone companies from disclosing a *residential subscriber's* phone calling pattern without the written permission of the customer. This law predates the appearance of cell phones. The definition of "residential" only applies to customers with traditional wired land lines. It does not cover cell phones.

Several internet sites in recent years have offered to procure anyone's phone calling records and sell them for a fee. Records are obtained through a practice called "pretexting". The records request is made of a phone company by a person who pretends to be a phone company employee, a law enforcement agent, or even the customer whose records are requested.

Phone companies have been far too lax in verifying the identity of the person making the request before releasing the records. California law put some burden on the phone company to make sure the customer had approved the records release—as long as the customer had an old fashioned wired land line. (We're talking about routine requests for phone records. California telecom carriers tossed the phone records privacy law out the window to accommodate the Bush administration's illegal domestic surveillance program.)

CFC sponsored AB 3011 (Huffman) to create a single privacy standard for cell phone and land line consumers. As introduced, the bill simply amended Public Utilities Code §2891 to delete the word "residential." In so doing, it would clearly establish that cell phone customers have the same calling records protections that residential landline customers have enjoyed for decades.

The telecommunications industry contributes millions to lawmakers of both parties in Sacramento each year. When AB 3011 reached the Assembly Floor, Verizon, T-Mobile, The Wireless Association, and hordes of lobbying firms on hire to the industry targeted the bill as enemy number one.

The final tally on AB 3011 was 22 Ayes and 36 Noes. Another 22 Assembly members did not vote. All but one of the non-voters were Democrats. The bill needed 41 Ayes to pass.

"Non-voting" is a common practice for certain lawmakers. It's an attempt to camouflage their intended result—defeating consumer protection laws at the bidding of corporate interests—without casting a recorded vote that would anger average Californians.

AB 3011 would have closed a glaring loophole in California privacy law. Winning consumer protection is a multi-year effort, and we'll keep moving this concept forward until the responsibility to protect cell phone records is placed where it belongs—with the telecommunications companies. **CFC**



Re-regulating the financial casino

By Richard Holober, *Executive Director*

The sub-prime mortgage crisis is cascading through the credit market. Two million homeowners with sub-prime loans risk foreclosure when their interest rates adjust up. One major bank has failed. Scores more may follow. Collapsing home prices undermine the solvency of Fannie Mae and Freddie Mac. The Bush Administration has proposed an unlimited line of credit to prop us these "government sponsored entities" that guarantee \$5.5 trillion in mortgages.

We should have seen this coming.

Since the 1980's, we've witnessed a systematic dismantling of New Deal regulations put in place following the collapse of the speculative bubble of the 1920's. Reforms included federal deposit insurance of tightly supervised commercial banks, firewalls to separate these banks from riskier investment banks, creation of a government-backed home mortgage market, and federal insurance of regulated mortgage-lending institutions. By the 1960s nearly two-thirds of Americans owned homes, a

dramatic expansion from the 1930s. Mortgage lending banks were almost always profitable.

The legalization of adjustable rate mortgages in 1982 and the decoupling of the sale of mortgages by unregulated brokers from the ownership of the loans, which were bundled and sold as securities, opened the door for quick buck artists to entice less credit worthy homeowners with unrealistically low teaser rates. A real estate bubble based on the expectation of ever increasing home prices ensued. It was just a matter of time until it burst.

We've been here before. The savings and loan debacle of the late 1980's cost taxpayers over \$300 billion. In both cases deregulation was accompanied by an understanding that the feds would cover the losses should the system collapse. We've privatized the profits so long as the casino kept paying, and socialized the losses.

In January, a new Administration should re-regulate our banking system to prevent the next round of reckless speculation and Ponzi schemes from harming our economy. **CFC**

CFC honors "Consumer Heroes" at second annual Legislative Reception

The Consumer Federation of California (CFC) held its second annual Legislative Reception at the State Capitol Building in April of this year. The event provides CFC with the opportunity to honor the work of some of our state's most influential consumer rights champions.

An audience of nearly 100 people - including state lawmakers, distinguished guests, and representatives of a broad spectrum of public interest advocacy organizations - were on hand for the festivities. Award categories and honorees were as follows:

Consumer Champion and Consumer Leadership Awards

Receiving CFC's "Consumer Champion" and "Consumer Leadership" awards were four state legislators that have distinguished themselves as dedicated and courageous consumer advocates unafraid to take on the powerful corporate interests that pollute the State Capitol.

Each received a perfect score (100%) in CFC's 2007 Legislative Scorecard.

Assemblymember Dave Jones—2008 Consumer Champion Award— is Chair of the Assembly Judiciary Committee and author of a host of important privacy protection bills designed to safeguard Californians from identity theft.

Assemblymember Mark Leno – 2008 Consumer Leadership Award – A strong CFC ally, has authored bills that ban toxic fire retardant chemicals in furniture, and that require airlines to provide passengers with water, fresh air and other basic necessities when trapped in an airplane during a lengthy runway delay.



Recipients of awards from the Consumer Federation of California for 2008 from left to right, Senate President pro Tem Elect Darrell Steinberg, California Progress Report publisher Frank D. Russo, former Assemblymember and State Senate candidate Hannah-Beth Jackson, CFC founder and former President of the California Labor Federation Albin Gruhn with attendant, Assemblymember Mark Leno, and Assembly Judiciary Chair Dave Jones. Not pictured, Senator Alan Lowenthal. —Photo by Russell Collins Stiger

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