THE IMPACT OF *ERISA* ON CALIFORNIA HEALTH CARE LAW FOLLOWING THE UNITED STATES SUPREME COURT’S PRO-PREEMPTION INTERPRETATION

I. INTRODUCTION

According to the United States Census Bureau, approximately 60.4 percent of the population received some form of employer-provided health insurance in 2003.1 Nearly all health insurance provided by a private employer or labor union is subject to the federal *Employee Retirement Income Security Act of 1974 (ERISA).*2 Correspondingly, *ERISA* does not apply to health plans offered by public employers and churches, or to plans created to comply with workers’ compensation laws.3 *ERISA* was enacted “to ensure that employees and their beneficiaries would not be deprived of anticipated retirement benefits” as a result of the termination of pension plans.4 Specifically, Congress wanted to guarantee that an employee who “ ‘ha[d] been promised a defined pension benefit upon retirement [] and . . . ha[d] fulfilled whatever conditions [were] required to obtain a vested benefit’ ” actually received that benefit.5 Among other things, *ERISA* allows plan members and beneficiaries to recover if a plan administrator’s wrongful denial of promised health benefits results in substantial injury.6

In a recent decision, the United States Supreme Court unanimously held that *ERISA* preempted a Texas law allowing plan members to sue their plan administrator if the plan administrator breaches its fiduciary duty.7 Therefore, actions against a plan administrator are now governed by *ERISA* and removable to federal court.8 Although it creates uniformity among conflicting health care liability laws, many argue that *ERISA*’s remedy structure is vastly inadequate to deter “wrongful denials of care.”9 In response, several states have enacted managed care liability laws in an effort to provide greater protection for injured plan members.10 In addition to Texas, Arizona, California, Georgia, Louisiana, Maine, New Jersey, Oklahoma, Washington, and West Virginia have enacted such laws.11 Similar legislation has been contemplated, but has yet to be enacted in approximately thirty other states.12

Approximately sixty percent of insured Californians obtain health coverage through an employer.13 This article examines the effects of the Supreme Court’s recent decision on applicable portions of California health care liability law. Section II provides an overview of *ERISA* and an analysis of the Supreme Court’s recent decision to preempt Texas state law. Section III examines the effects of *ERISA*’s preemption power on various aspects of health care liability law and patients’ rights legislation in California. Section IV concludes that states may be able to enact health care liability laws capable of circumventing *ERISA* preemption if certain precautions are taken during the legislative process.

Jennifer Bender*

---

5. *Id.* (quoting *Nachman Corp. v. Pension Benefit Guar. Corp.*, 446 U.S. 359, 375 (1980)).
8. *Id.* at 2496.
11. *Id.* at n. 4.