



## MICRA is a National Issue

In 1975, California was facing a medical professional liability (MPL) crisis of historic proportions. Insurance premiums were skyrocketing in the wake of rising liability payouts, threatening to force healthcare providers to flee the state. In response, Governor Jerry Brown (D) called an emergency session of the legislature to develop a solution that would ensure that access to care did not suffer. That solution was the Medical Insurance Compensation Reform Act (MICRA). MICRA includes the following provisions:

- Unlimited economic damages (i.e. medical expenses, lost wages, etc.)
- \$250,000 cap on subjective non-economic damages
- Sliding fee-scale for attorney fees (to ensure the majority of an award goes to the patient, not the lawyer)
- Collateral source rule reform (to inform juries about other payments received by the patient)
- Statute of limitations reforms (to ensure cases are filed in a timely manner)
- Periodic payment of damages (to ensure patients get funds as they are needed without delay)

The result of this historic legislative agreement has been stable insurance rates, faster resolution of claims, and ongoing access to quality healthcare.

Today, personal injury lawyers are trying to undo the centerpiece of MICRA – the cap on non-economic damages. Hidden behind a “citizen initiative” to require mandatory drug/alcohol testing of healthcare providers and mandate use of a prescription drug monitoring system, is a provision that would increase the cap to nearly \$1.1 million and index it to inflation.

While this initiative targets California and its rather unique ballot initiative system, it should be a concern to MPL reform advocates everywhere. If successful, this scheme will undoubtedly be used to launch initiative and legislative efforts across the country to undo caps that already exist and block caps that states may wish to put in place. Activist judges, who are just looking for an excuse to overturn noneconomic damage caps, will be able to point to California as an example of why only excessively high caps, if any, should be allowed. After all, if the state that led the nation in MPL reforms has rejected reasonable caps, personal injury lawyers will argue, why shouldn't all states do so as well.

MICRA reforms can and do substantially benefit patients and healthcare providers alike. More than 30 years of experience in California is proof and more recent state enactments of similar reforms have shown similar results. If MICRA's cap is undone now, no state caps will be safe in the future.