



## Will MICRA Go National?

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By Eugene Ogrod, MD

California has had the Medical Injury Compensation Reform Act, or MICRA, for over 25 years. I still recall being in practice six months when my carrier left the state, and NORCAL and other doctor-dedicated carriers were formed.

MY PRACTICE BALLOONED in part because many senior PCPs just decided to retire.

With the efforts of the California Medical Association, county societies, state specialty societies and hospital medical staffs, we passed reform in the legislature over stiff opposition of the trial bar. Compared to most of the country, our premiums are now modest. Of course, we have had intense downward pressure on fees that makes these premiums loom large. But imagine a doubling of your premium in one year and you can appreciate our good fortune. Many physicians have entered practice taking these reforms for granted. In fact, the reforms have paid for your CMA membership many times over. Now California is considered a national model.

Over the last two years, the professional liability affordability crisis has spread from state to state. Members of Congress faced unimagined stories of health care access in some states when they went home to talk with constituents. Several states have passed partial reform using elements of the California model. In others, reform has been impossible. This patchwork of reforms will in time create disparities that will affect a state's ability to attract new physicians.

Federal tort reform has long been an AMA effort and dream. The recent passage by the House of reform based on the California model, and the support of President Bush, brings this closer to a reality. There is a major obstacle called the US Senate, which frequently splits along party lines with insufficient votes to overcome various Senate rules.

Democratic leadership in the Senate has tended to view malpractice costs as a problem with insurance carriers and opposes a California-style reform with a \$250,000 cap on such noneconomic damages as pain and suffering. California has no cap on medical care costs or lost income, which are easier to predict and therefore insure. Non-economic damages are at the whim of juries and geographies.

A shining exception in the Senate has been Senator Diane Feinstein, who has proposed a California-style reform. You can help by thanking her for her leadership.

Your California delegation to the AMA is very sensitive to a critical point. In the rush to help other states, a national solution could damage the stability of the California reform. As an example, the cap could be raised to, say, \$1 million.

The impact on California's premiums would be very serious in a state already hit by high overhead costs, managed care restrictions, and looming state budget cuts. When we convene in Chicago in June, I am certain this will be a topic of conversation. In the meantime the CMA leadership have been to Washington DC on multiple occasions to impress our concerns on all who would listen our concerns.

Will the access to affordable insurance in other states finally drive a national solution to tort reform? Stay tuned.

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