

PLUS International Conference November 11, 2003

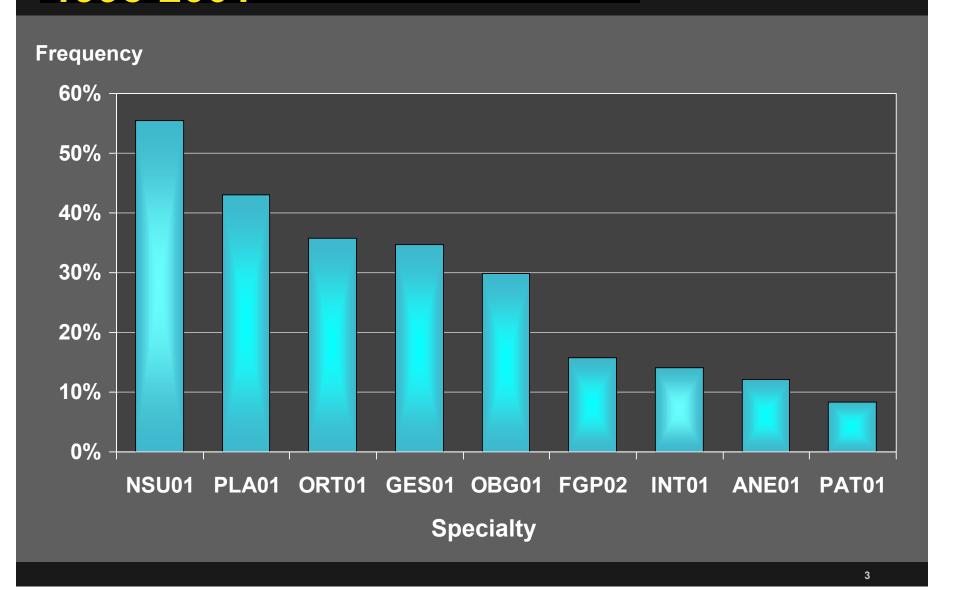
- Richard E. Anderson, M..D.
- Chairman and CEO
- The Doctors Company



Medicine under siege The case for MICRA

Frequency by Specialty 1995-2001





Frequency



Meaning

 On any given day there are more than 125,000 malpractice suits in progress against America's doctors.

Siege Mentality



 Nearly 80% of doctors say they order unnecessary tests and 74% say they make unnecessary referrals to specialists (HHS, 2002).

Siege Mentality Leads to Defensive Medicine



Stanford Study

- States with effective tort reform lower <u>health care</u> costs 5-9%.
- Savings nationally would be \$50 billion.
- HHS estimates savings as high as \$110 billion.





Harvard, IOM, and Patient Safety



Institute of Medicine Study

- 44,000 to 98,000 deaths annually due to malpractice
- Goal: 50% reduction over 5 years

Harvard Study



- NYS 1984
- More than half of cases met screening criteria
- Concordance rate of medical reviewers on existence of an adverse event: 10%
- Failed to replicate their own data
 - 318 records, different events, similar rates
 - It doesn't matter whether we convict the guilty or the innocent, as long as the rate of incarceration matches the crime rate.

Harvard Study



 Extrapolation: 180 inadequately classified deaths became 98,000 Americans dying every year due to malpractice.

Harvard, IOM, and Malpractice Litigation: Final Conclusion



 Harvard Medical Practice Study (1996):
 No correlation whatever between the presence or absence of medical negligence and outcome of malpractice litigation

Randomness and the Fallacy of the Bad Doctor



- 2% of the doctors cause 50% of the losses.
 - Mirror image of causation
 - Harvard: Degree of injury, not medical negligence, predicts outcome.
- Fewer than 1% of physicians have 2 paid claims over a 10-year period of time.
 - Only one in five doctors with a single paid claim gets a second within 10 years.



Tort Reform

MICRA: Context



- California's Litigation Fairness (U.S. Chamber 2003): 44th among the 50 states.
 - Bottom 5 in:
 - Jury predictability
 - Punitive damages
 - Class action lawsuits

MICRA



- 1. Mandates a \$250,000 cap on noneconomic damages
- 2. Allows introduction into evidence of <u>collateral sources</u> of payment.
- 3. Allows <u>periodic payments</u> of future damages.
- 4. Provides for a sliding scale limit on attorneys' <u>contingency fees</u>.

MICRA Helps Reduce California Medical Liability Premium Rates by 40%



The Doctors' Company 1976-2001

\$23,698
adjusted to 2001
dollars

\$7,614
actual premium in
1976

\$14,107

Average Premium 1976* Average Premium 2001

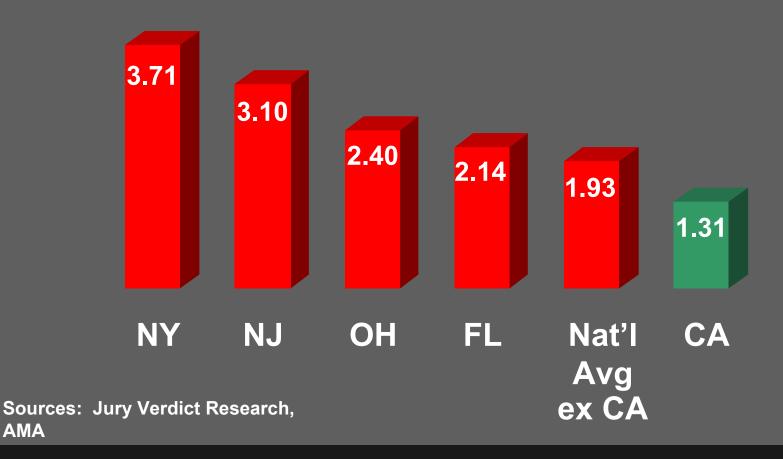
^{* \$7,614} average premium adjusted to 2001 dollars on the Annual Urban CPI Index for a \$1 Million/ \$3 Million Claims-Made Policy Premium

MICRA Reduces Verdict Cost and Frequency

AMA

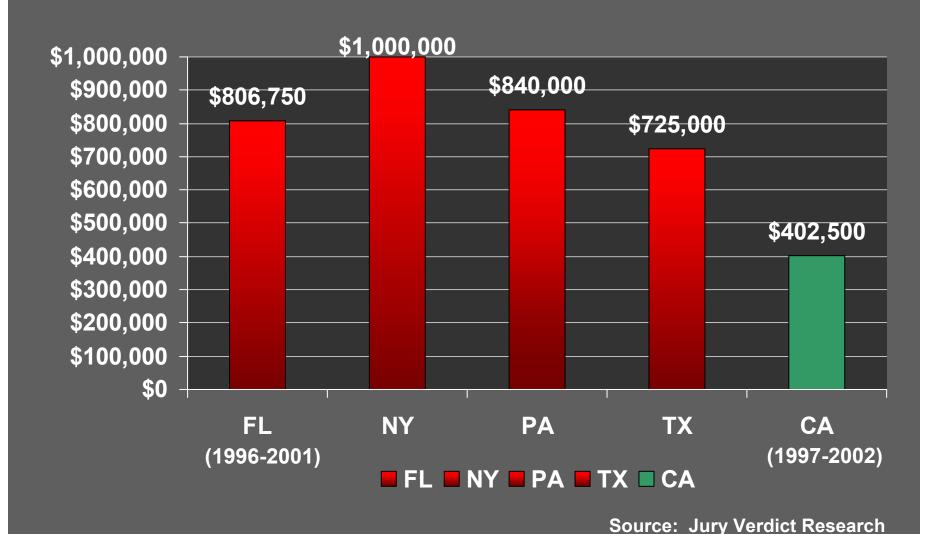


\$1 Million+ Verdicts Per 1,000 Doctors



MICRA: Median Med Mal Jury Awards 1996-2002





MICRA Reduces Average Time THE DOCTORS COMPANY to Settlement



33% Longer 2.4 years

1.8 years

California

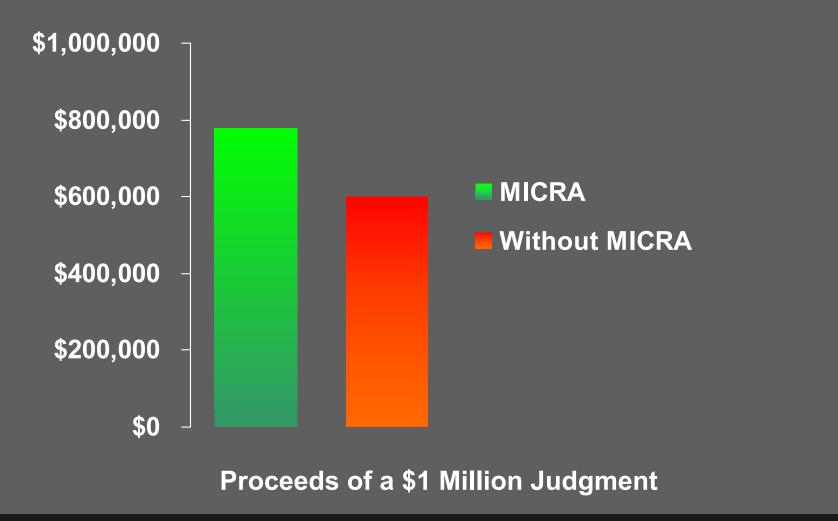
States with No Noneconomic Caps

*Indemnity payments only

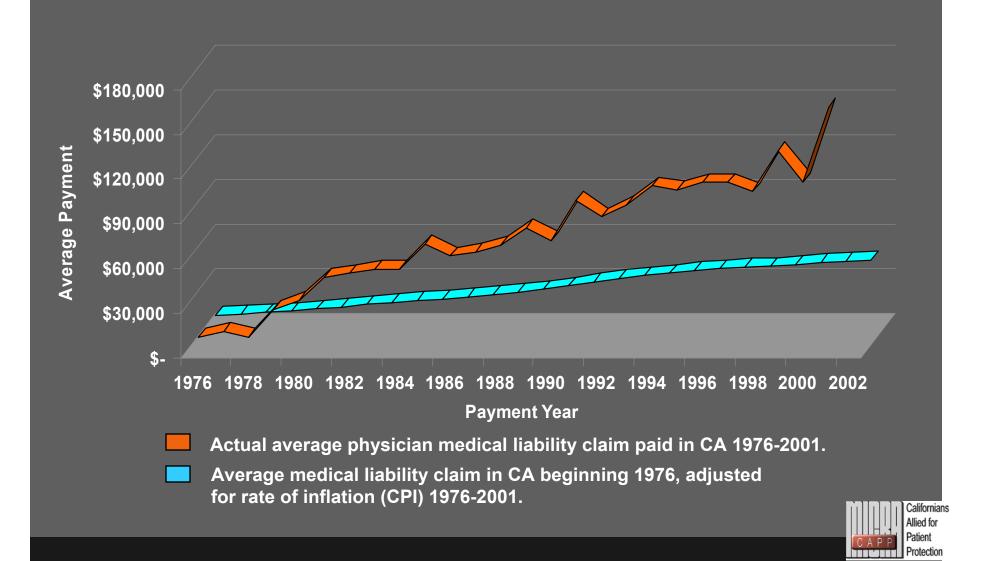
The Doctors' Company, 1997-2001

Injured Patients Benefit Directly





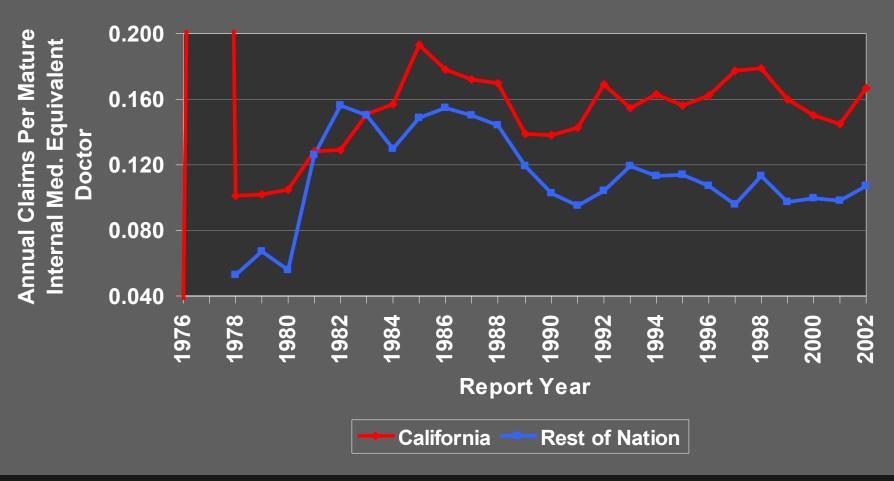
Average Medical Liability Claim in CA vs. Average THEDOCTORSCOMPANY Claim Adjusted for Inflation 1976-2001



MICRA Does Not Limit Access to Courts



TDC PHYSICIAN CLAIM FREQUENCY



Summary



- Malpractice litigation does not reliably identify bad doctors.
- Malpractice litigation is expensive and wasteful.
- Virtually all doctors see themselves (correctly) as potential targets.
- Reasonable remedies are available today.