THE DOCTORS COMPANY

Texas House of Representatives
Civil Practices Committee
February 12, 2003

MICRA: *Real Experience*

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Creation of MICRA

Public/Patient Benefits

The Statutes

Results

Corroboration

Creation of MICRA

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California 1975

- Approx. 75% of all malpractice suits in 20th century to date filed between 1970-1975
- Unprecedented rate increases, followed by withdrawal of commercial insurers
- Response:
  - Physician strikes
  - Marches on the capital
  - Special session of the legislature
- Creation of the physician-owned insurers like The Doctors Company

MICRA: Goals

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Direct Patient Benefits

- Sustainable insurance mechanism providing full indemnification of actual loss.
- Preserves access to medical care without impeding access to courts for truly injured patients.
- More rapid settlements to provide injured patients with compensation sooner.
- The patient keeps more of the award.
- Assures money is available at the time it is needed.
- Society does not incur double costs.

MICRA

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1. *$250,000 cap* on noneconomic damages
2. *Collateral source* rule
3. *Periodic payments* of future damages
4. Sliding scale limit on attorneys' *contingency fees*

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5. Statute of limitations reform
6. *90-day "Notice* of Intent to Sue"
7. Allows *arbitration*

MICRA: *Results*

MICRA Helps Reduce California Medical Liability Premium Rates by 40%

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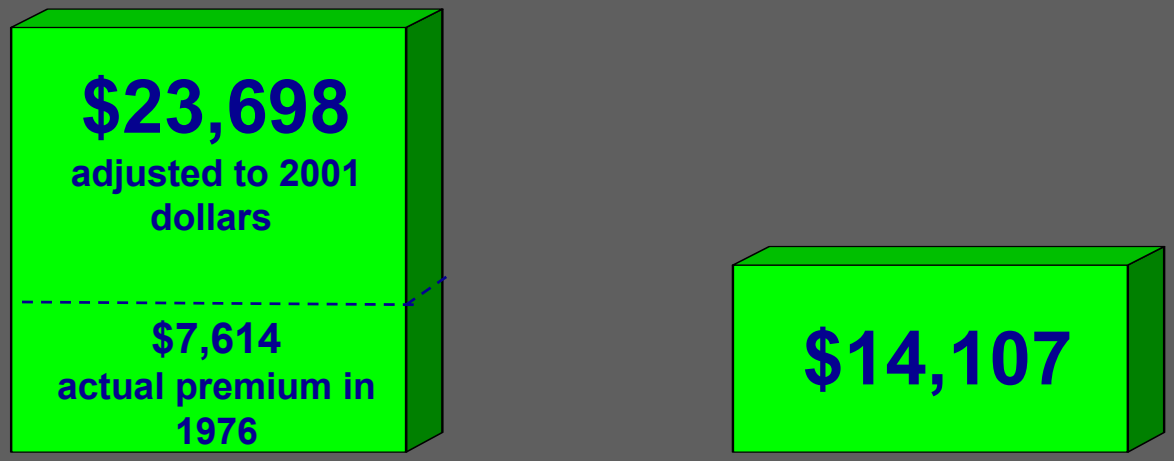
The Doctors' Company 1976-2001



* $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 Average Time to Settlement

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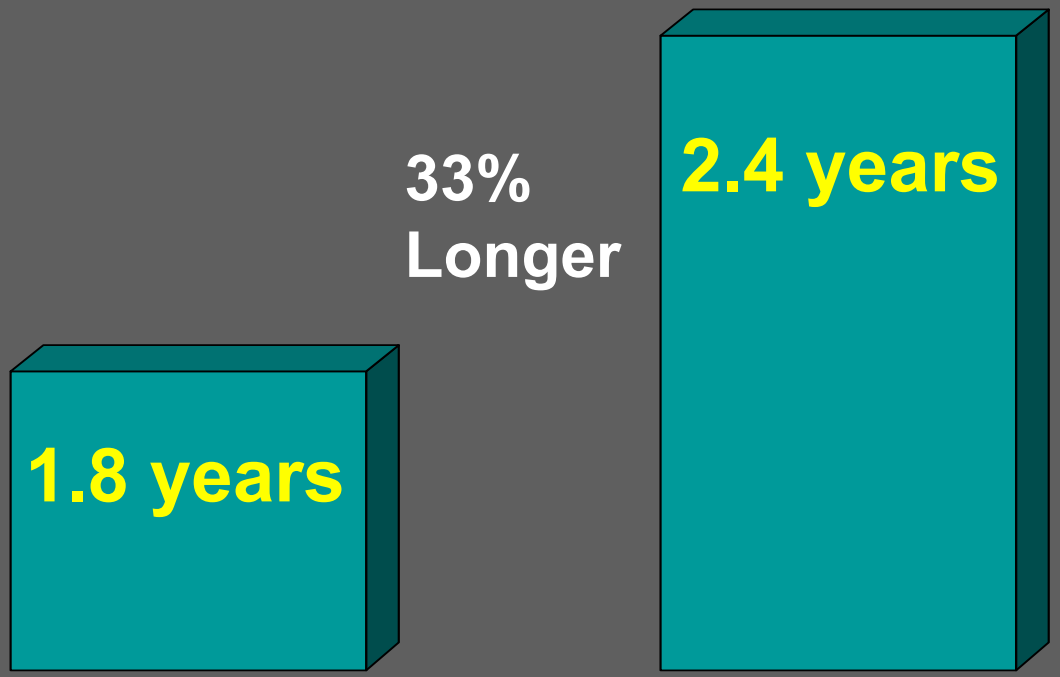

*Indemnity payments only

The Doctors' Company, 1997-2001

Injured Patients Benefit Directly

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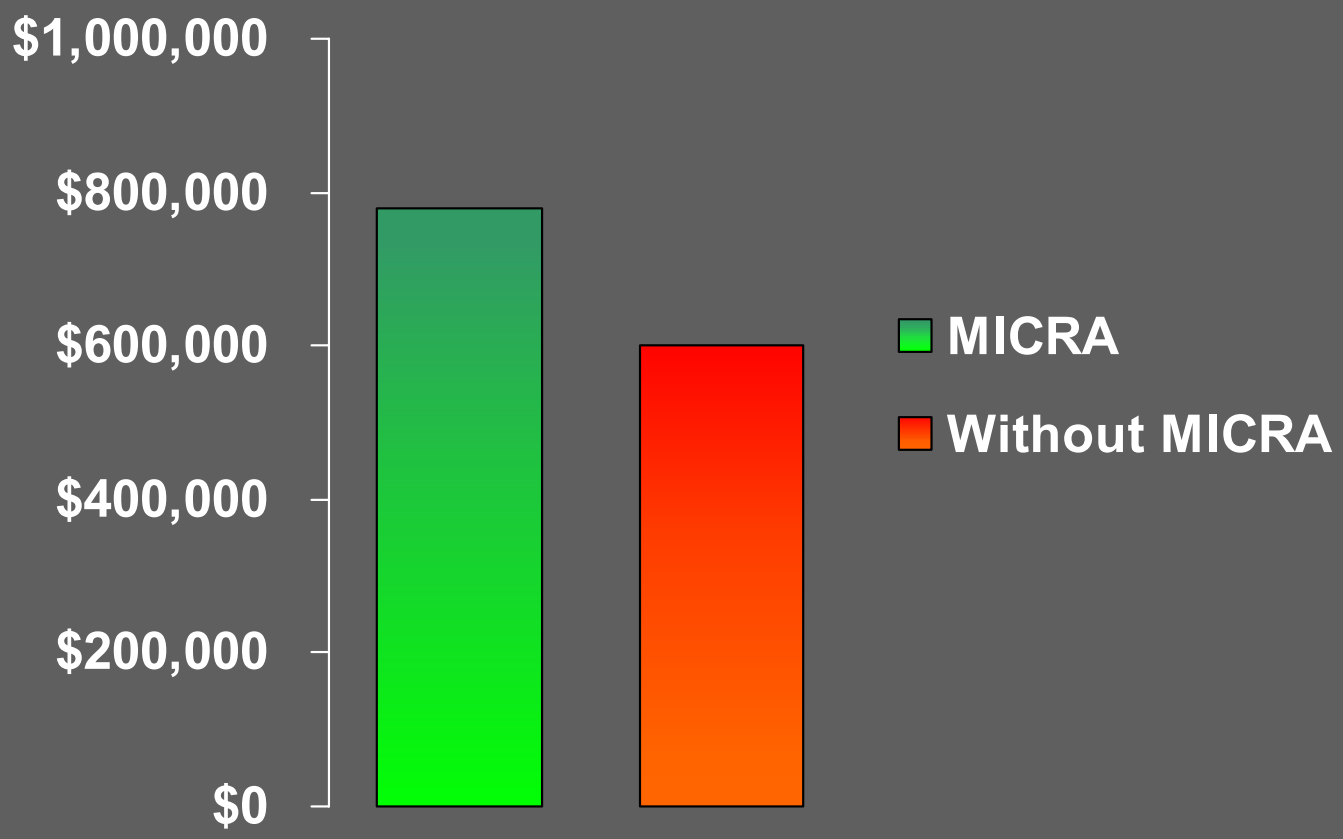

Average Medical Liability Claim in CA vs. Average Claim Adjusted for Inflation 1976-2001

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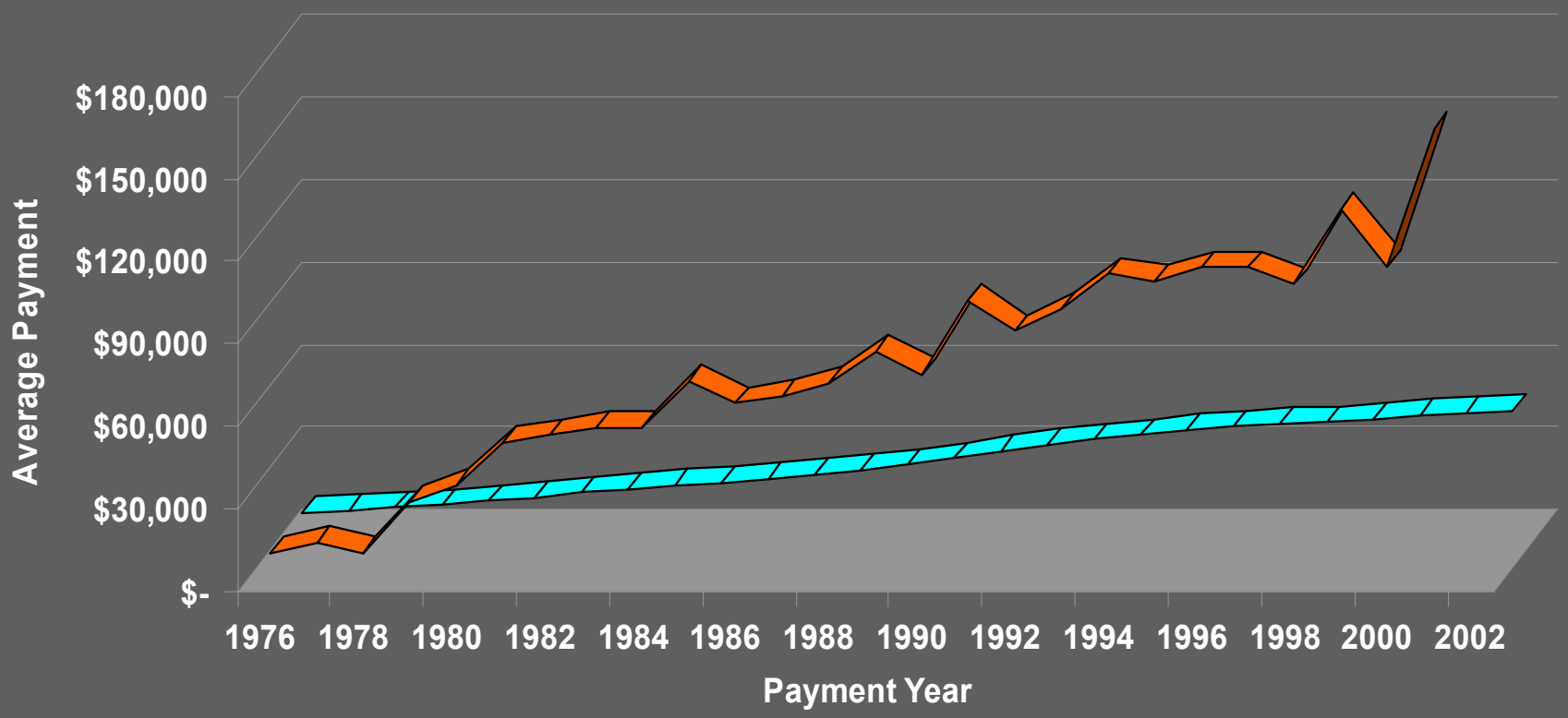

Actual average physician medical liability claim paid in CA 1976-2001.

Average medical liability claim in CA beginning 1976, adjusted for rate of inflation (CPI) 1976-2001.

MICRA CAPP Californians Allied for Patient Protection

Increasing Cost of Malpractice Claims Despite MICRA

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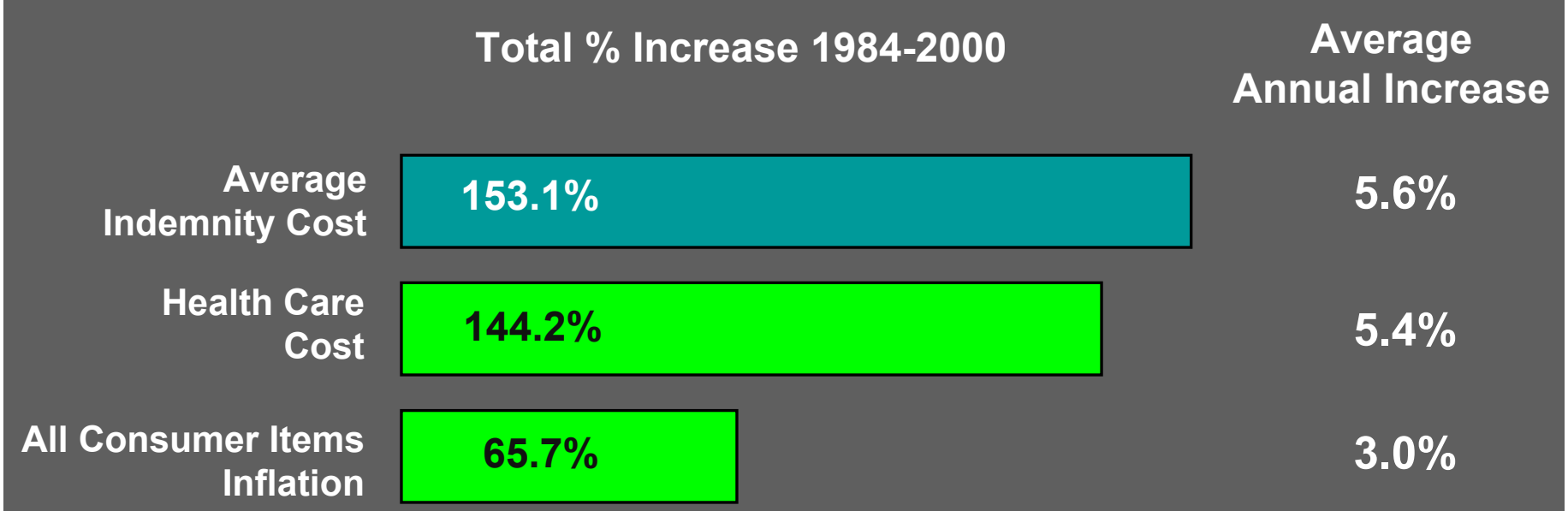

US Cities CPI vs. TDC California Allocated Claims Closed with Indemnity

MICRA Does Not Limit Access to Courts

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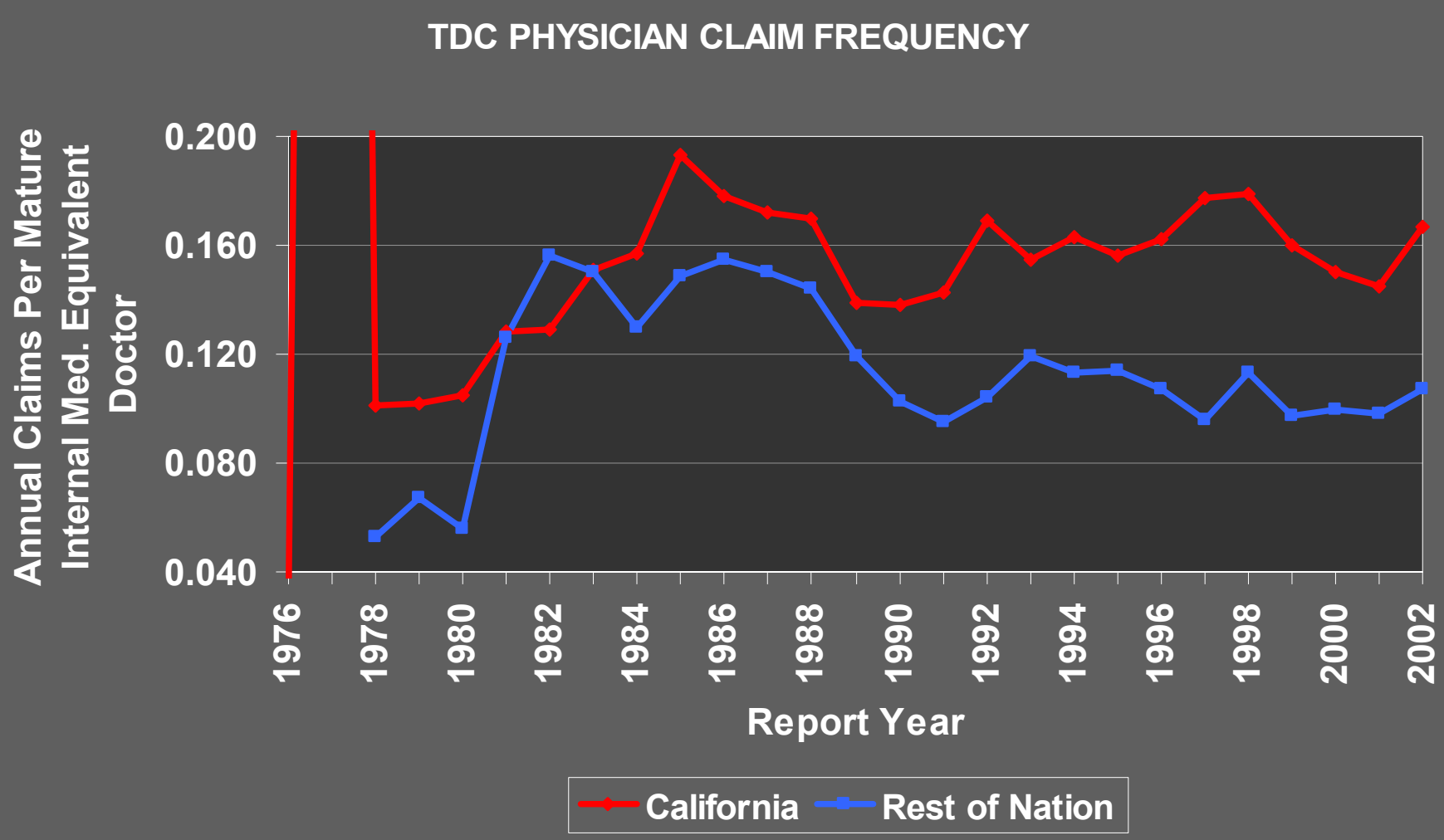

Savings from MICRA Reforms

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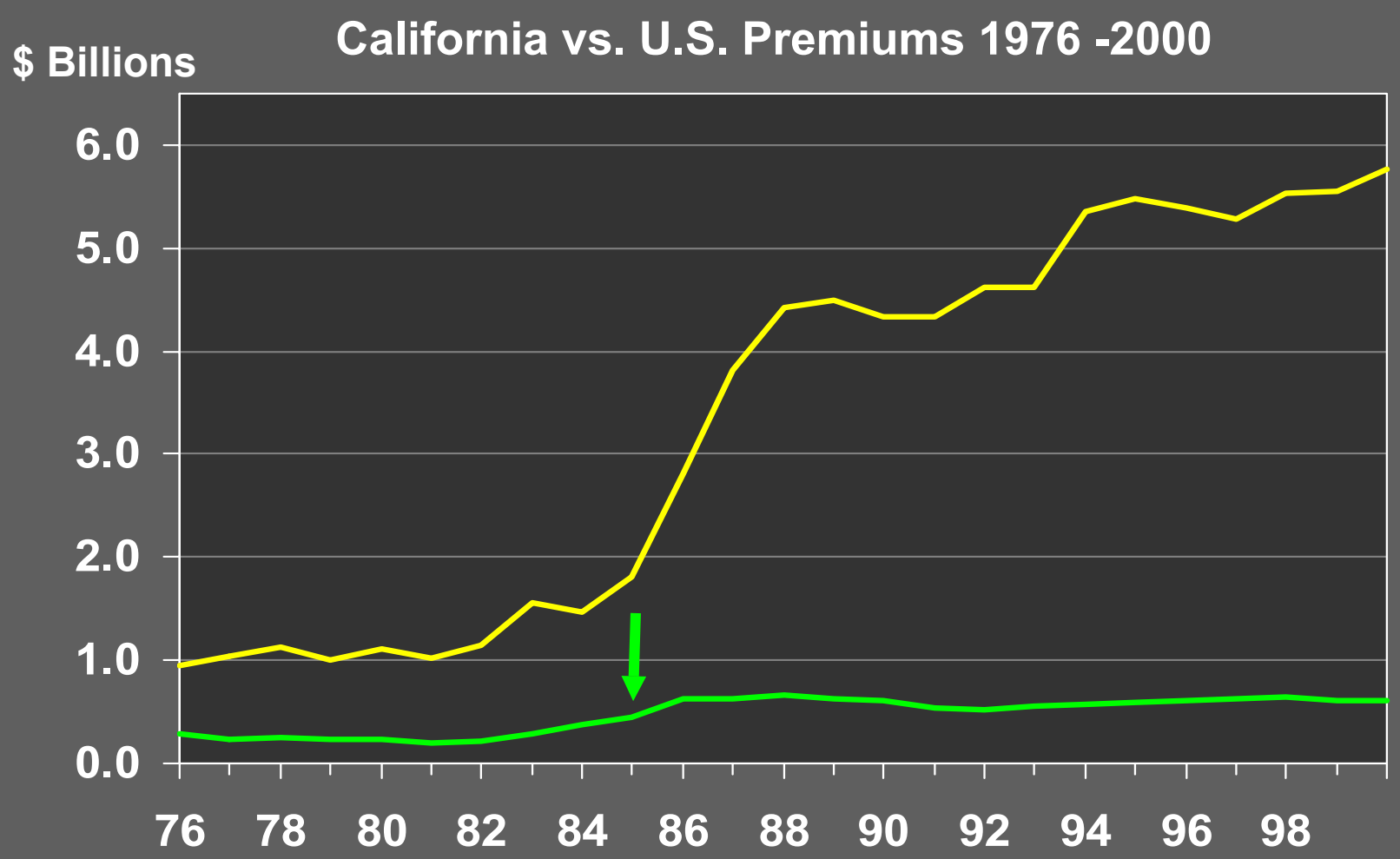

Source: NAIC Profitability By Line By State

Oregon and the Loss of Tort Reform

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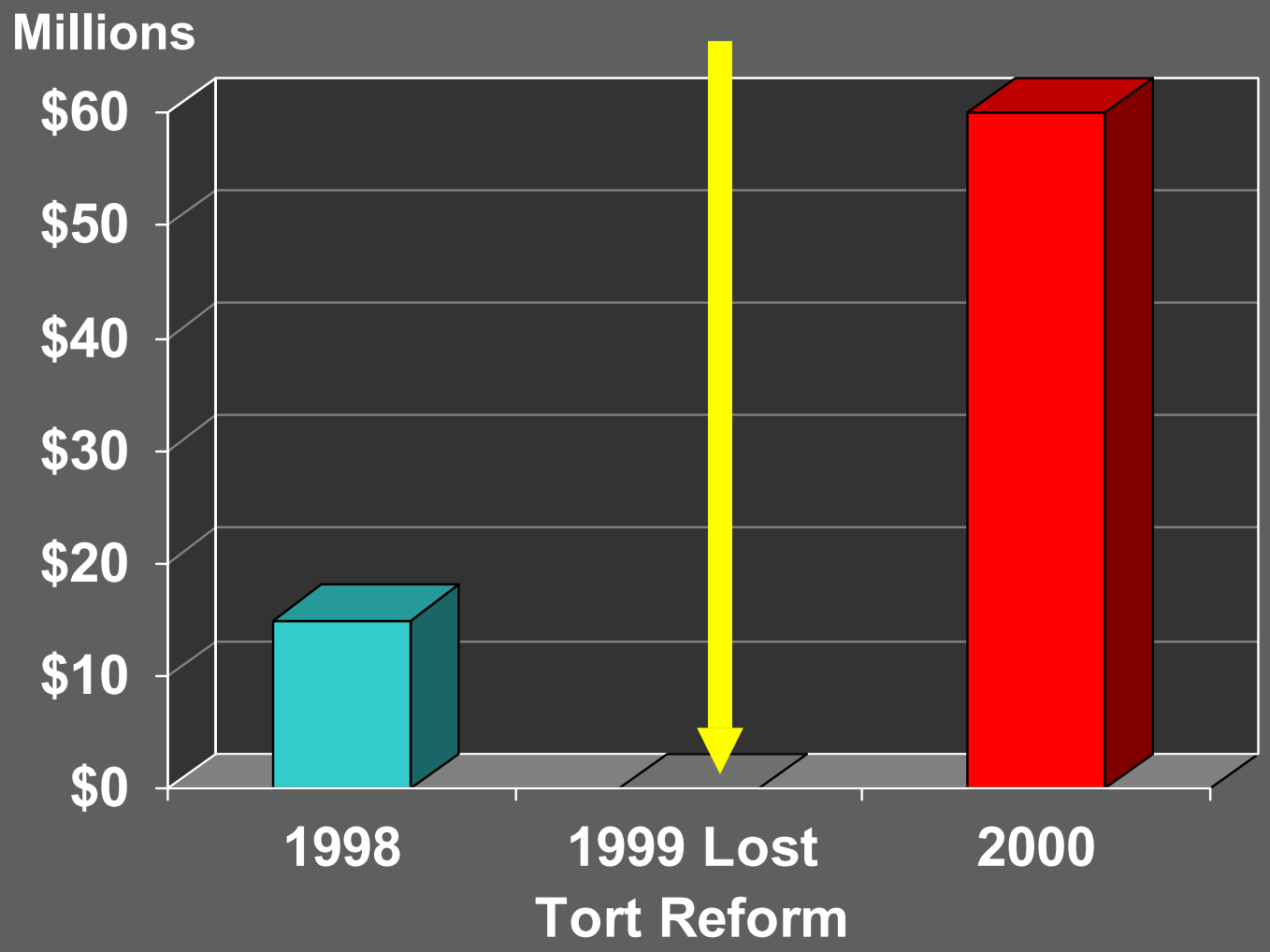

Oregon: Loss of Tort Reform

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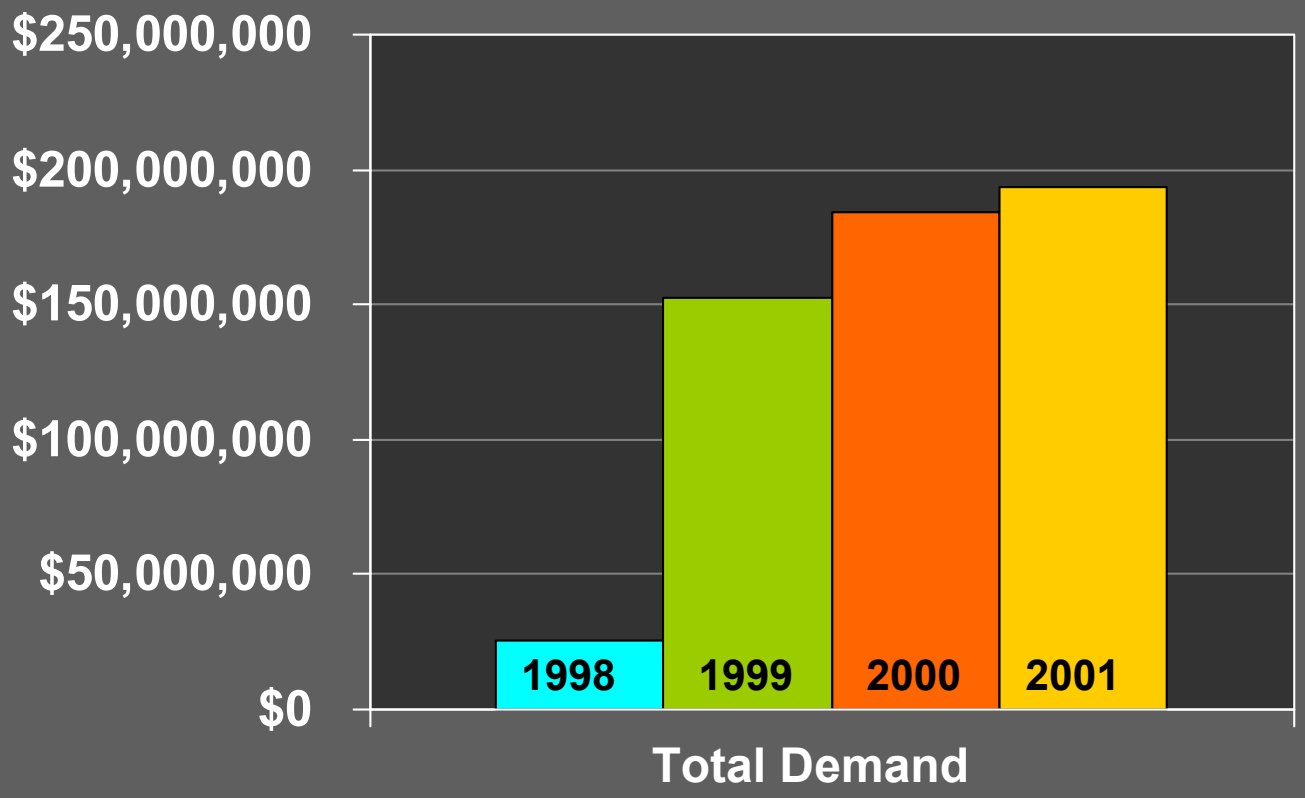
Total Plaintiff's Demand in Settled Cases



Stanford Study: The Cost of Defensive Medicine

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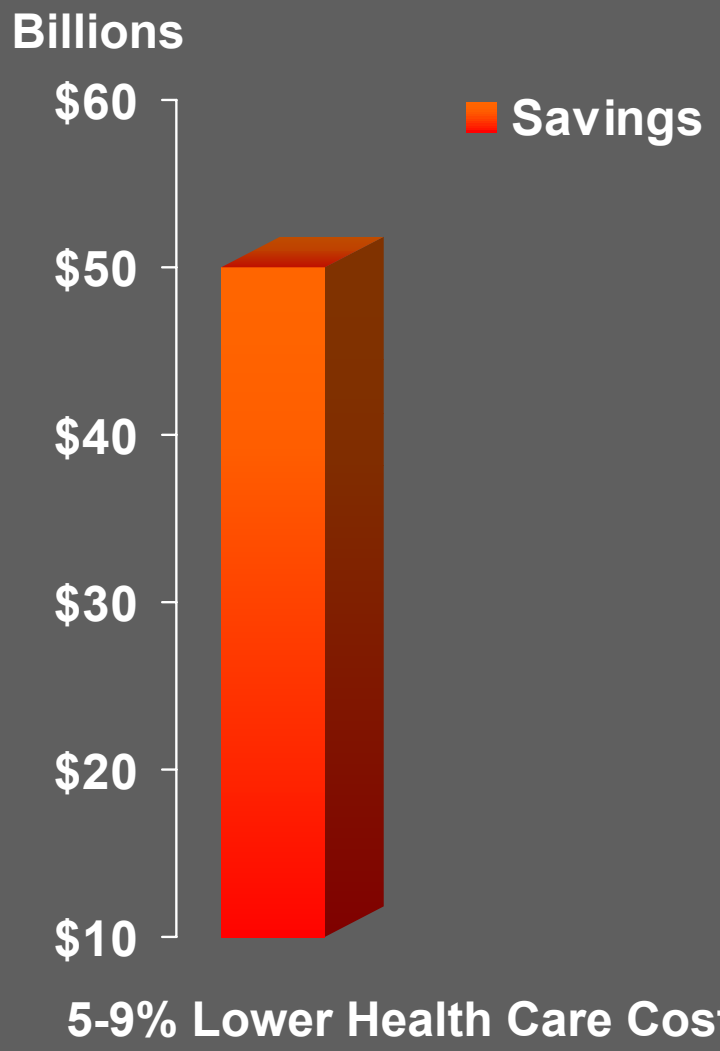
States with effective tort reform lower *health care* costs 5-9%.

Savings nationally would be $50 billion.

HHS: up to $110 billion



California vs. Texas
1998-2002 Average Rate by Specialty

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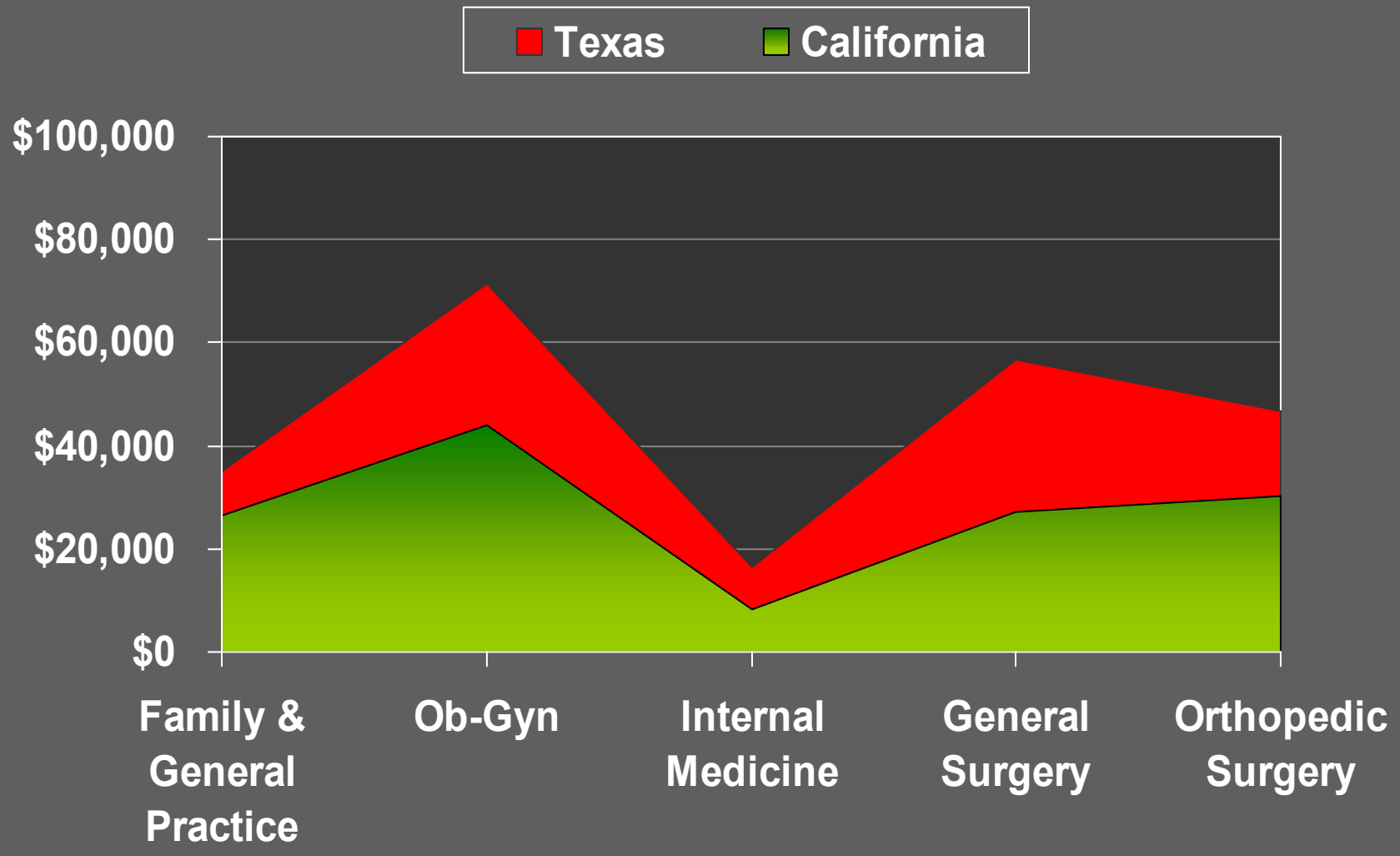

California vs. Texas
2002 Average Rate by Specialty

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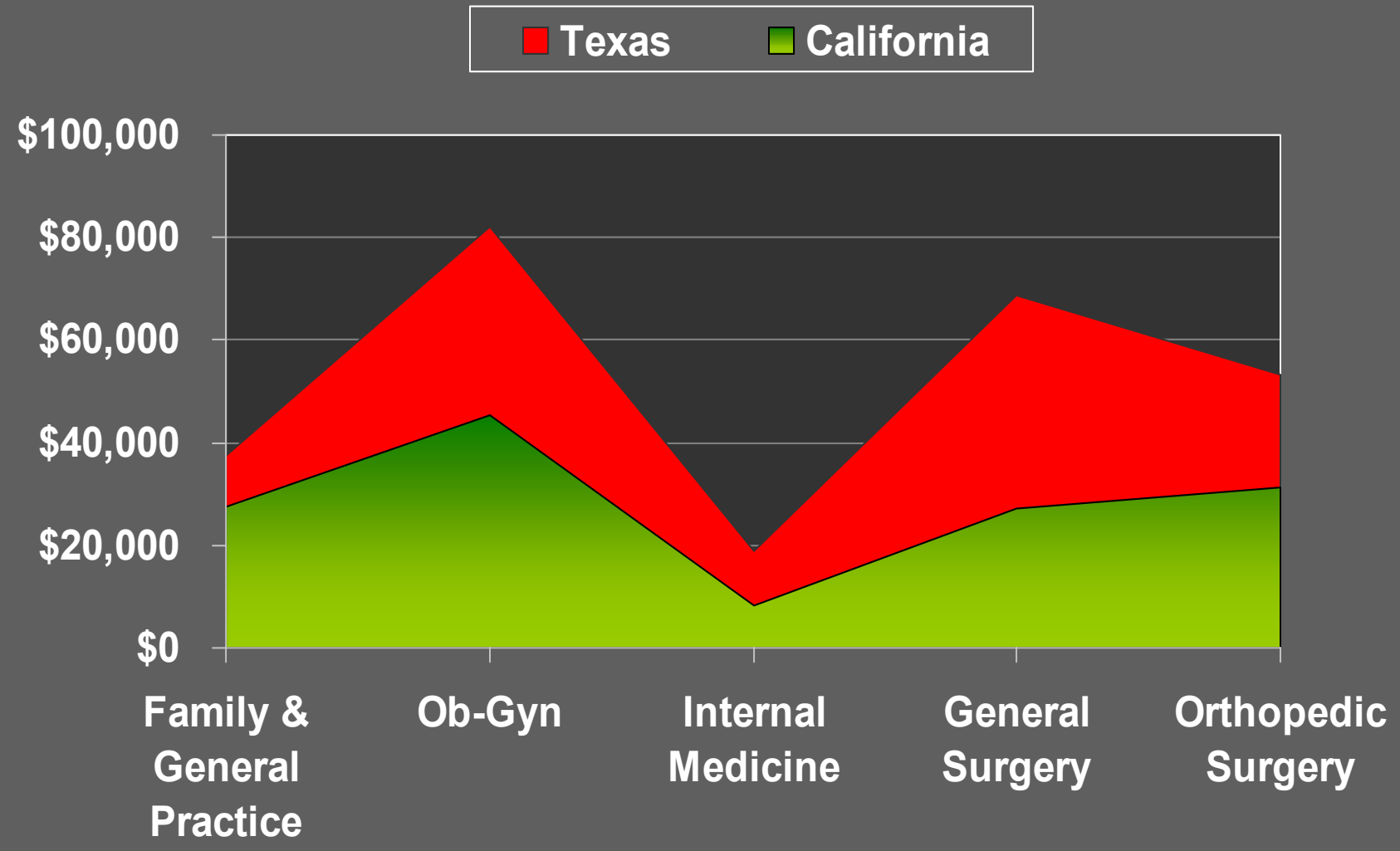

Implications of a $268,000,000 Verdict

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- You cannot afford to go to court.
- Cost of settlement rises dramatically.
- System of indemnification unsustainable.

Implications of a $268,000,000 Verdict

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- *If society wishes to have unlimited judgments, then insurance companies will be required to charge unlimited premiums. Unlimited medical malpractice premiums mean unlimited increases in the cost of healthcare. Unlimited increases in the cost of healthcare means decreased access to healthcare. Limitations of access inevitably affect the most vulnerable members of our society.*

Corroboration

MICRA Works

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- Congressional Budget Office
  - 25-30% reduction in premiums
- National Association of Insurance Commissioners
- American Academy of Actuaries
  - $250,000 cap
  - Comprehensive set of reforms

MICRA Works

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- Florida Governor's Select Task Force
  - "The primary cause of increased medical malpractice premiums has been the substantial increase in loss payments…"
  - $250,000 cap
    - "…will bring relief to this current crisis"
    - "Without the inclusion of a cap on potential awards of non-economic damages in a legislative package, no legislative reform plan can be successful in achieving the goal of controlling increases in healthcare costs, and thereby promoting improved access to healthcare"

MICRA Works

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- "…there is no other alternative remedy that will immediately alleviate Florida's crisis…"
- "…a cap of $250,000 per incident will lead to significantly lower malpractice premiums."

Summary

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- We know, we do not speculate that MICRA is effective
  - in providing sustainable insurance rates
  - in preserving access to medical care
  - In providing full indemnification of injured patients.
- We know unlimited judgments require unlimited premiums which lead to unlimited increases in the cost of healthcare and decreased access by the most vulnerable among us.

Summary

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- We know
  - “There is an overpowering public necessity for the reform measures recommended in this report, and no alternative method of meeting such public necessity can be shown.” (p. 217)