

Defining Effective Medical-Legal Reform ATRA 2003

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- Chairman, The Doctors Company
- November 18, 2003

- The case for MICRA
- Results from the front, 2003

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 ONLY.
- 2. Allows introduction into evidence of collateral sources of payment.
- 3. Allows periodic payments of future damages.
- 4. Provides for a sliding scale limit on attorneys' contingency fees.

- 5. Provides for a shorter statute of limitations.
- 6. Requires a 90-day “Notice of Intent to Sue.”
- 7. Encourages and facilitates arbitration.

Goals and Benefits

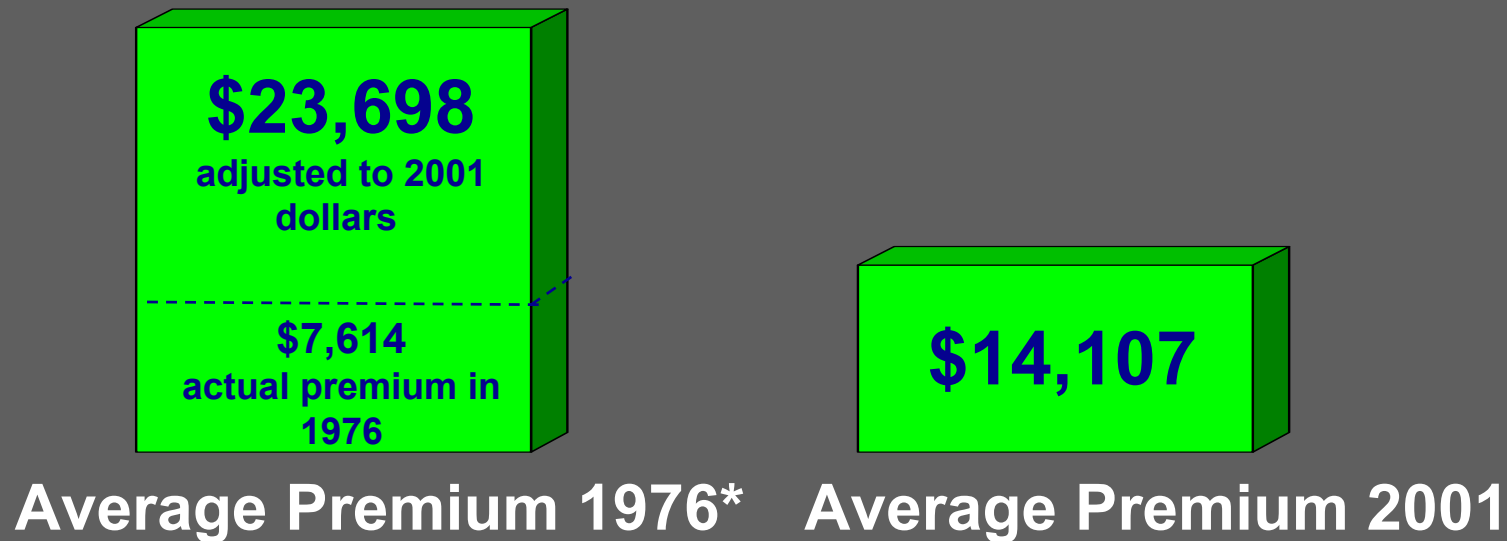


- **Sustainable** insurance system providing full indemnification of actual loss.
- **More** money for injured patients.
- **Faster** settlements.
- Preserves **access** to medical care without impeding access to courts for truly injured patients.
- Society does not incur **double** costs.
- **Assures** money is available at the time it is needed.

MICRA Helps Reduce California Medical Liability Premium Rates by 40%

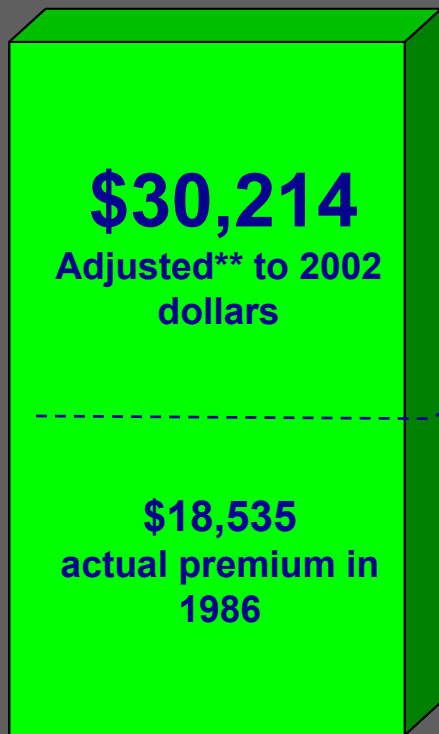


The Doctors' Company 1976-2001

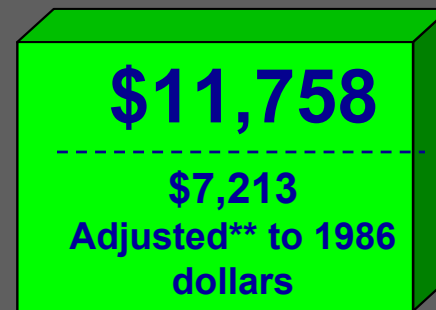


* \$7,614 average premium adjusted to 2001 dollars on the Annual Urban CPI Index for a \$1 Million/ \$3 Million Claims-Made Policy Premium

Tort Reform Helps Reduce Colorado Medical Liability Premium Rates by 61%



The Doctors' Company 1986-2002



Average Premium 1986**

Average Premium 2002

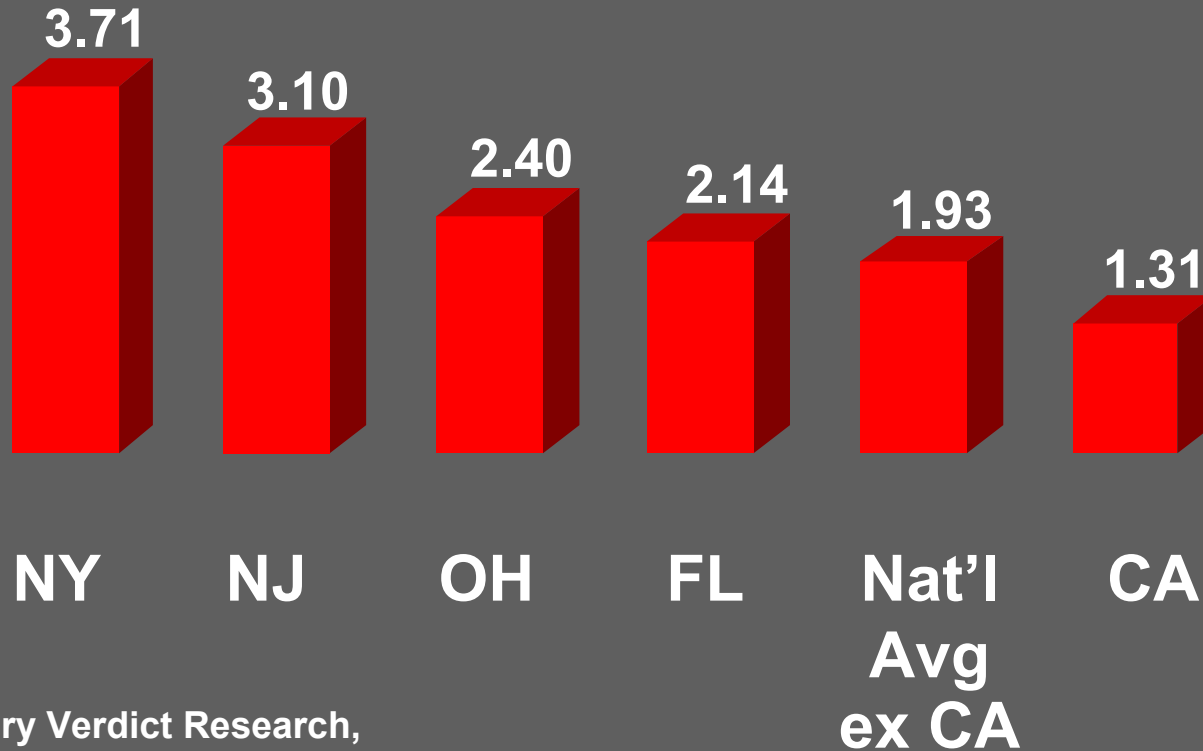
*The Doctors Company's average of all specialties including dividends for a \$1 Million/\$3 Million Mature Claims-Made Policy.

**Premium adjustments are made using the Annual Urban Price Index published by the Bureau of Labor Statistics.

MICRA Reduces Verdict Cost and Frequency

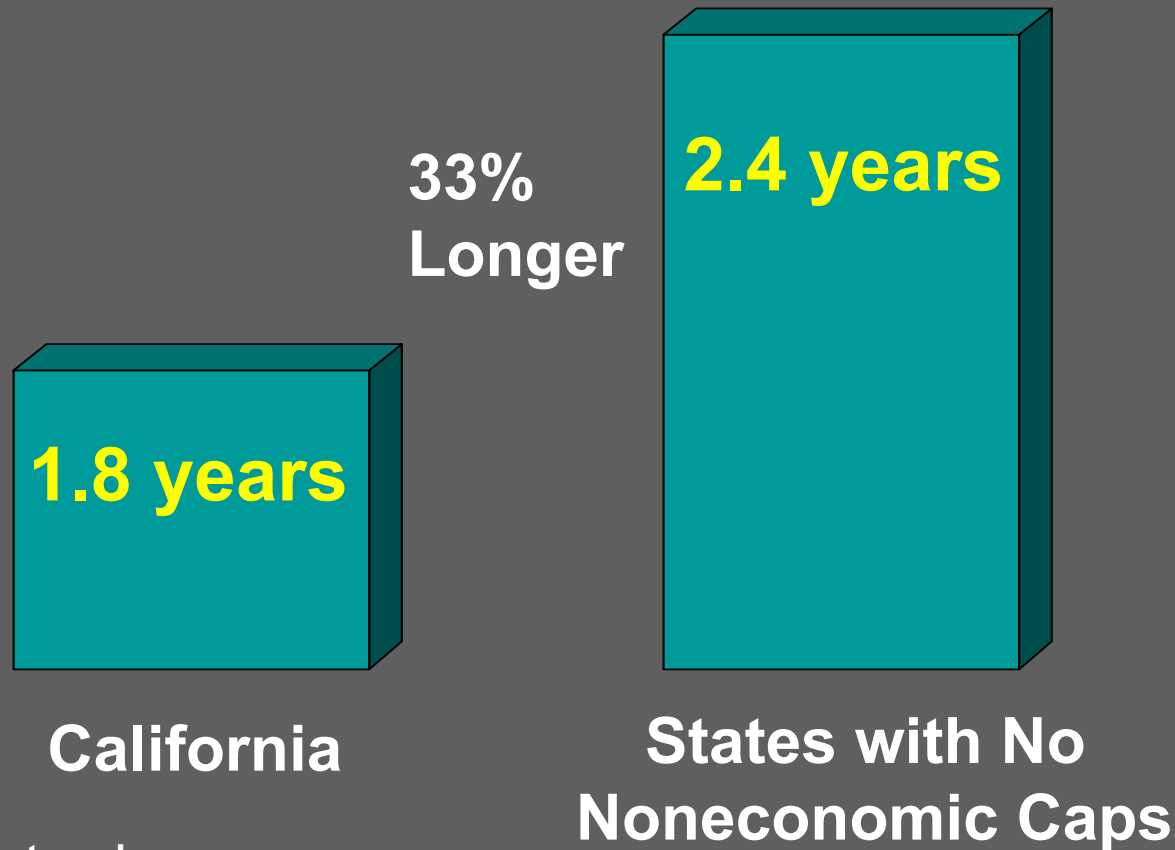


\$1 Million+ Verdicts Per 1,000 Doctors



Sources: Jury Verdict Research,
AMA

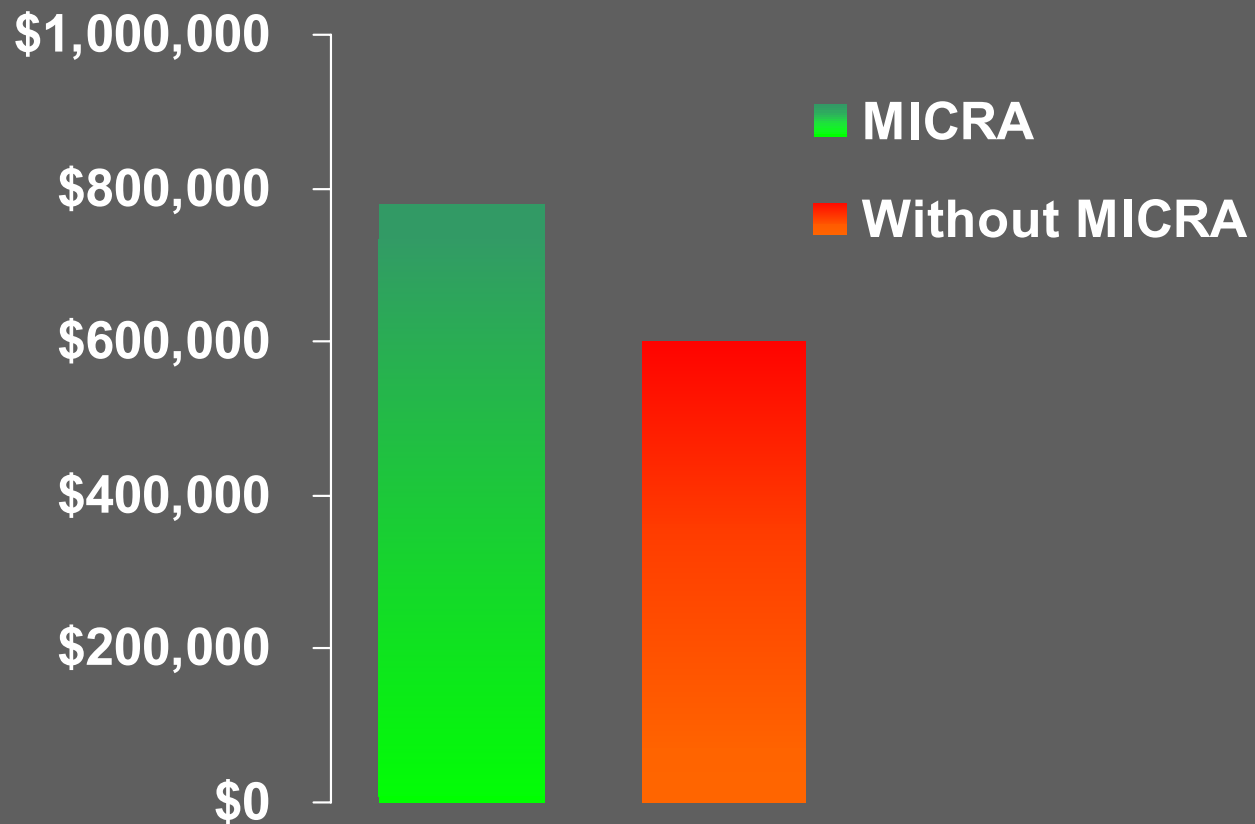
MICRA Reduces Average Time to Settlement



*Indemnity payments only

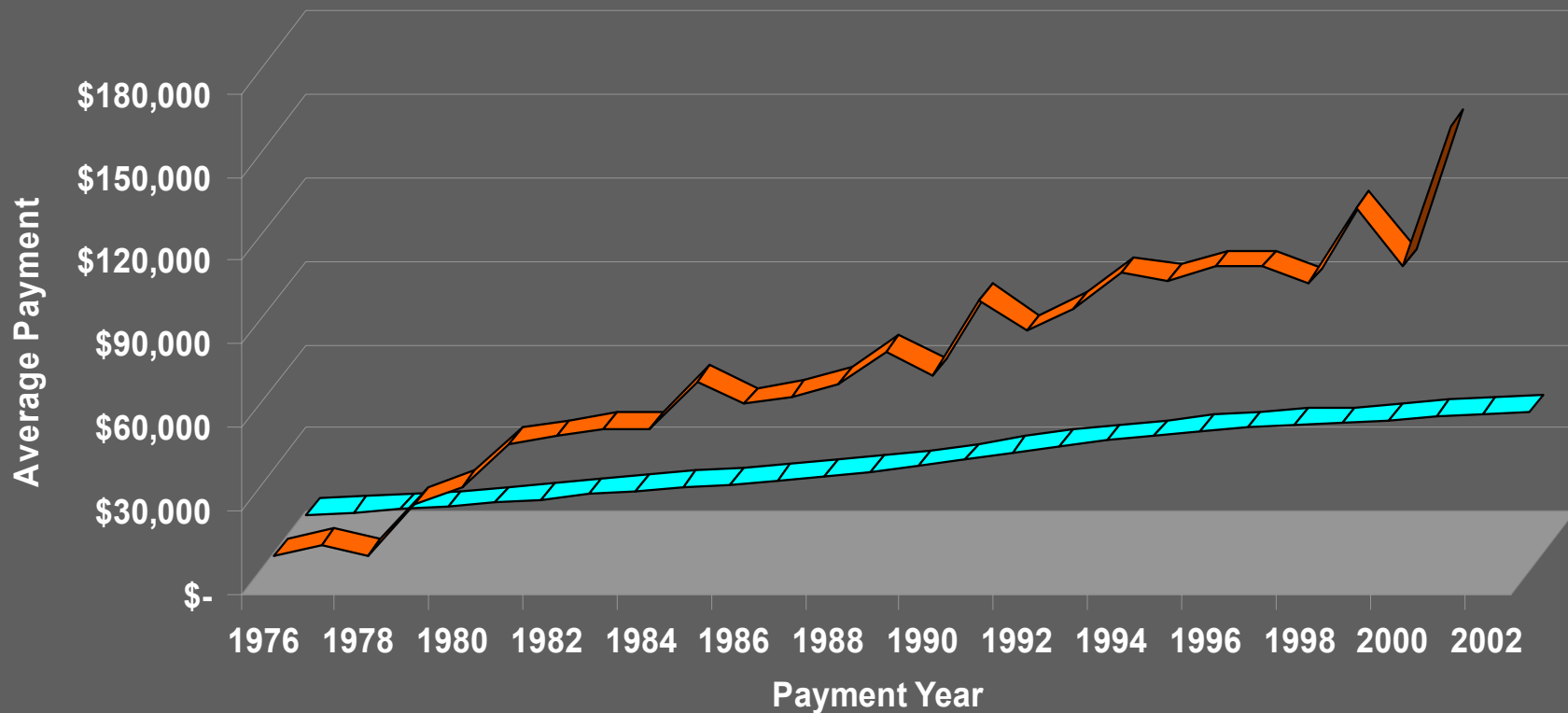
The Doctors' Company, 1997-2001

Injured Patients Benefit Directly



Proceeds of a \$1 million judgment

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



- 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.

Increasing Cost of Malpractice Claims Despite MICRA



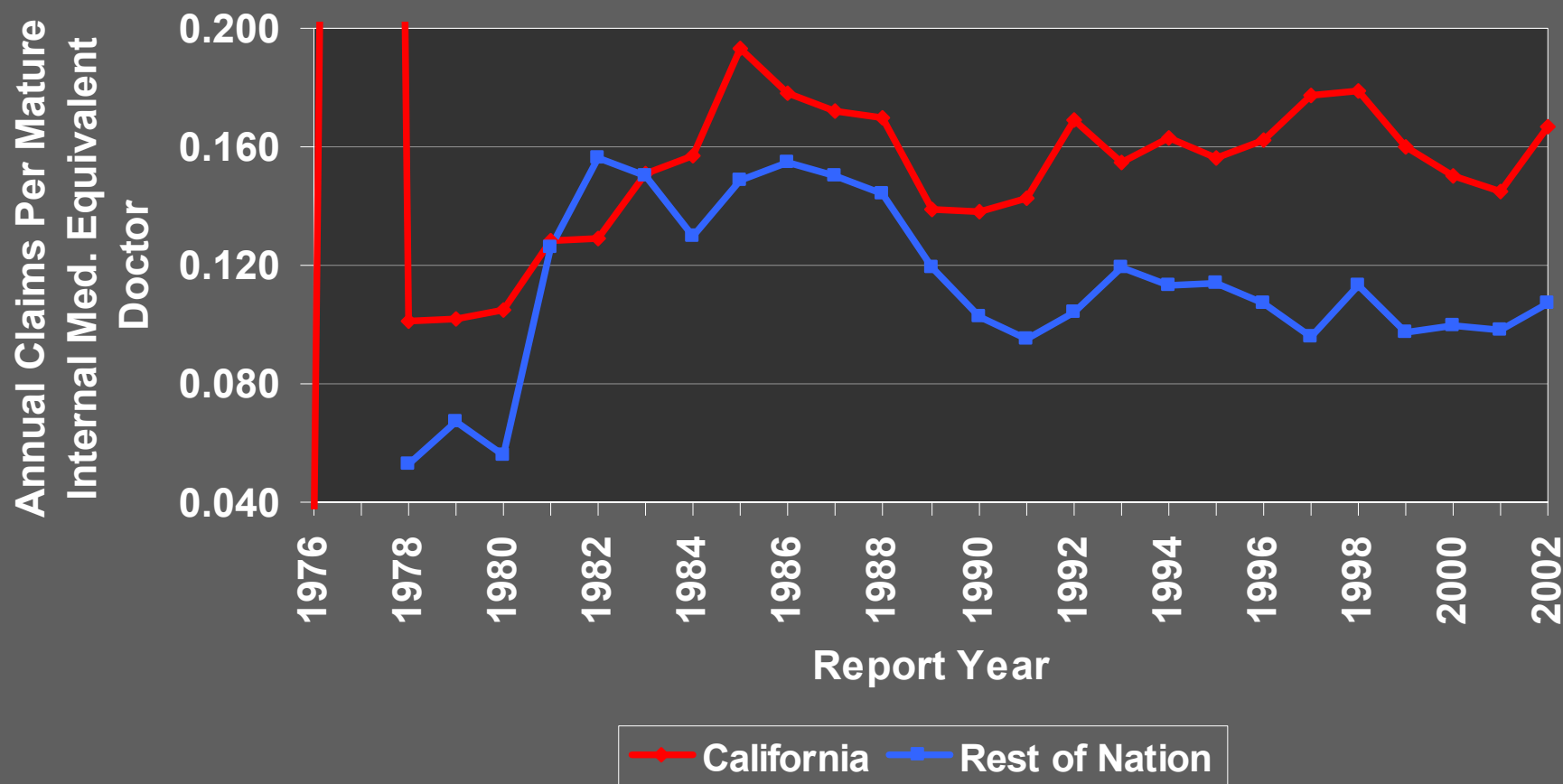
	Total % Increase 1984-2000	Average Annual Increase
Average Indemnity Cost	153.1%	5.6%
Health Care Cost	144.2%	5.4%
All Consumer Items Inflation	65.7%	3.0%

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

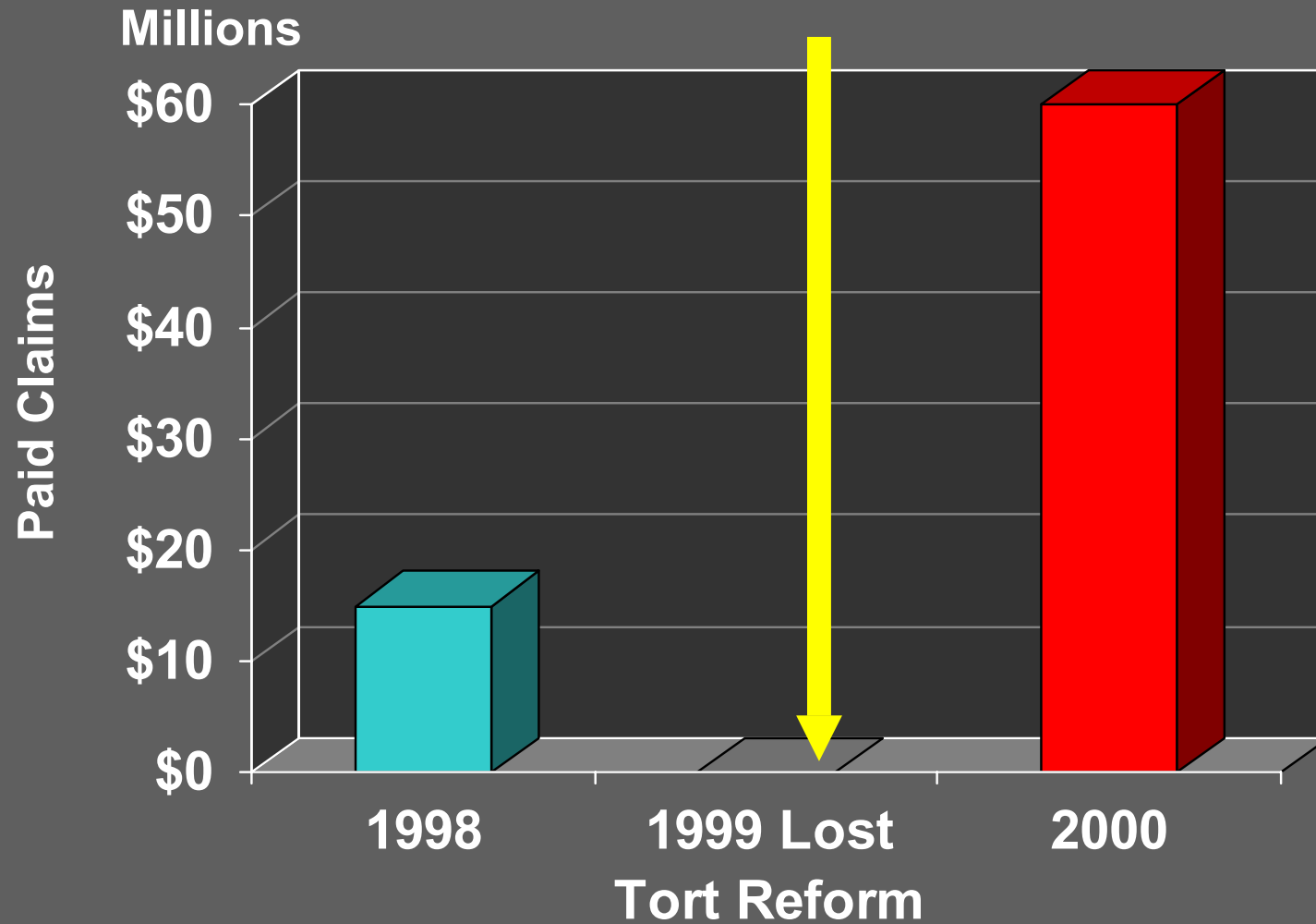
MICRA Does Not Limit Access to Courts



TDC PHYSICIAN CLAIM FREQUENCY



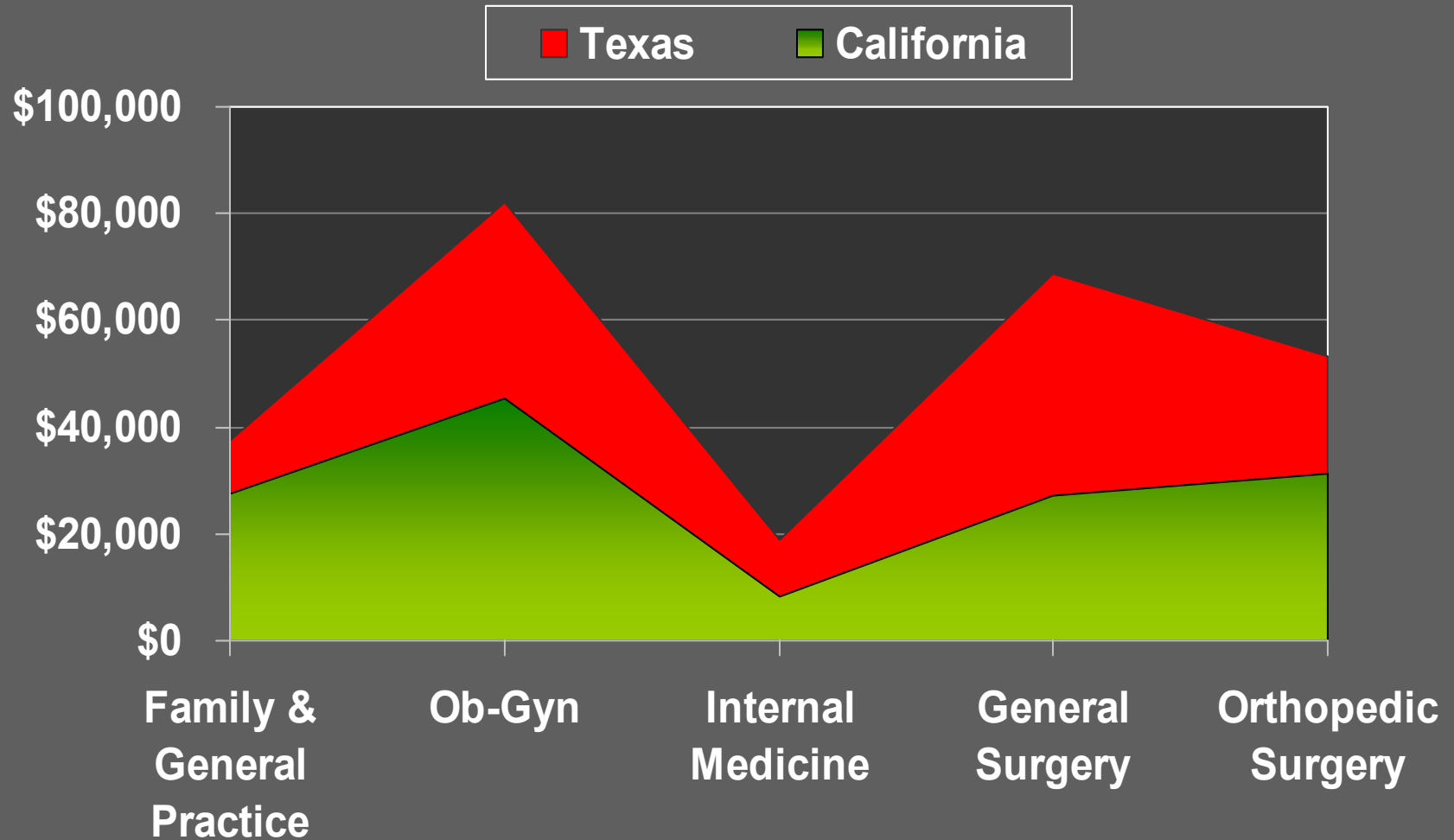
Oregon and the Loss of Tort Reform



California vs. Texas: The Tort Tax



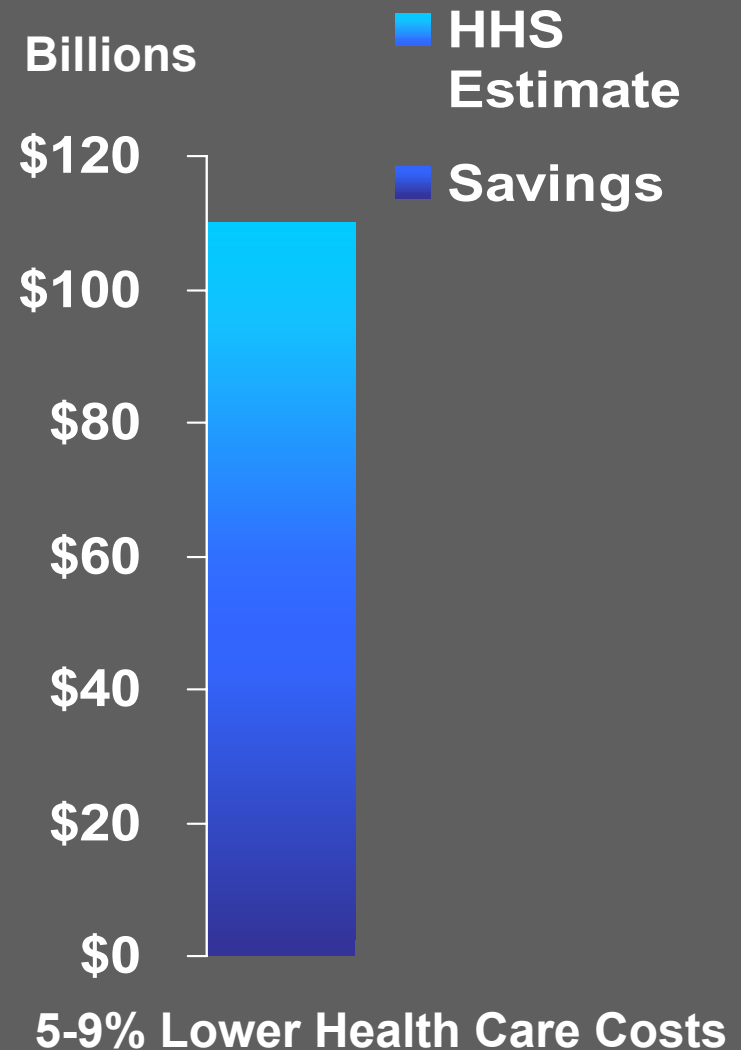
2002 Average Rate by Specialty



Stanford Study: The Cost of Defensive Medicine



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



Florida Select Commission



- Four definitive conclusions about Florida crisis and a **\$250,000** no exceptions cap:
 - Malpractice crisis due to the increased cost of claims
 - Will lower cost of malpractice insurance
 - Will increase access to care
 - No other effective remedy

The Struggle in 2003



- Florida vs. Texas
 - Florida
 - Noneconomic Damages Cap
 - \$500,000 cap for each physician
 - \$750,000 cap for institutions
 - Exceptions to \$4 million
 - \$150,000 cap for physicians in emergency rooms (x2)
 - Increased insurance company regulation
 - Some expert witness reform
 - Several liability only

The Struggle in 2003



- Texas
 - \$250,000 no exceptions cap for physicians
 - \$500,000 cap for institutions
 - Periodic payments above \$100,000
 - Clear and convincing standard for emergency care
 - Limited liability for charity care
 - Expert witness reform

Summary



- Effective reforms are effective.
 - 70% of Americans favor caps on non-economic damages.
- Placebos don't work
- This is an access-to-care issue, though it is certainly nice that truth and justice are on our side.
- Final legislative victory will come only with “boots on the ground” - in this case, physicians and patients.