

# 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): 44<sup>th</sup> 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

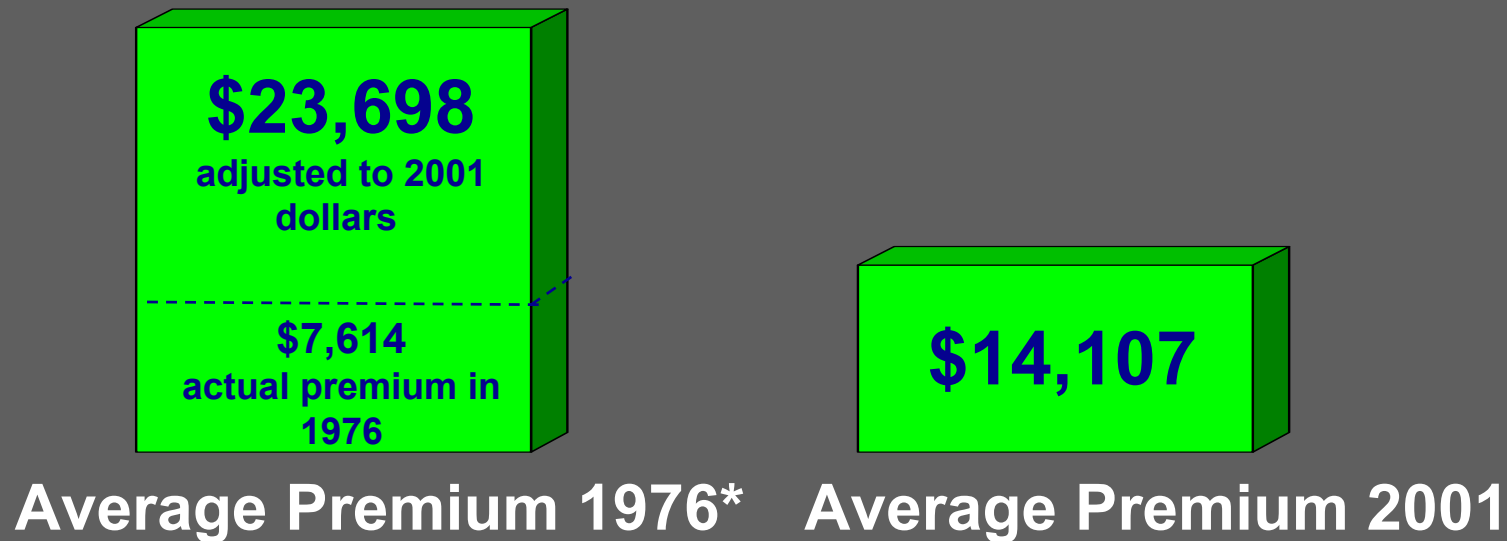


- **Sustainable** insurance system providing full indemnification of actual loss.
- **More** money for injured patients.
- **Faster** settlements.
- Preserves **access** to medical care without impeding access to courts for truly injured patients.
- Society does not incur **double** costs.
- **Assures**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

# MICRA Helps Reduce California Medical Liability Premium Rates by 40%

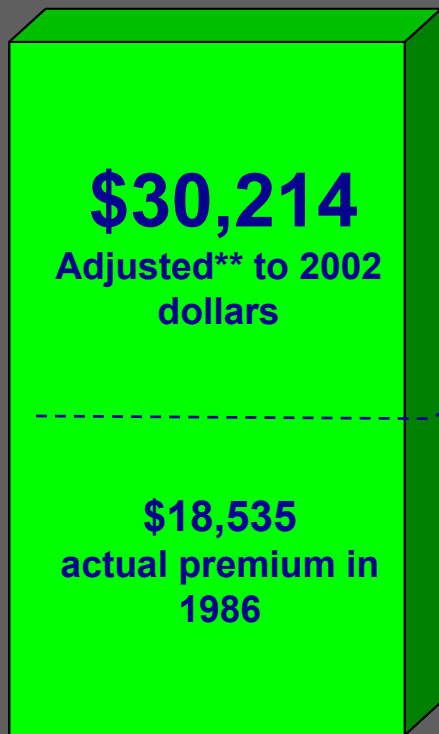


## The Doctors' Company 1976-2001

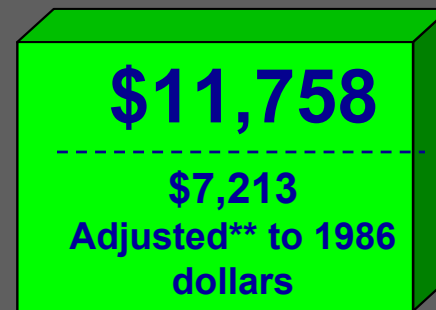


\* \$7,614 average premium adjusted to 2001 dollars on the Annual Urban CPI Index for a \$1 Million/ \$3 Million Claims-Made Policy Premium

# 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.

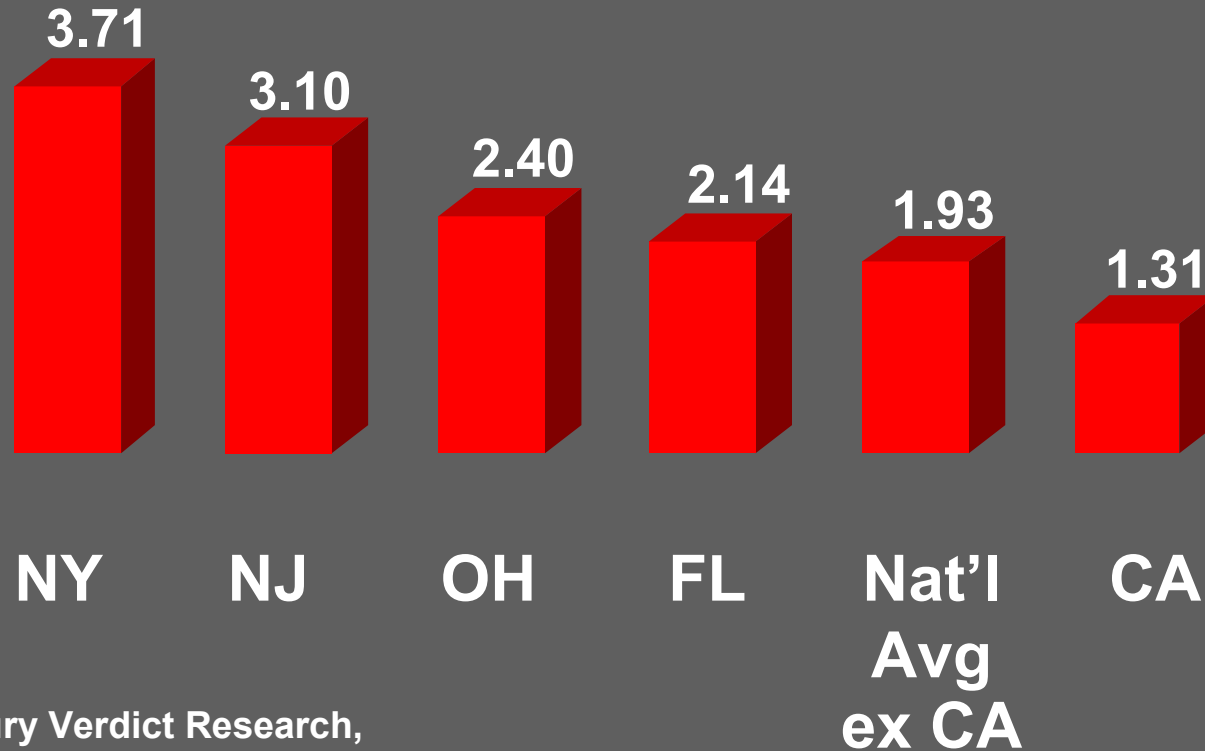
\*\*Premium adjustments are made using the Annual Urban Price Index published by the Bureau of Labor Statistics.



# MICRA Reduces Verdict Cost and Frequency

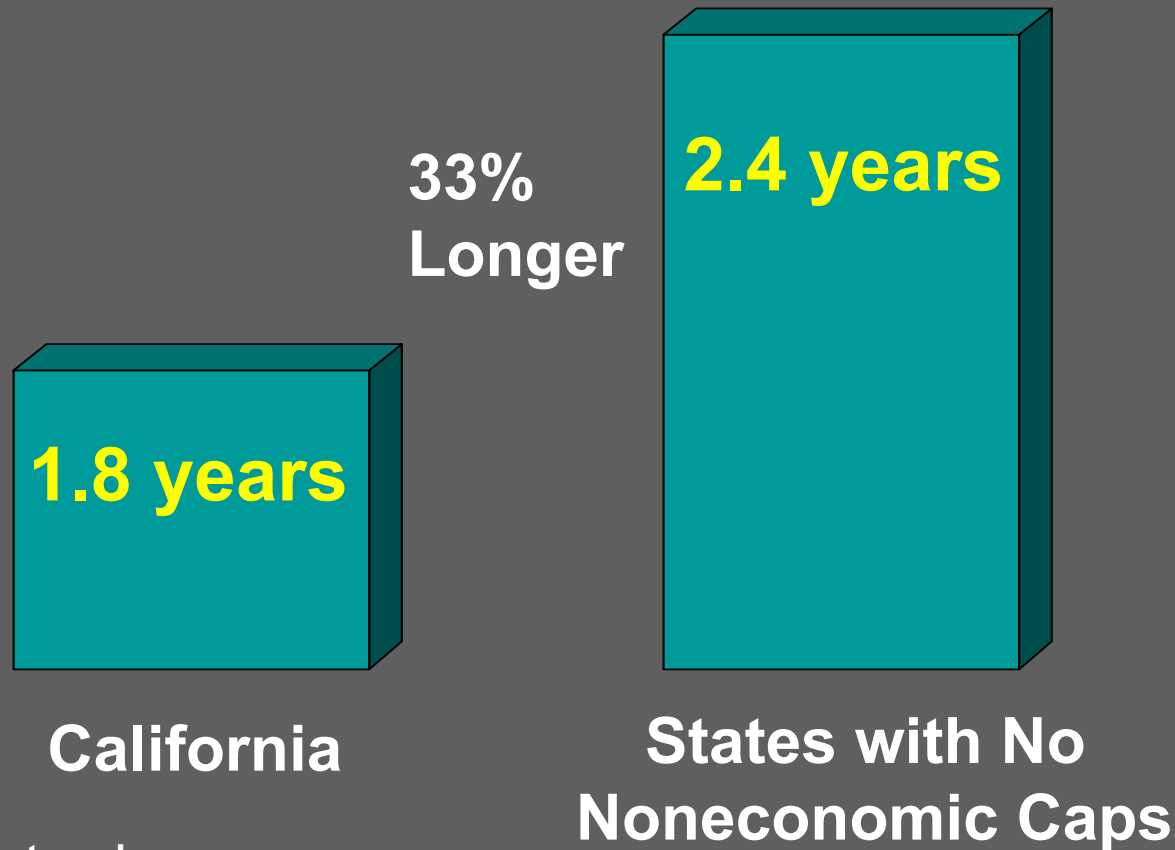


\$1 Million+ Verdicts Per 1,000 Doctors



Sources: Jury Verdict Research,  
AMA

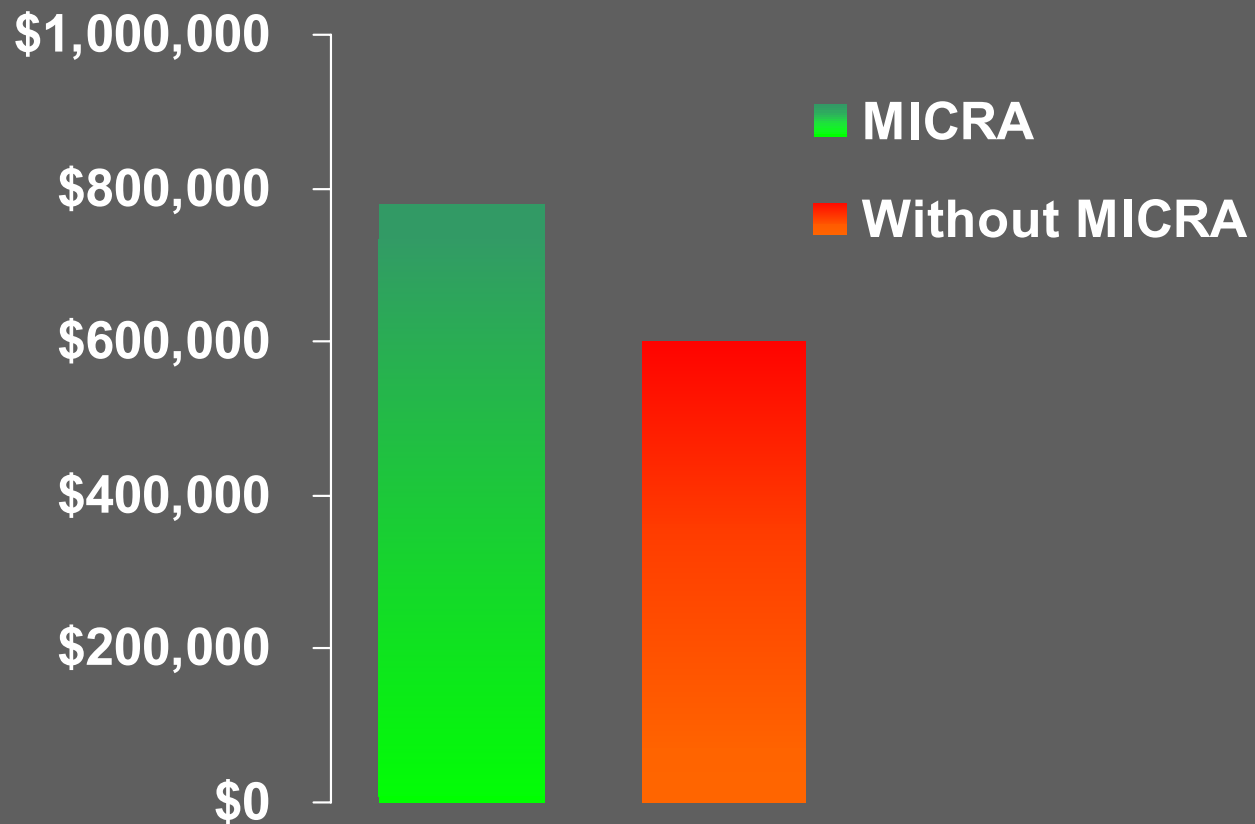
# MICRA Reduces Average Time to Settlement



\*Indemnity payments only

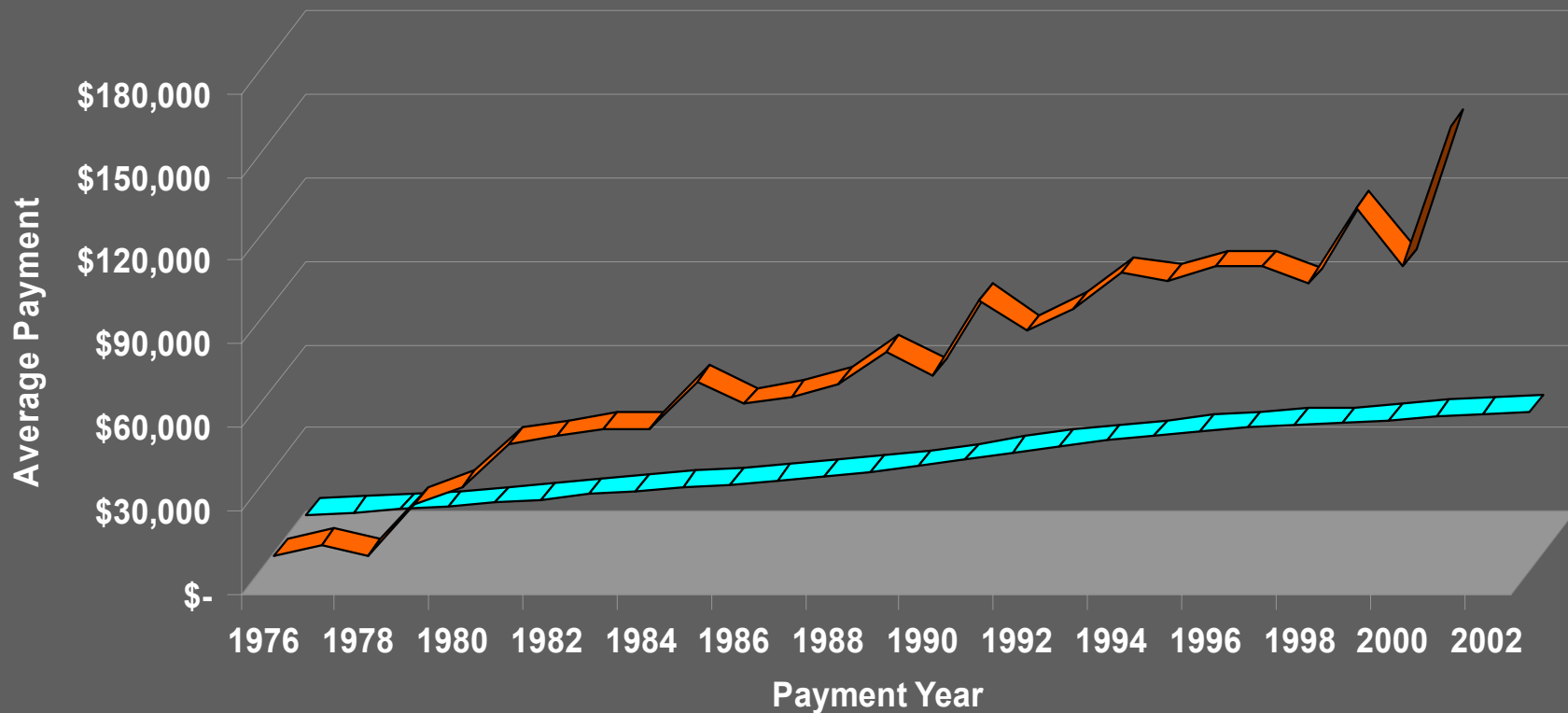
The Doctors' Company, 1997-2001

# 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



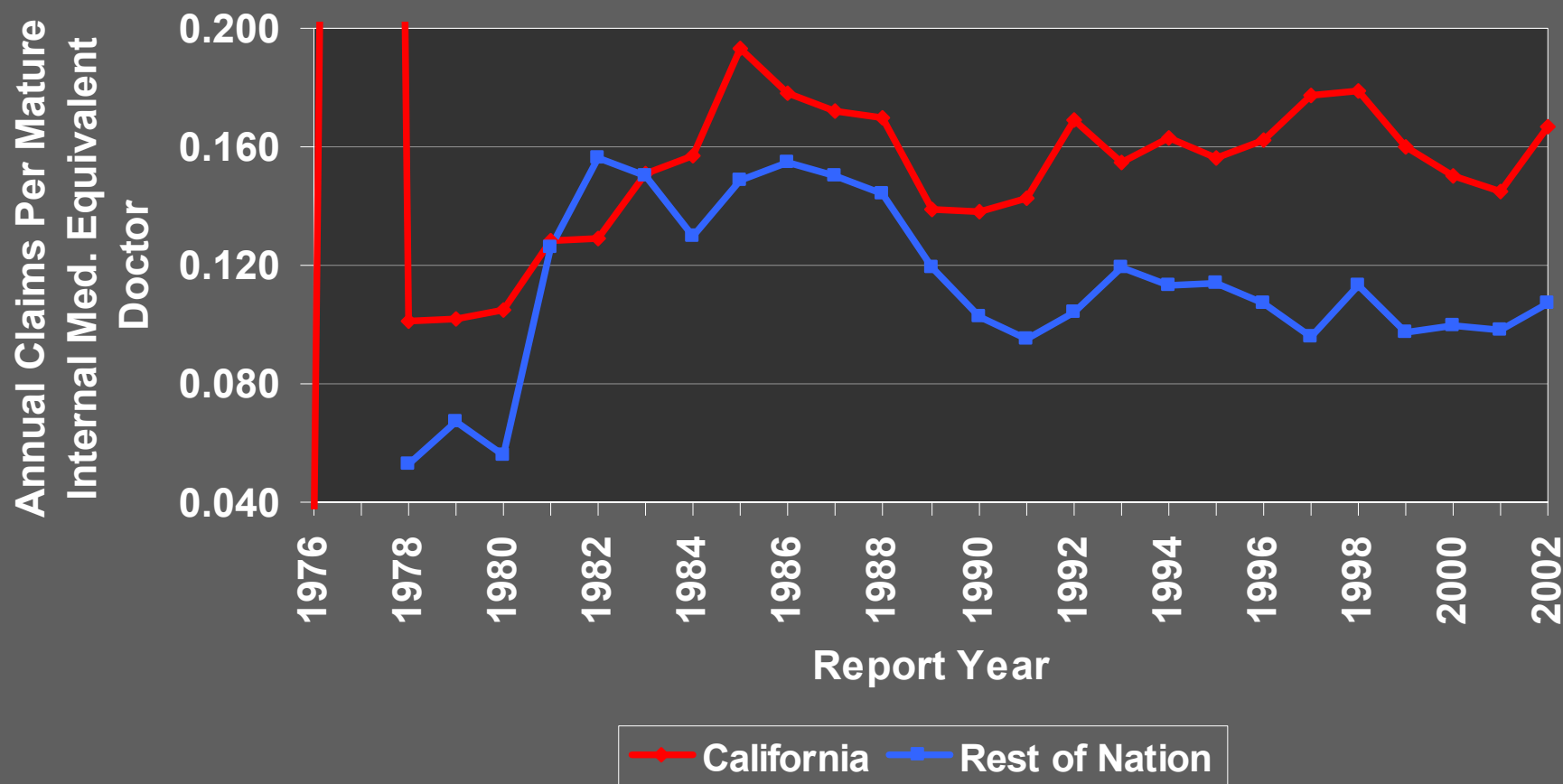
	Total % Increase 1984-2000	Average Annual Increase
Average Indemnity Cost	153.1%	5.6%
Health Care Cost	144.2%	5.4%
All Consumer Items Inflation	65.7%	3.0%

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

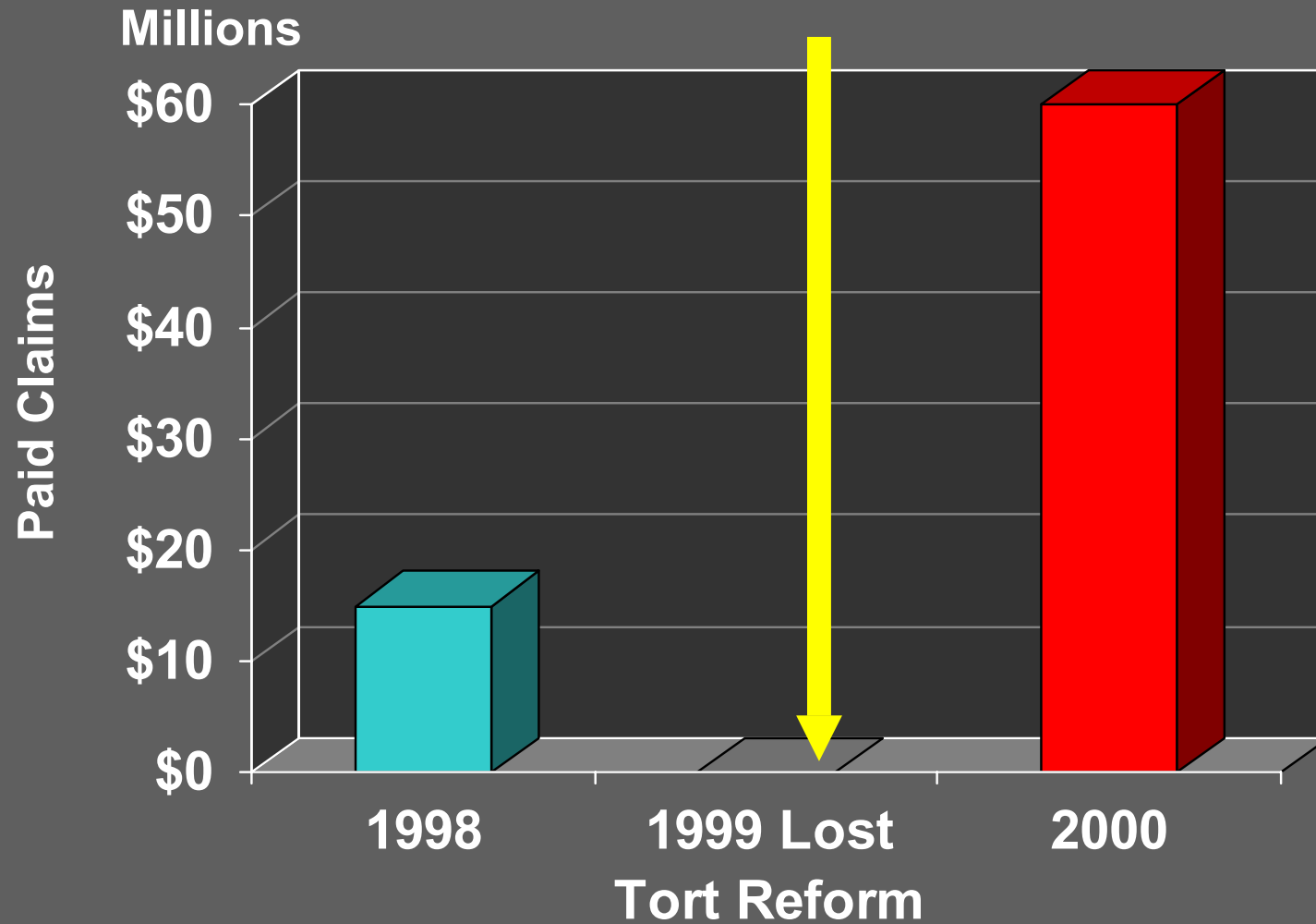
# MICRA Does Not Limit Access to Courts



## TDC PHYSICIAN CLAIM FREQUENCY



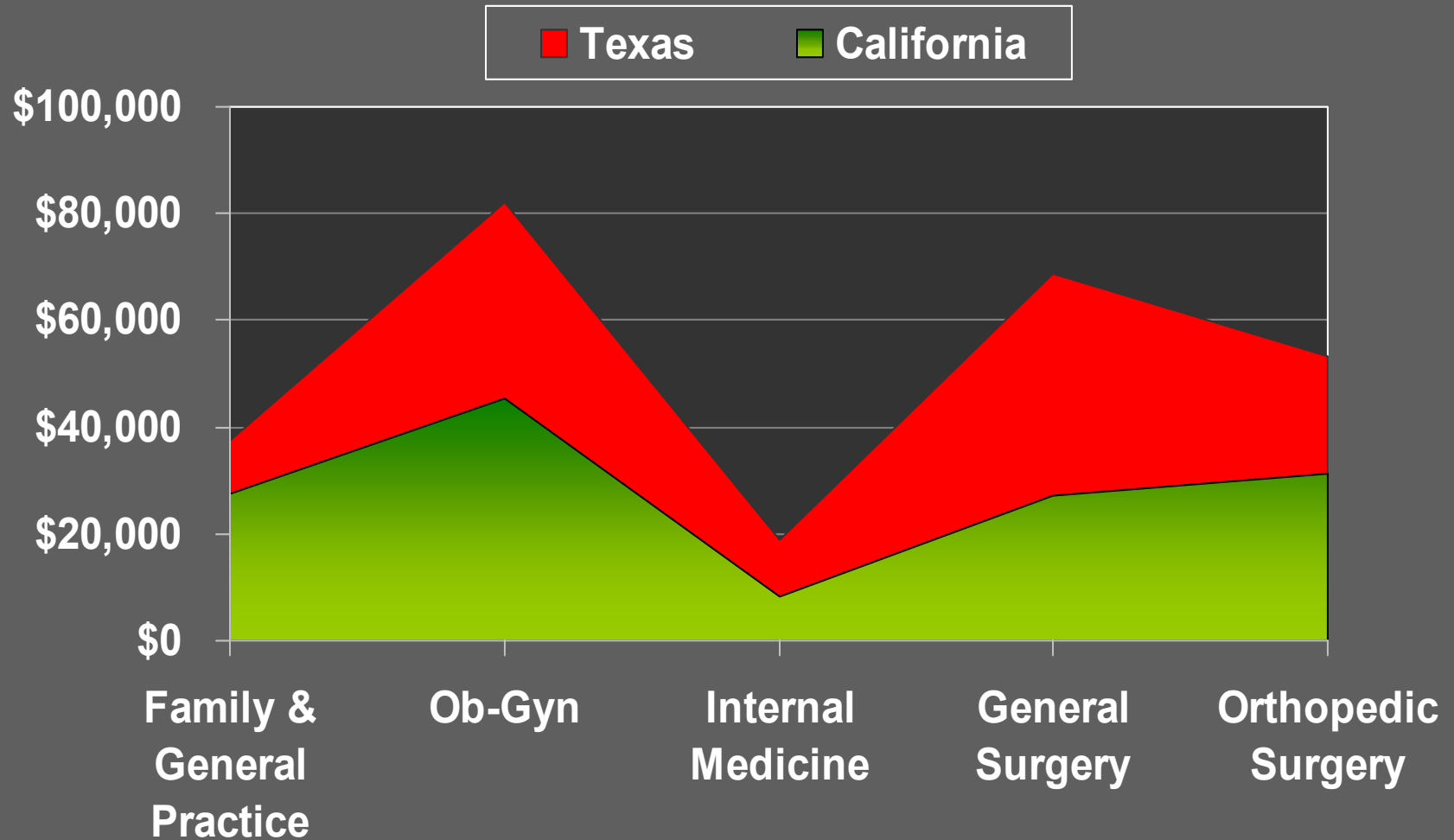
# Oregon and the Loss of Tort Reform



# California vs. Texas: The Tort Tax



2002 Average Rate by Specialty

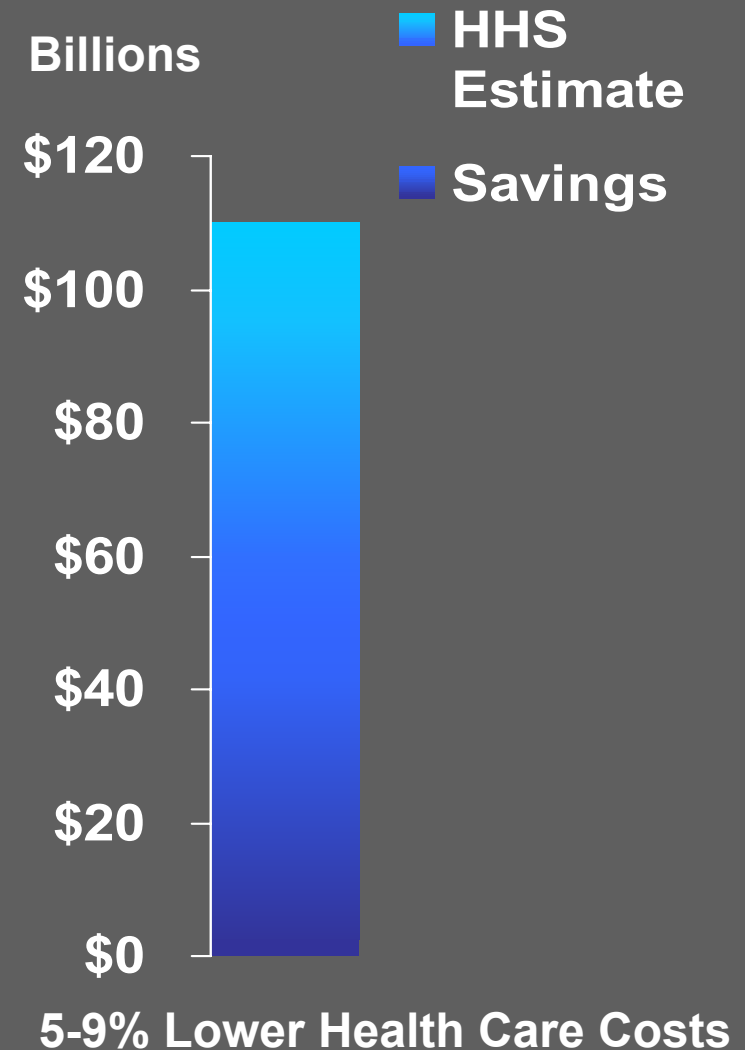




# Stanford Study: The Cost of Defensive Medicine



- 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.