

# Collins Medical Malpractice Forum

## *Business and Legal Outlook*

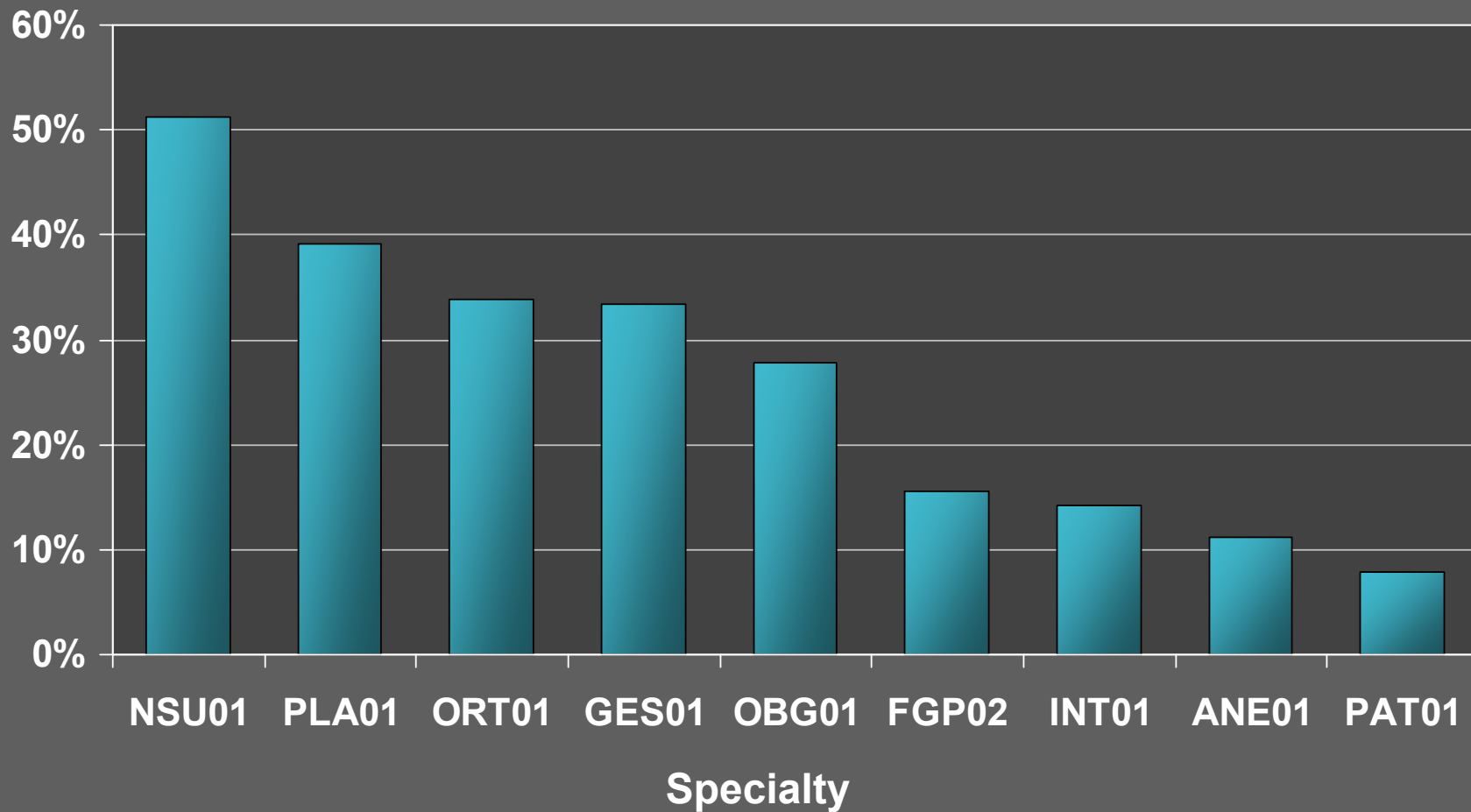
Richard E. Anderson, M.D.  
Chairman and CEO  
The Doctors Company  
April 20, 2005

- Extent of the problem
  - Frequency and severity
- Industry results and outlook
- The value of MICRA

# Frequency by Specialty 1995-2003



Frequency

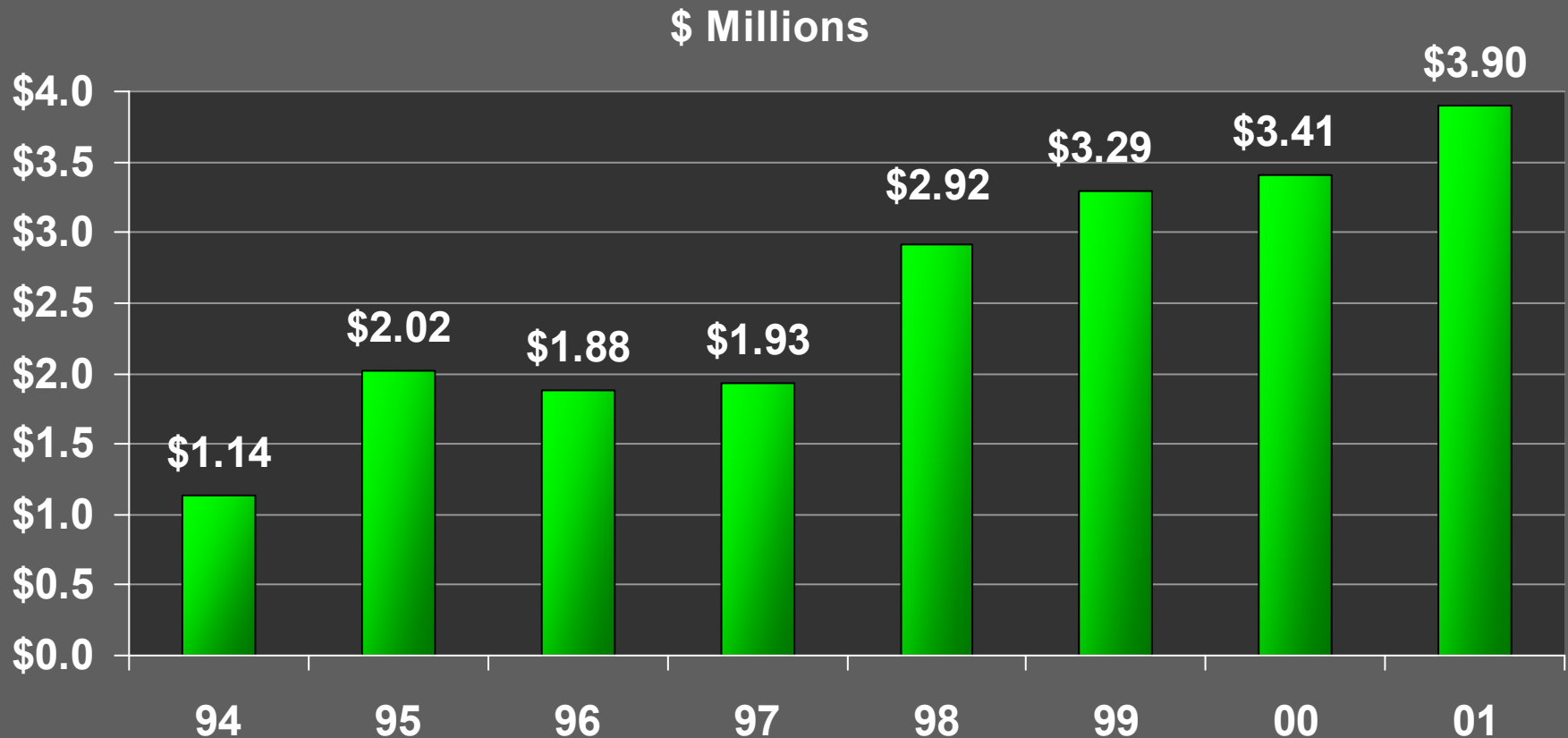


# Frequency

## Meaning

- On any given day, there are more than 125,000 malpractice suits in progress against America's 700,000 doctors.

# Average Jury Award in Medical Malpractice Cases

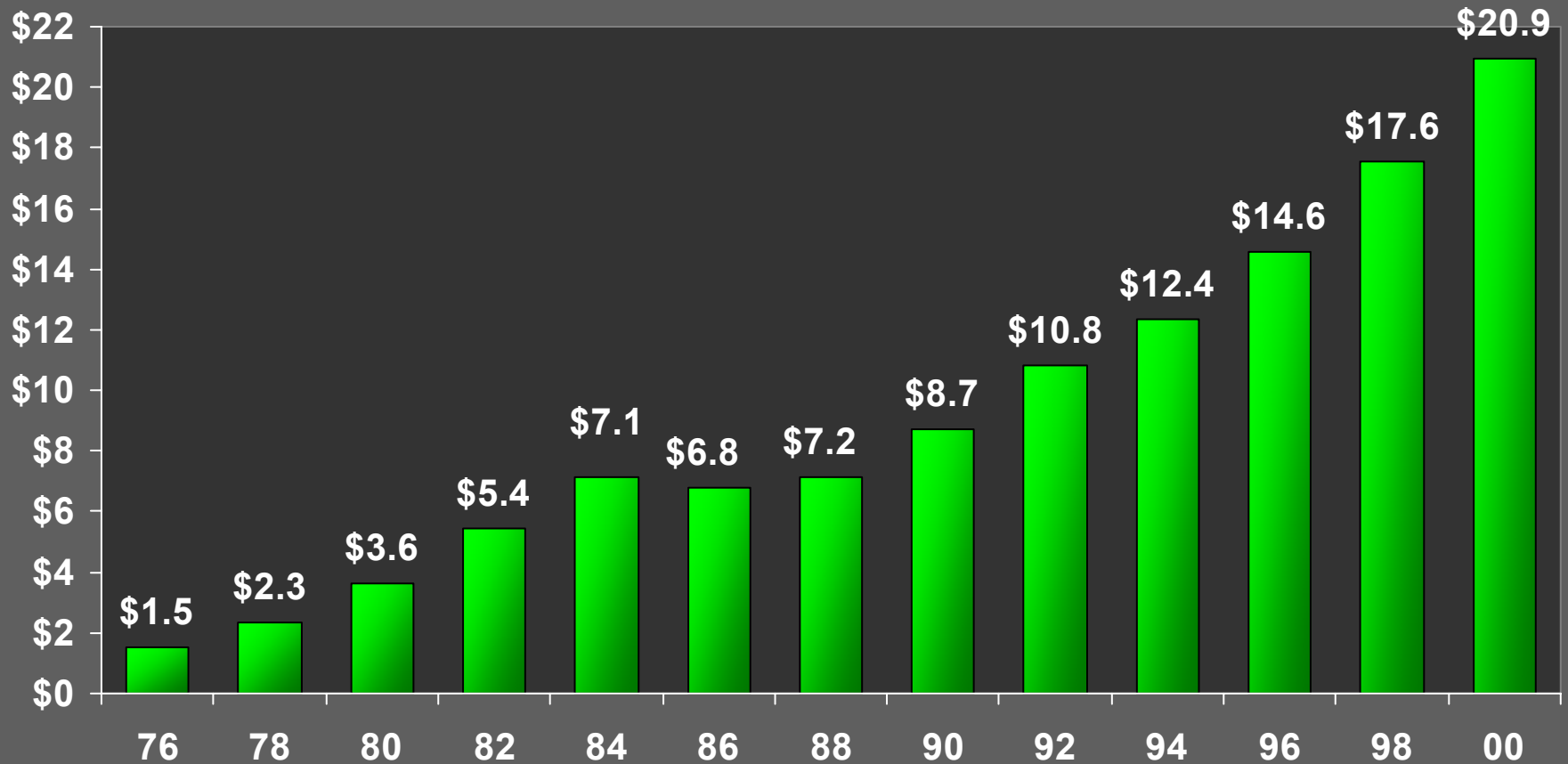


Source: Jury Verdict Research; Insurance Information Institute.

# Medical Malpractice: Tort Cost Growth is Skyrocketing

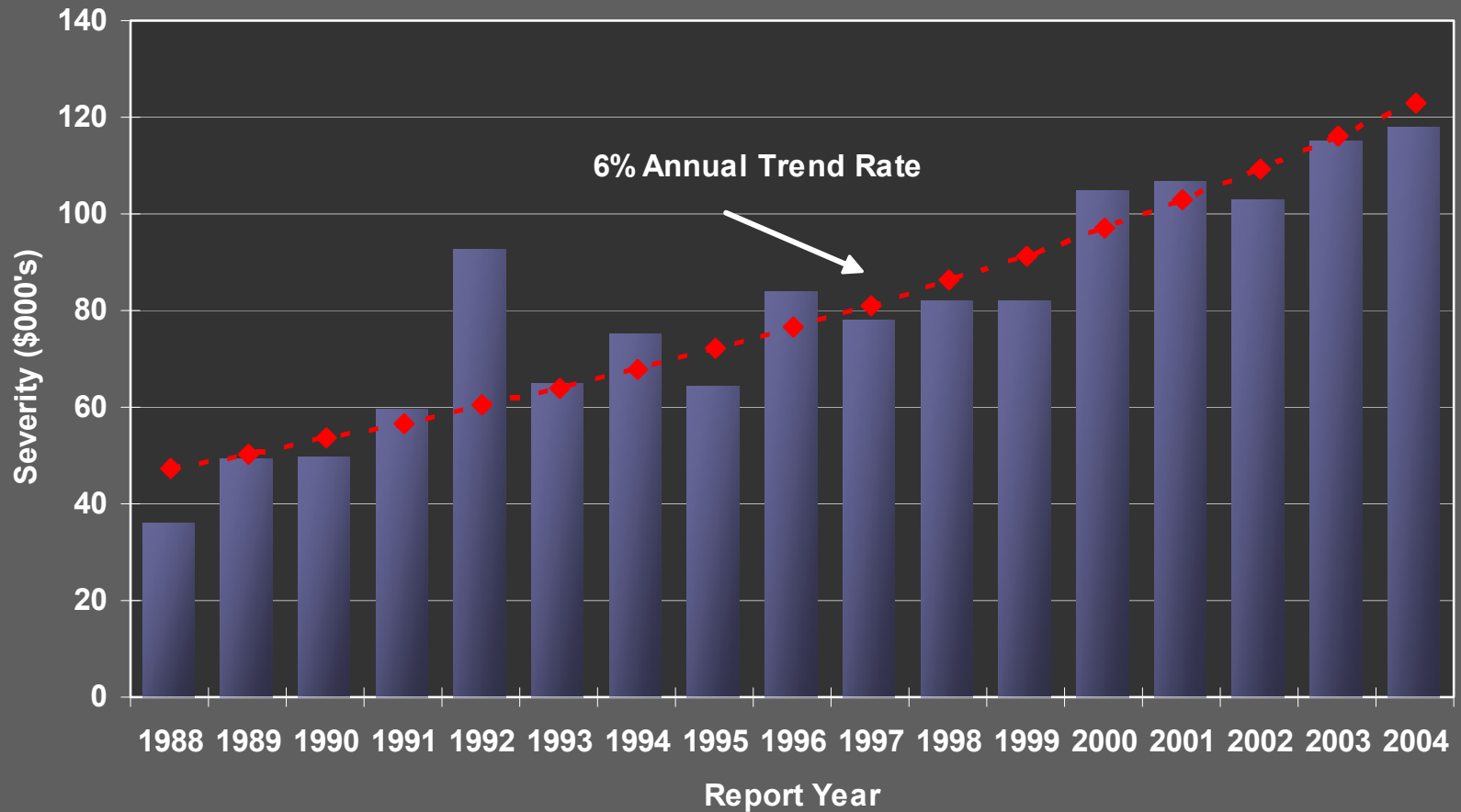


\$ Billions



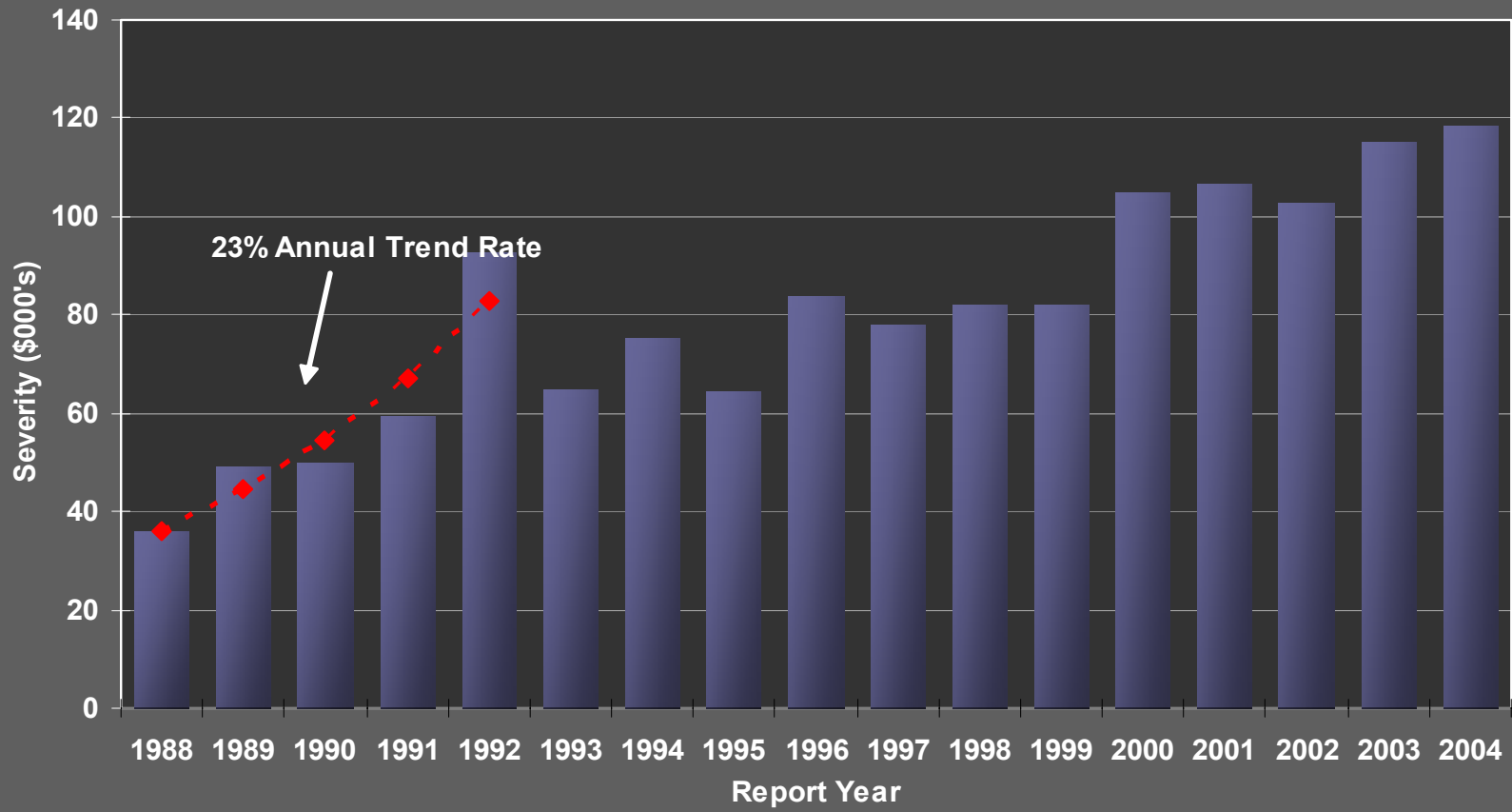
# Severity Trend?

TDC PHYSICIAN SEVERITY (Gross of Deductibles) NATIONWIDE EX-CALIFORNIA



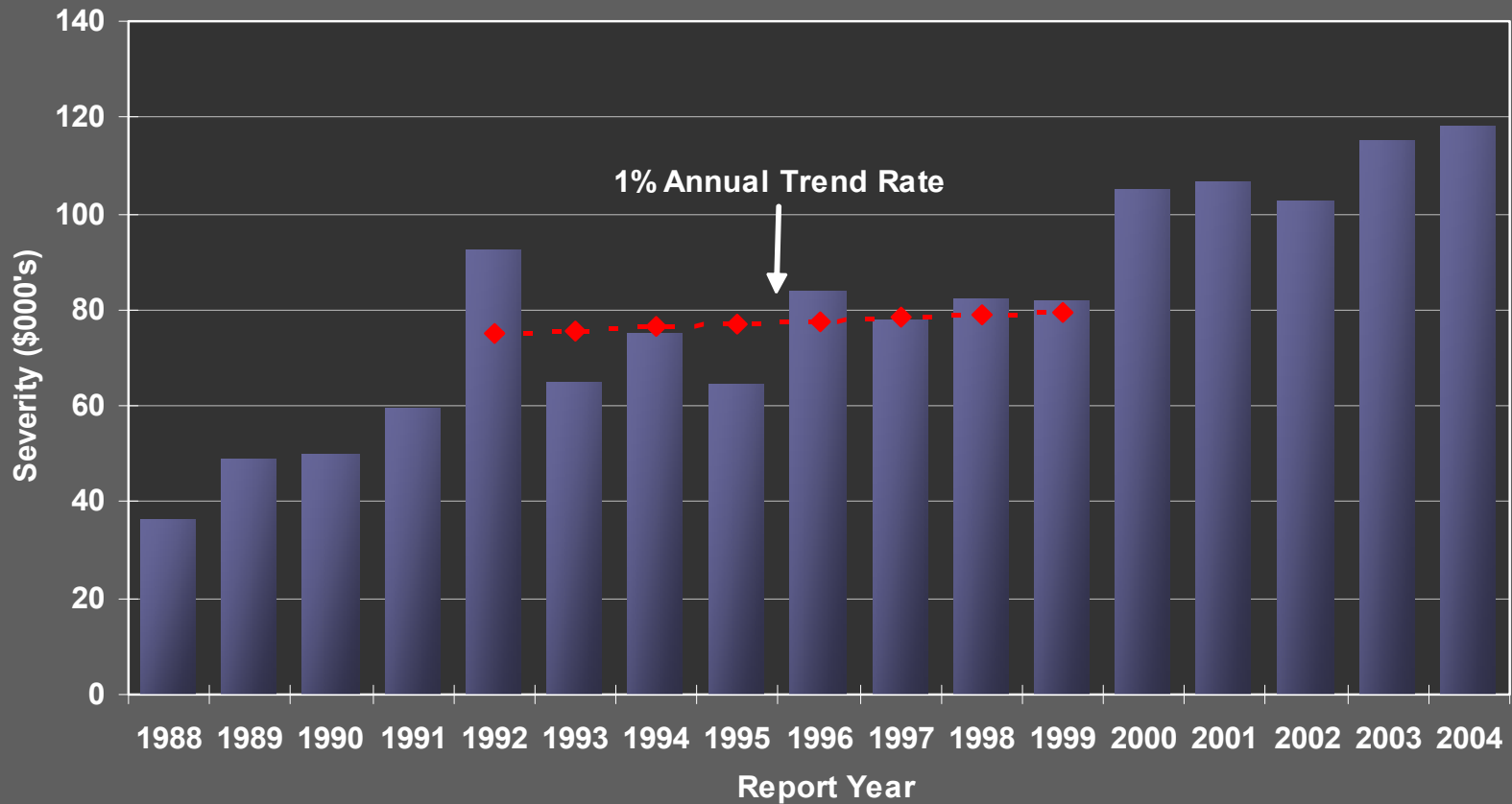
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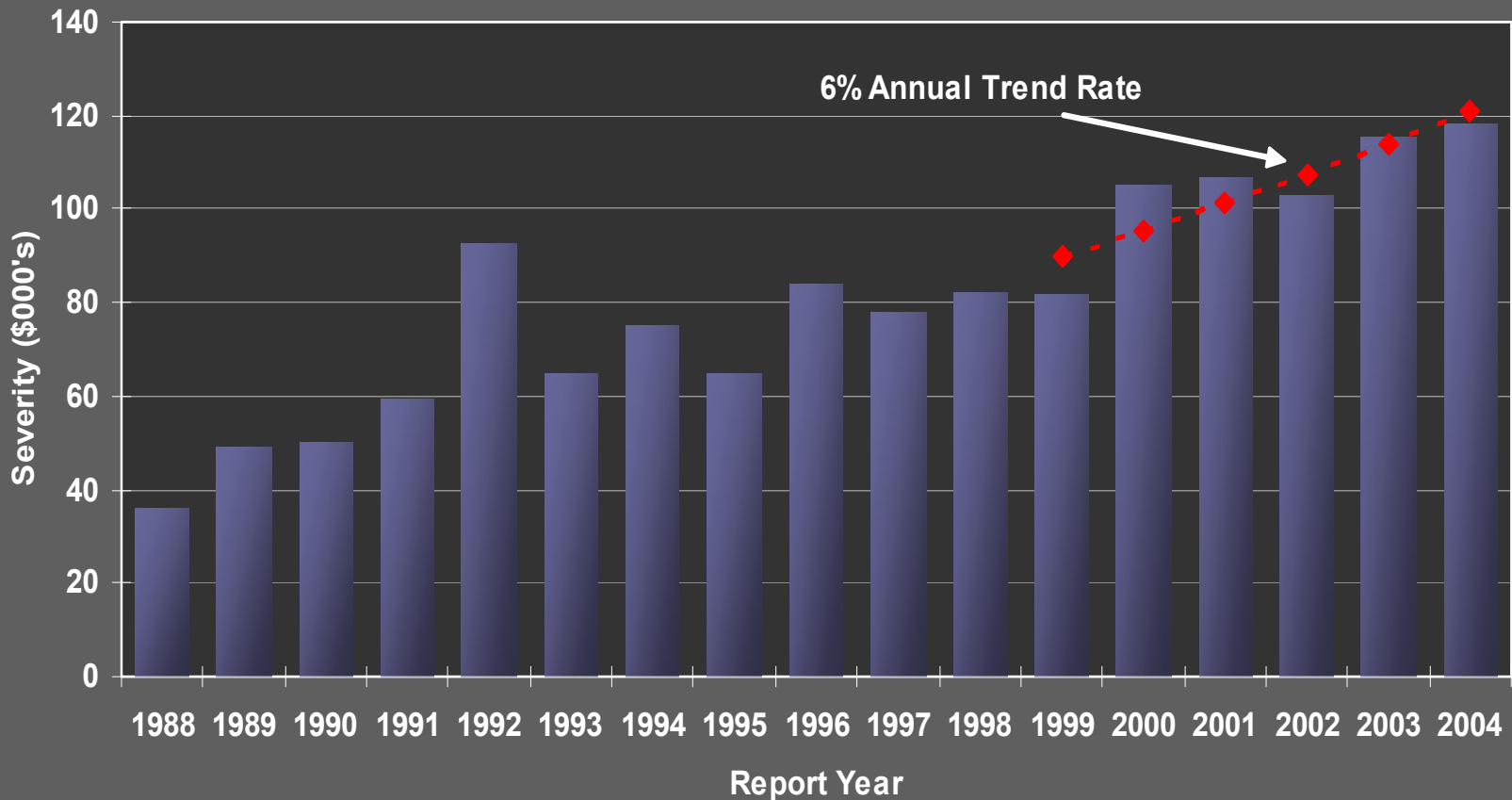
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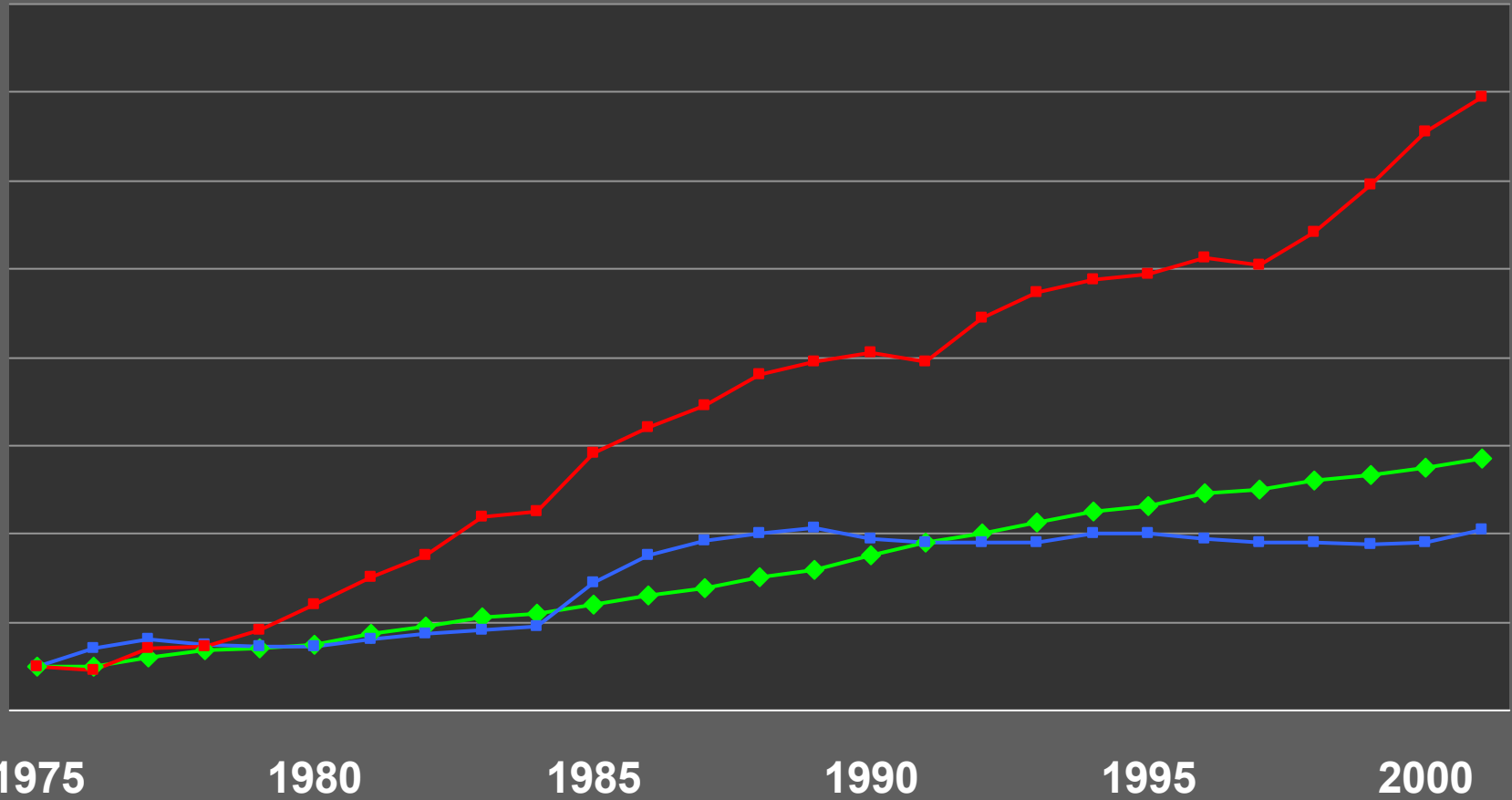


- ***So, what is your 5-year plan?***

# Inflation and Per Doctor Premiums and Losses

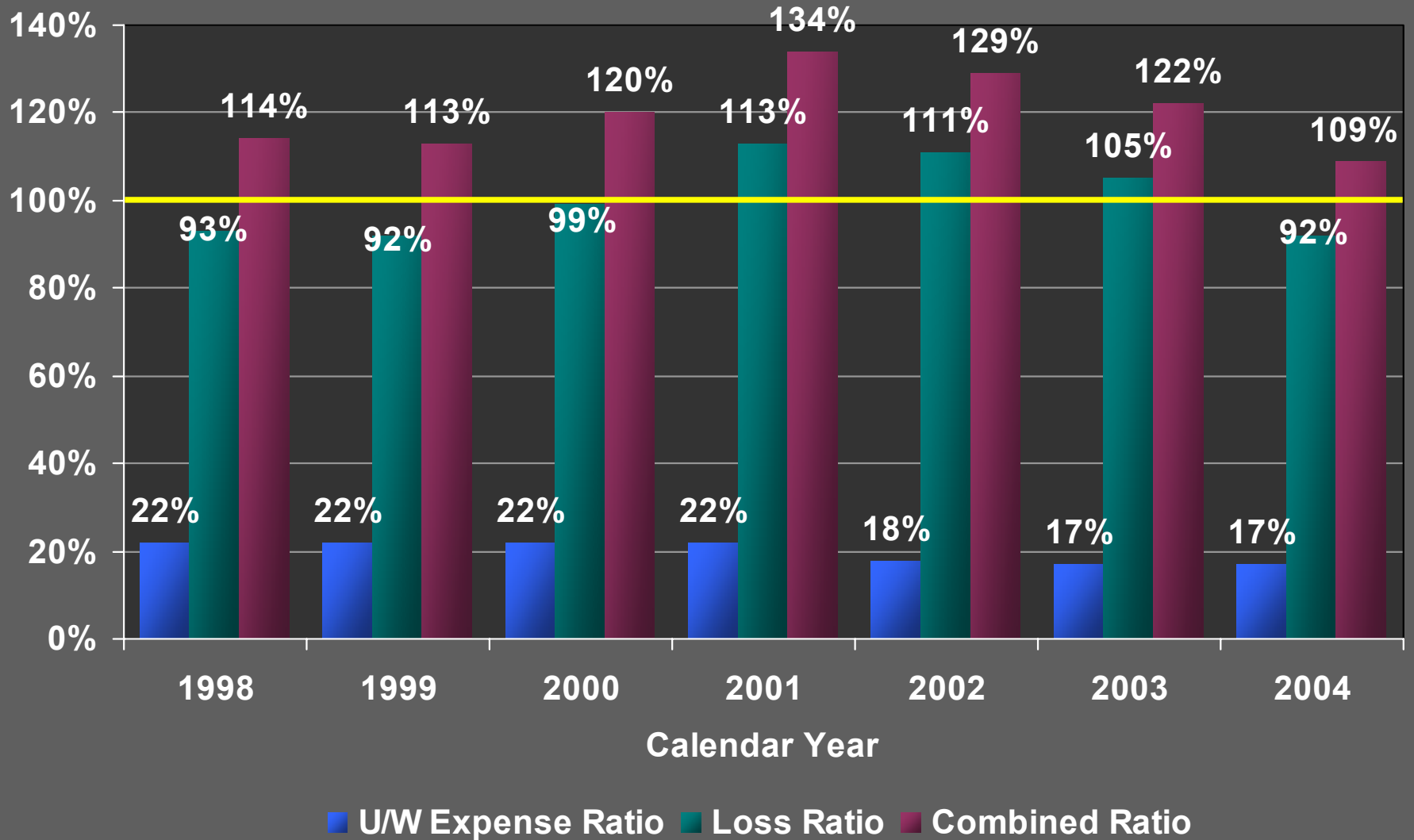


◆ Consumer Price Index    ■ Premium/Doctor    ◆ Paid Losses/Doctor



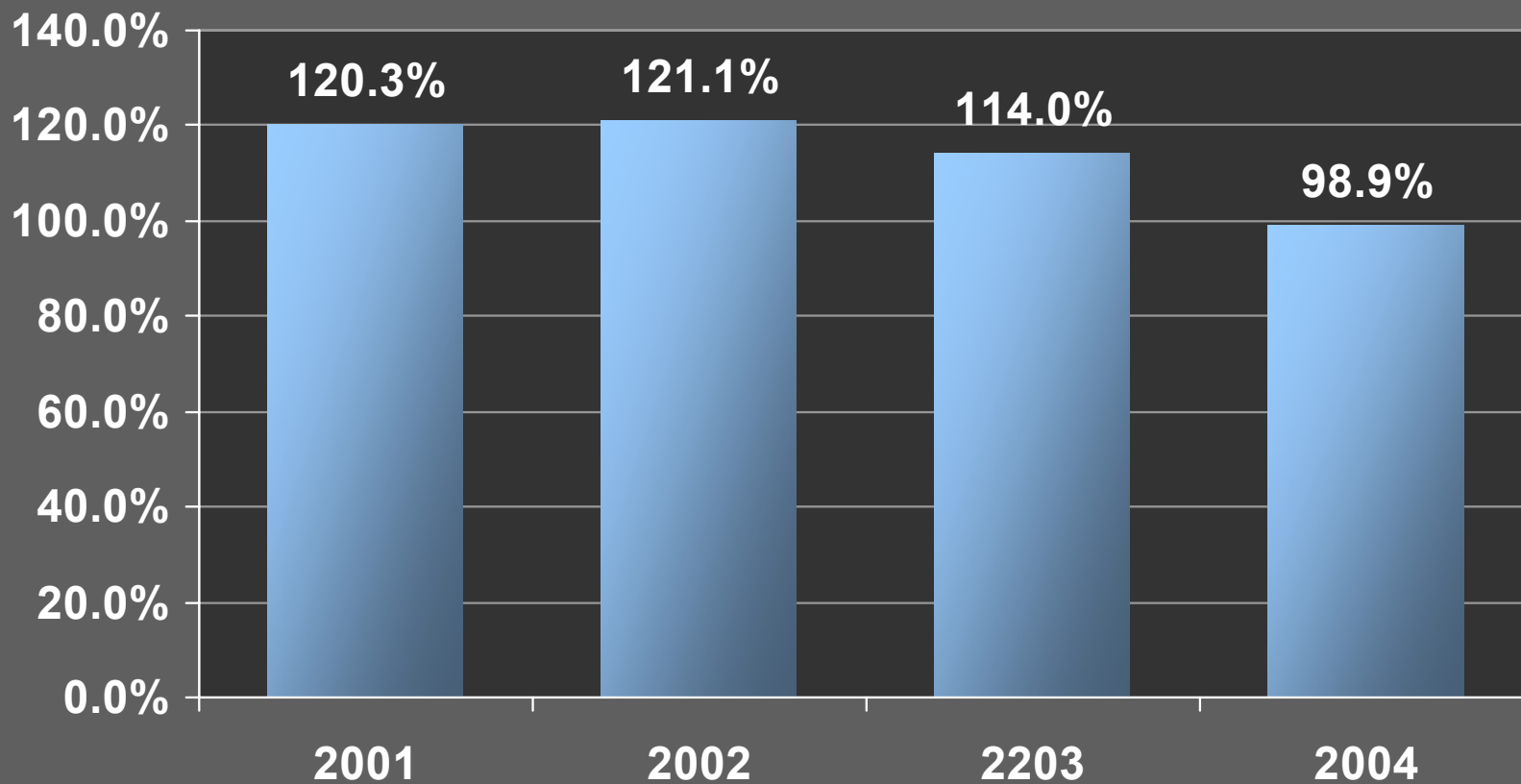
Source: Brown Brothers Harriman

# Industry Results: Malpractice



# TDC Results

## Combined Ratio



# Challenges

- Cost of goods sold
  - *Envelope please...*
  - *Do you know where your actuary is today?*
- Price
  - 10,000 prices for the same product
    - *Can we do discounts and surcharges with that?*
- Differentiation
  - *Only after the house burns down*
- Biology
  - *Hard to do 6 sigma on doctors*
    - Forget about patients
- Regulators
  - *Who watches the watchers?*

# ***The Benefits of MICRA***

# 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

# 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

- 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.

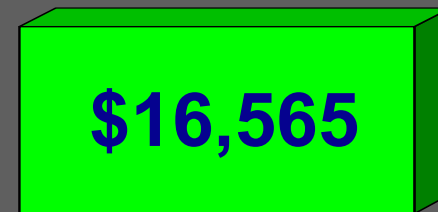
# MICRA Helps Reduce California Medical Liability Premium Rates by 33%



## The Doctors' Company 1976-2004



Average Premium 1976\*



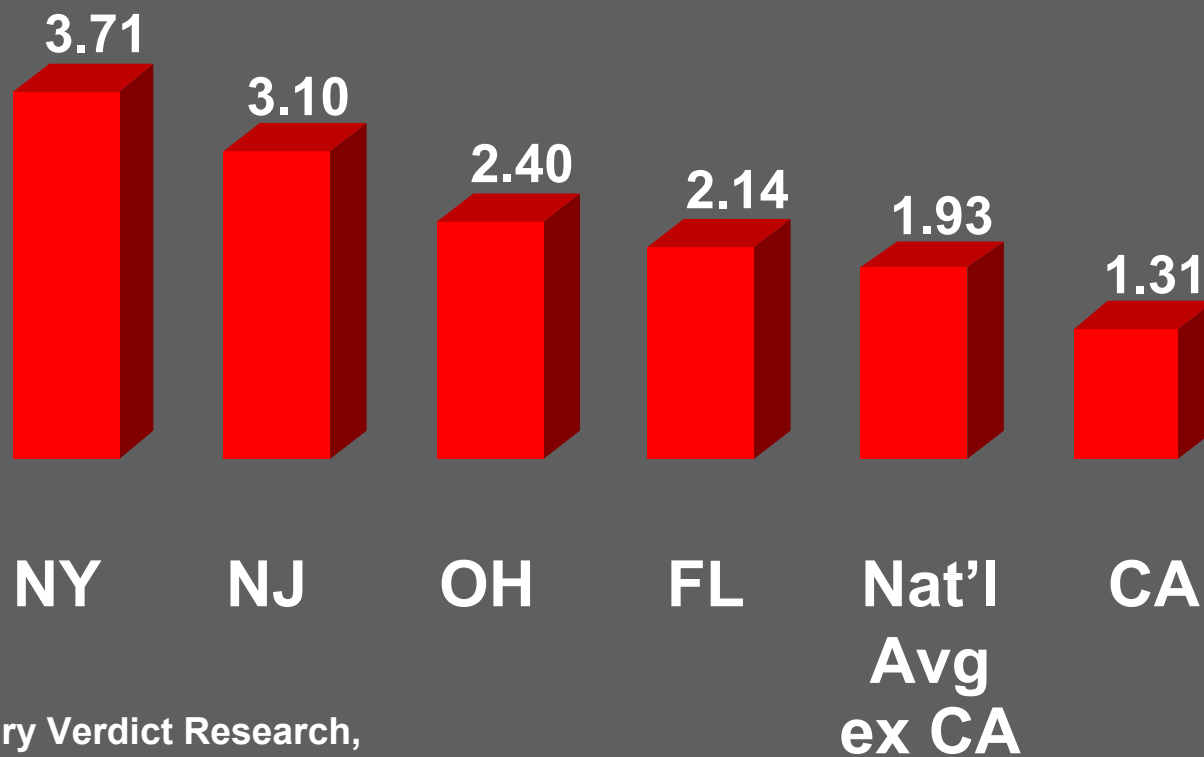
Average Premium 2004

\* \$7,614 average premium adjusted to 2003 dollars based on the Average Consumer Price Index for a \$1 Million/ \$3 Million Claims-Made Policy Premium

# MICRA Reduces Verdict Cost and Frequency

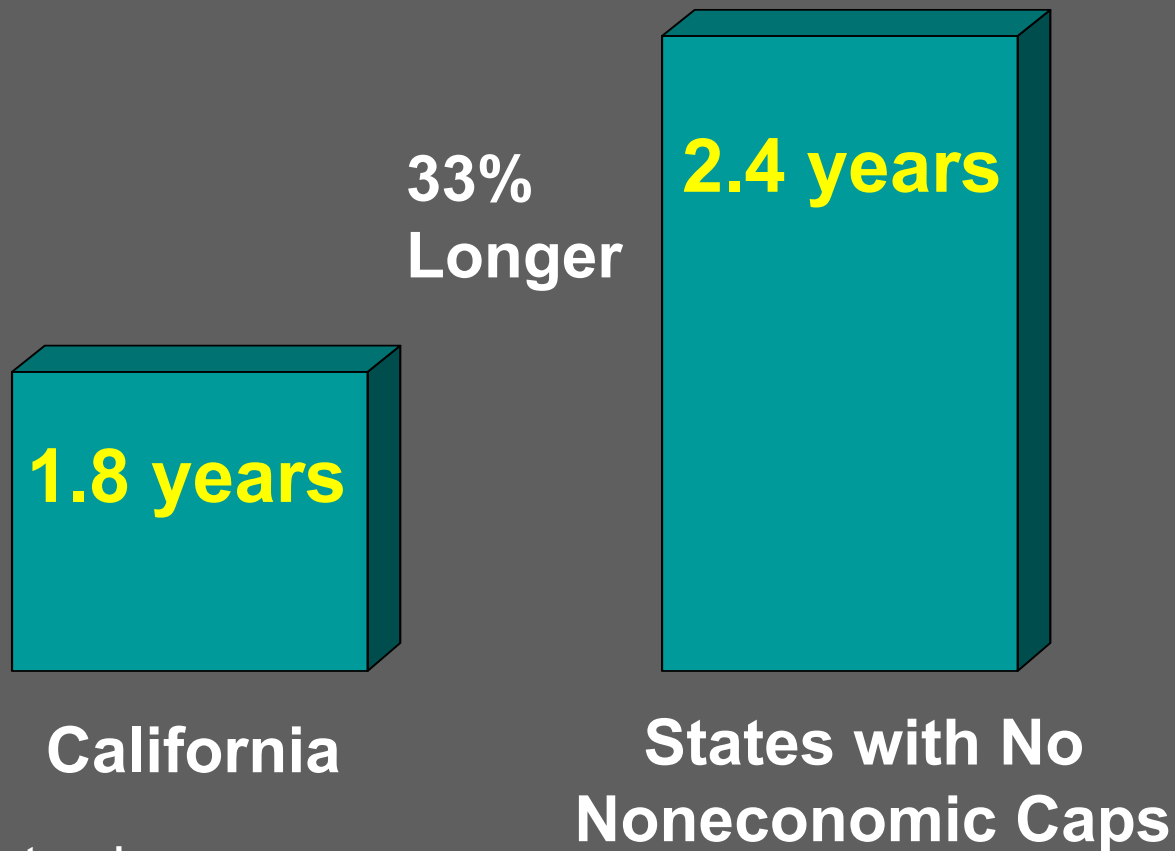


\$1 Million+ Verdicts Per 1,000 Doctors



Sources: Jury Verdict Research,  
AMA

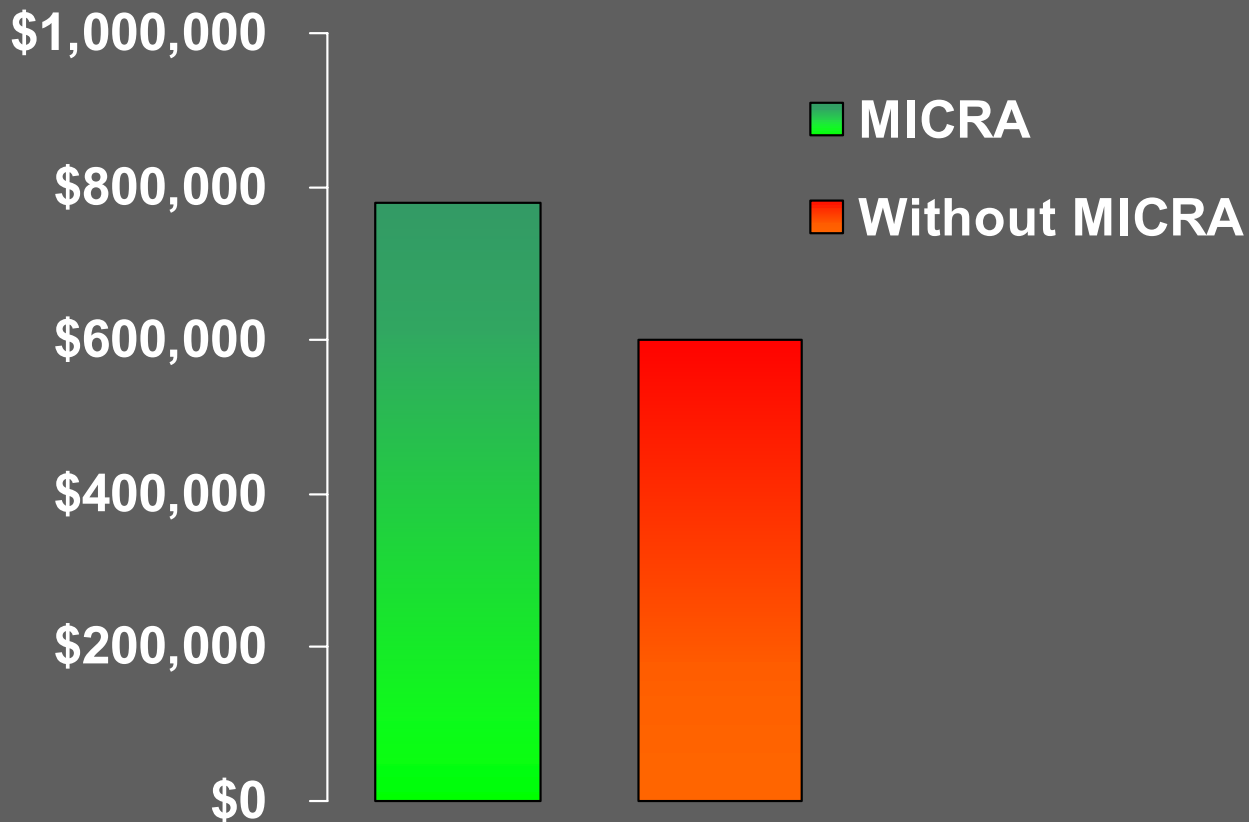
# MICRA Reduces Average Time to Settlement



\*Indemnity payments only

The Doctors' Company, 1997-2001

# Injured Patients Benefit Directly

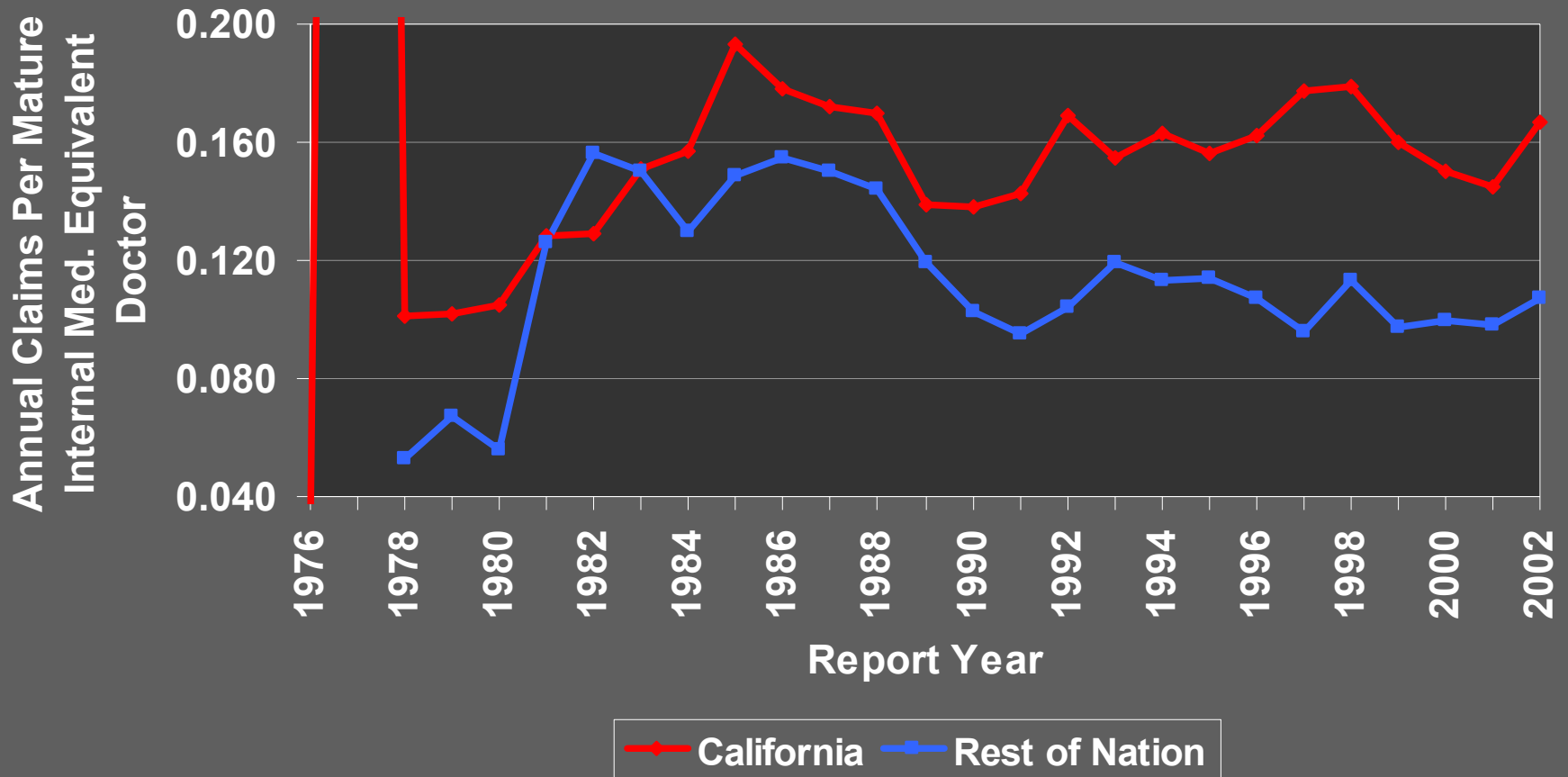


Proceeds of a \$1 million judgment

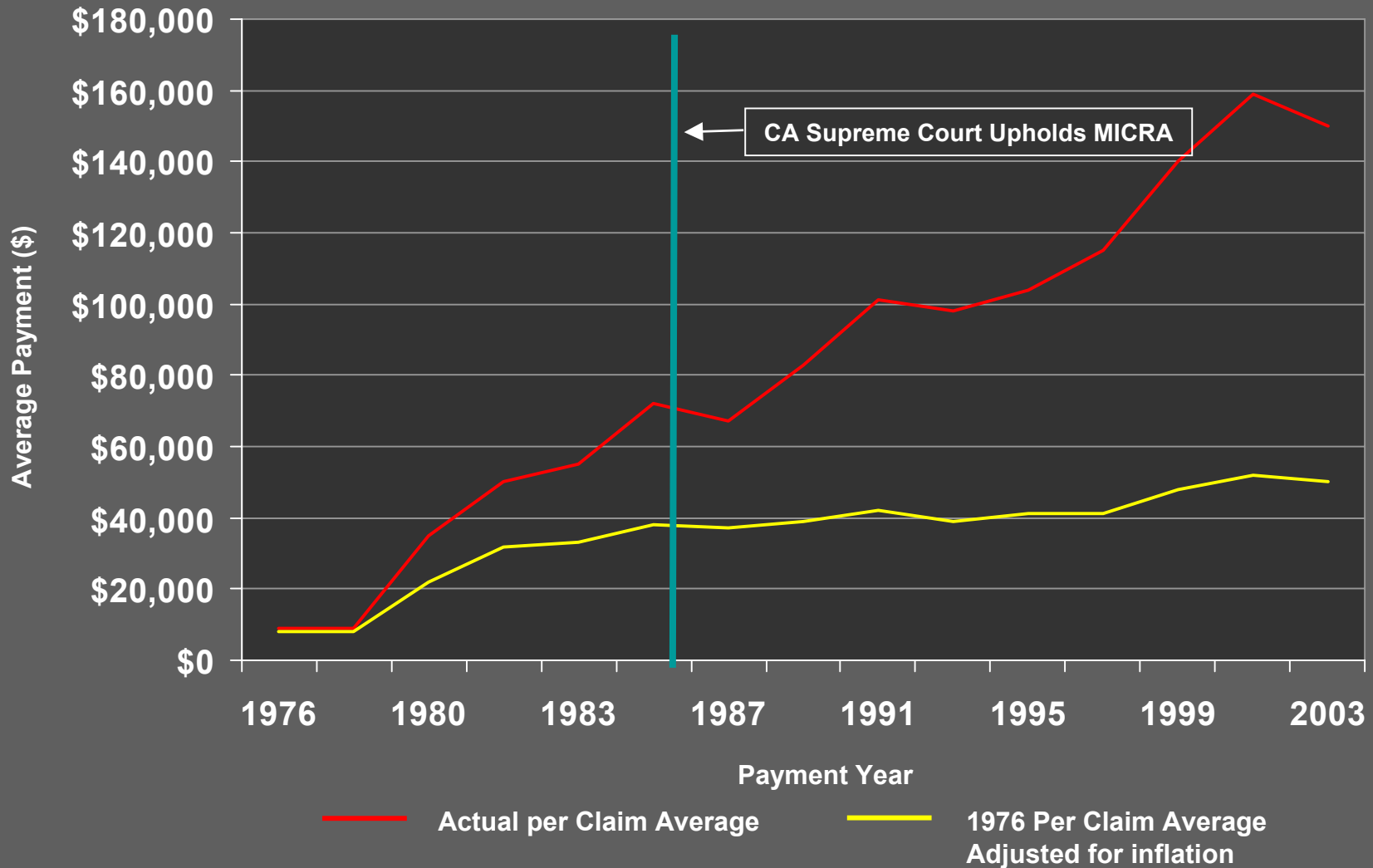
# MICRA Does Not Limit Access to Courts



## TDC PHYSICIAN CLAIM FREQUENCY



# Increasing Cost of Malpractice Claims Despite MICRA



# Challenge: Legal Reform

## California Medical Malpractice Awards Greater than \$1 Million

5-Yr Period	Total Indemnity	# of Cases	Average	Average # Cases/Yr
1999-03	\$624,383,398	189	\$3,303,616	38
1994-98	\$373,373,467	144	\$2,592,871	29
Pct. Change	67.2%	31.3%	27.4%	31.3%

2003 California Large Loss Trend Study, Medical Underwriters of California

# 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.



# Isn't the Tort System Helpful in Improving Medical Quality?



- After 30 years of legal assault on the medical profession, what have we to show for it?
- Would we tolerate a policeman who made false arrests 80% of the time, or a prosecutor who went after the innocent 80% of the time?

# Summary

- *The cause of the crisis in medical malpractice insurance is too many non-meritorious claims coupled with a dramatic increase in the cost of the relatively few successful claims.*
- *MICRA-based legal reforms are effective.*