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LESSONS IN CALIFORNIA EXPERIENCE

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When the U.S. Chamber of Commerce released its latest ranking of how business-friendly it found each state's legal system, California once again landed in its traditional place near the bottom of the list. Surprisingly, however, the state, which falls 46th out of 50, has a 30-year-old law that can serve as a national model for tort reform nationwide.

California's comprehensive medical liability reforms, known as the Medical Injury Compensation Reform Act of 1975, are the standard that state legislatures and Congress point to as the model for effective medical liability laws. But the legal and political lessons learned over the past three decades of MICRA are a textbook study of how substantive legal reforms of all types can be enacted and preserved with bipartisan support.

In the early 1970s, California was seeing the same type of medical malpractice insurance crisis that is now daily news elsewhere in the country. And it was Democratic Gov. Edmund G. "Jerry" Brown Jr., and a Democrat-led legislature that implemented sweeping reforms.

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Meanwhile, the much more subjective noneconomic "pain and suffering" damages were capped at \$250,000. Even though jury awards are growing rapidly in California, the \$250,000 limit on com-

ensation for intangibles offers insurers predictability that is vital to setting rates.

Three decades later, MICRA still has bipartisan support. And physicians flee to rather than from California—unlike Florida.

And even though the number of lawsuits has grown in proportion to the population, California doctors in such high-risk practices as obstetrics and neurosurgery pay one-third as much for insurance as their counterparts in states such as Florida and New Jersey.

Community clinics can afford to keep their doors open and high-risk patients can find the care that is increasingly unavailable in other states.

MICRA also enables injured victims to keep a greater share of the award by limiting attorneys' fees. And cases filed in states without noneconomic caps take 33 percent longer to settle than in states with limits.

Lawsuits should be a way for people who have suffered an injury—financial or otherwise—to receive compensation, but too many states' laws encourage fault-finding and the hope of a big payout. Many states also encourage high jury awards by letting punitive damages, which are by definition meant to punish egregious cases, serve primarily as windfalls for law firms.

Frivolous litigation is a huge issue with all types of businesses, not just physicians, and it exacts a toll on the economy. MICRA has shown that our justice system can remain accessible to those who have been truly injured by the actions of another, while keeping many dubious cases out of court.

Smart reforms require bipartisan action to persevere. MICRA has endured because it has earned support from business-oriented Democrats and Republicans by limiting unmeritorious lawsuits, while members of both parties appreciate that it is directly responsible for preserving access to health care for women and the poor.

Frivolous litigation that leads to job loss and discourages business is bad for any state. Businesses, consumers and politicians can all use MICRA as a model for finding common ground that will encourage economic growth.