For the first time in nearly 50 years, California’s Medical Injury Compensation Reform Act (MICRA) has been modernized and the state’s limit on noneconomic damages will no longer be capped at $250,000.

Instead, starting in January 2023:

- If the case doesn’t involve a patient death, there will be a limit of $350,000 on noneconomic damages, with an incremental increase over the next 10 years to $750,000. There will be a 2% annual adjustment for inflation after that.
- If the case involves a patient death, the noneconomic damages limit will be $500,000, with an incremental increase over the next 10 years to $1 million. There will be a 2.0% annual adjustment for inflation after that.

“This historic moment happened because the two sides of the ballot measure campaign put differences aside, found common ground and recognized a rare opportunity to protect both our health care delivery system and the rights of injured patients,” said California Medical Association (CMA) President Robert E. Wailes, MD. “We look forward to a new era of long-term stability around MICRA.”

A first-of-its-kind law in 1975, MICRA has been held up as the gold standard for medical liability insurance reform. It helps provide predictability for insurers and, in turn, creates a more stable and affordable medical liability insurance market for physicians and, consequently, helps maintain patient access to high-quality physician care.

Studies have shown that when states don’t have liability reforms, liability insurance rates soar and physicians either curtail the high-risk procedures they are willing to perform, retire early or leave the state to practice elsewhere. The AMA works to help states fix broken medical liability systems. Find out the facts you need to know in the 2022 edition of the AMA’s Medical Liability Reform Now! (PDF) document.
Changes forestall MICRA repeal

MICRA’s modernization comes at a time when liability insurance rates are again creeping up nationally. As the California law that hasn’t seen a change to its original $250,000 cap in nearly 50 years, it was threatened by a ballot initiative called the “Fairness for Injured Patients Act” (FIPA).

FIPA, if passed, would have completely upended MICRA by eliminating the collateral source rule and period payments; extending the statute of limitation and creating a new easy-to-meet category of “catastrophic injuries” that would have expanded who was eligible for noneconomic damages and would not have been limited by caps.

Just about any case would likely have qualified as a catastrophic injury. The changes would have led to huge jury awards and significant upward pressure on settlement values, making California’s stable insurance market unpredictable and unaffordable, and would have raised the cost of care for patients. Physicians, hospitals, patients, trial lawyers and others came together and agreed to the MICRA modernization and FIPA was withdrawn from the fall ballot.

More details on MICRA refinements

The law that Gov. Gavin Newsom signed in late May creates the possibility for a total of three possible caps in each case by defining three separate categories. However, a physician or other health professional or institution can only be held liable for damages under one category no matter how the categories are applied or combined. There is one cap for:

- Physicians and nonphysician providers, regardless of the number of them or causes of action.
- Health care institutions, regardless of the number of institutions or causes of action.
- Unaffiliated health care institutions or providers at the intuition that commit a separate and independent negligent act.

The law also makes adjustments to periodic payment of future economic damages and attorney contingency fees. Notably, the law establishes protections for benevolent gestures and statements of fault that physicians or other health professionals make. This includes all pre-litigation expressions of sympathy, regret or benevolence, including statements of fault, made in relation to the pain, suffering or death of a person, an adverse patient safety event or unexpected medical outcome.

The other components of MICRA remain unchanged. Explore in further detail the changes to MICRA, courtesy of the CMA website.