

**Texas House of Representatives  
Civil Practices Committee  
February 12, 2003**

**MICRA: *Real Experience***

**Richard E. Anderson, M.D.  
Chairman  
The Doctors Company  
Napa, CA**

Creation of MICRA  
Public/Patient Benefits  
The Statutes  
Results  
Corroboration

# Creation of MICRA



## California 1975

- Approx. 75% of all malpractice suits in 20<sup>th</sup> century to date filed between 1970-1975
- Unprecedented rate increases, followed by withdrawal of commercial insurers
- Response:
  - Physician strikes
  - Marches on the capital
  - Special session of the legislature
- Creation of the physician-owned insurers like The Doctors Company

# MICRA: Goals

## *Direct Patient Benefits*

- **Sustainable** insurance mechanism providing full indemnification of actual loss.
- Preserves **access** to medical care without impeding access to courts for truly injured patients.
- More **rapid** settlements to provide injured patients with compensation sooner.
- The patient **keeps** more of the award.
- **Assures** money is available at the time it is needed.
- Society does not incur **double** costs.

1. \$250,000 cap on noneconomic damages
2. Collateral source rule
3. Periodic payments of future damages
4. Sliding scale limit on attorneys' contingency fees

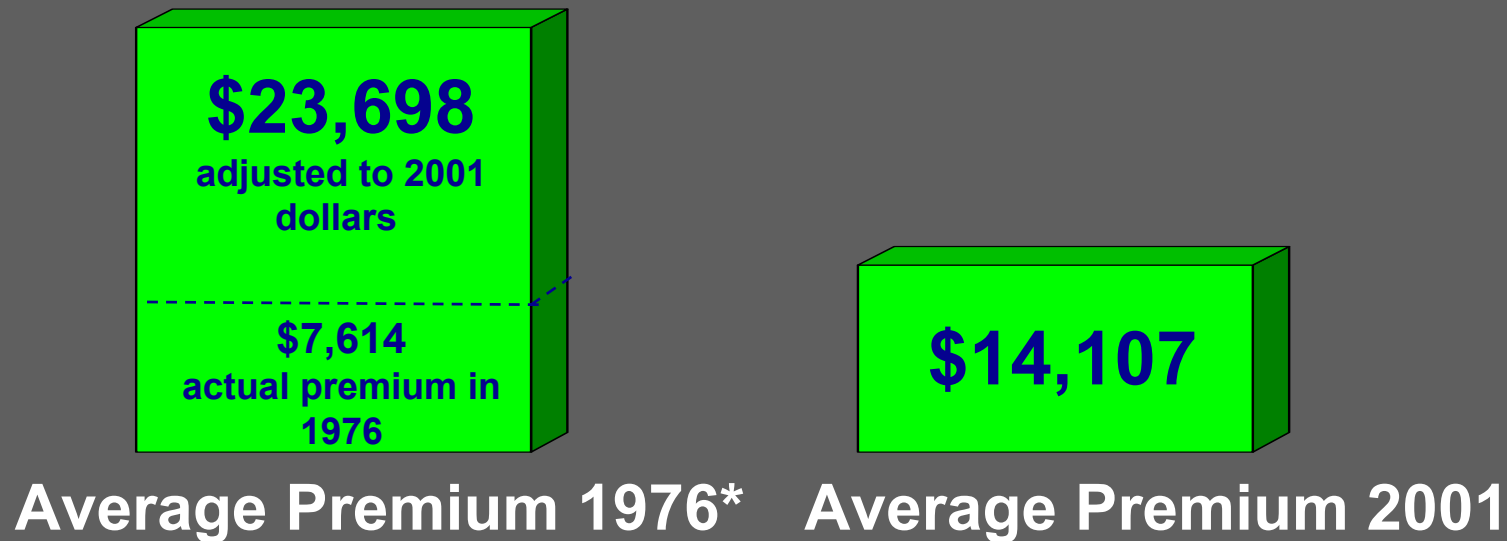
5. Statute of limitations reform
6. 90-day “Notice of Intent to Sue”
7. Allows arbitration

# MICRA: *Results*

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



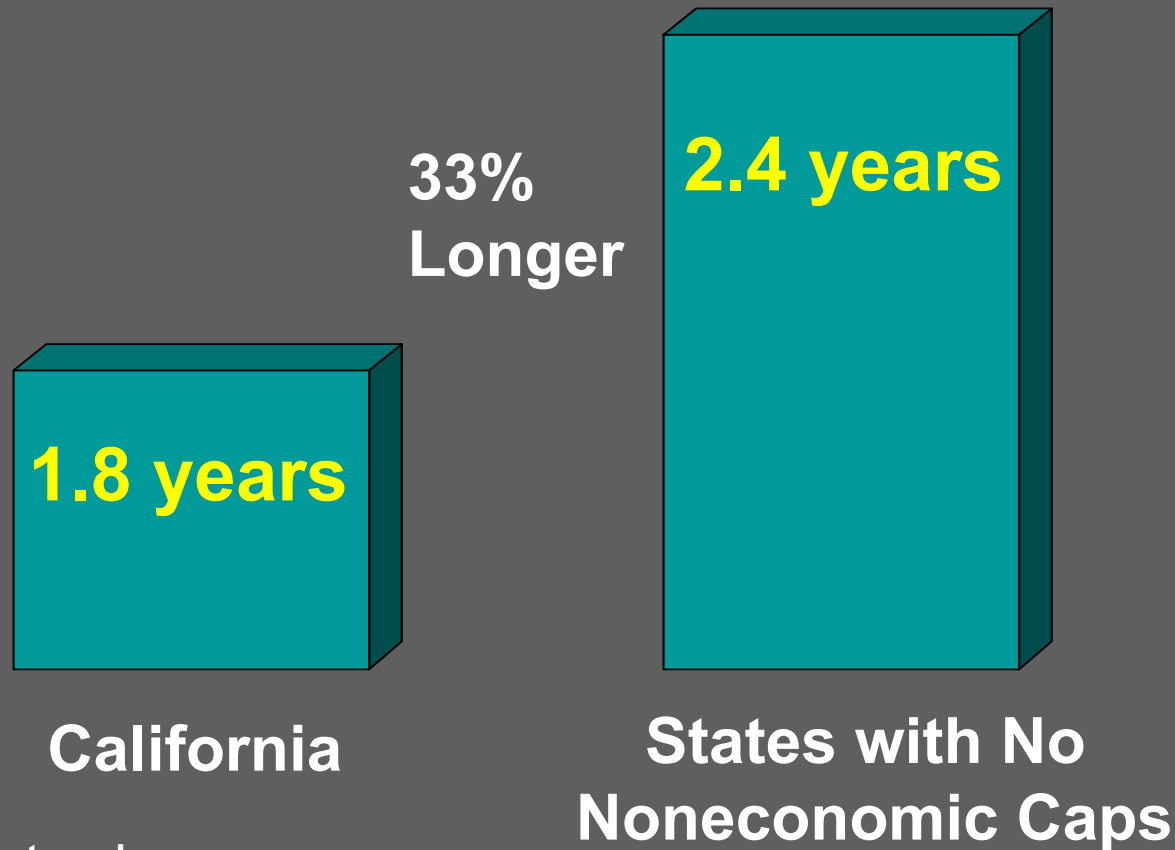
## The Doctors' Company 1976-2001



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



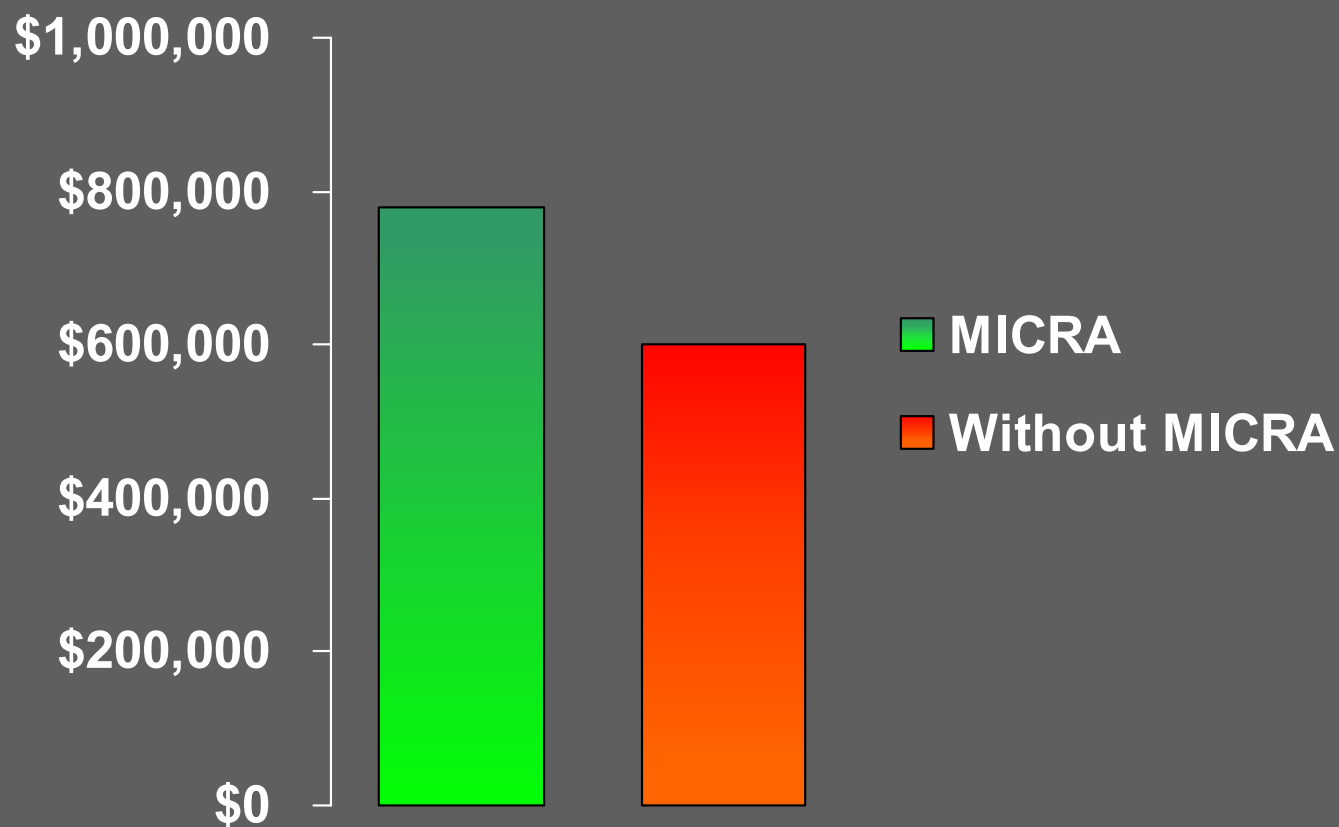
# MICRA Reduces Average Time to Settlement



\*Indemnity payments only

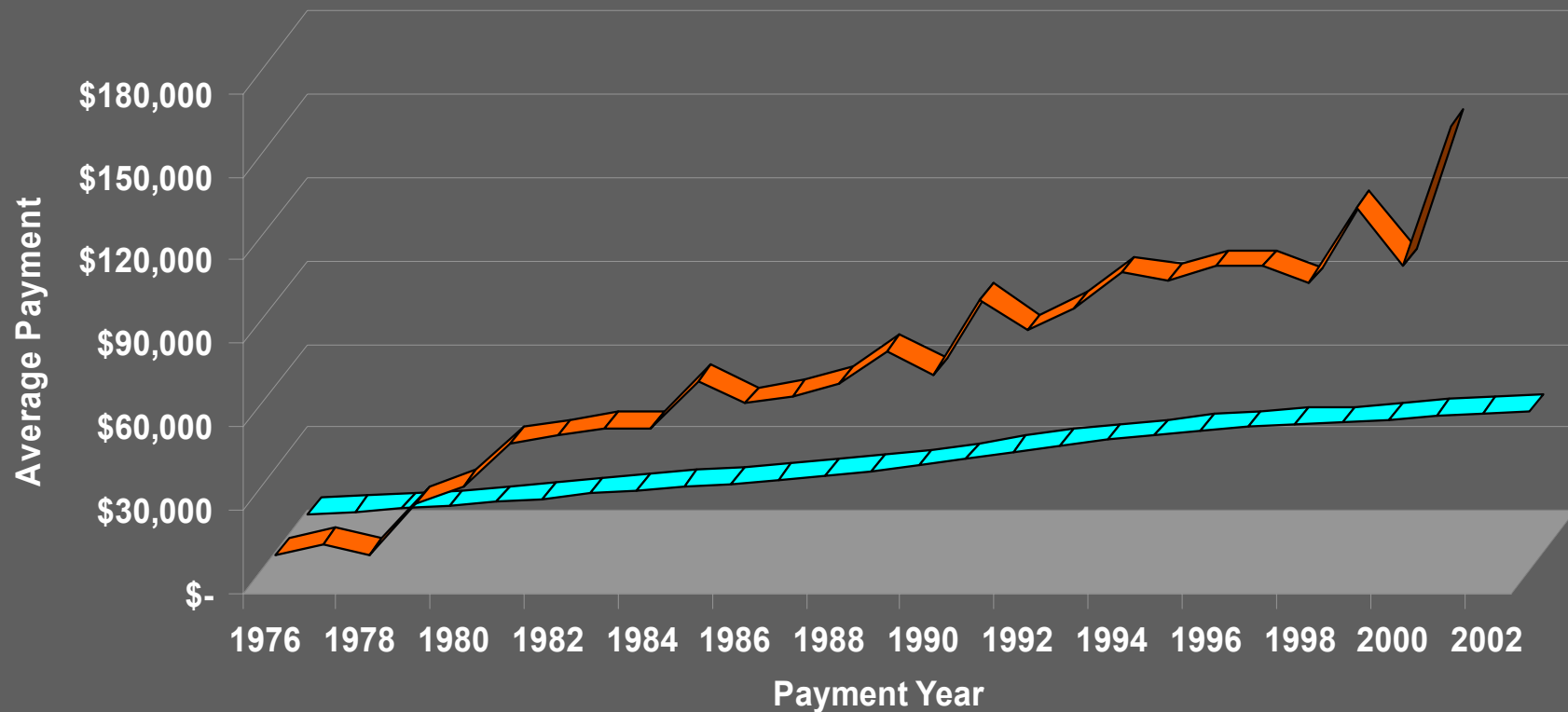
The Doctors' Company, 1997-2001

# 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



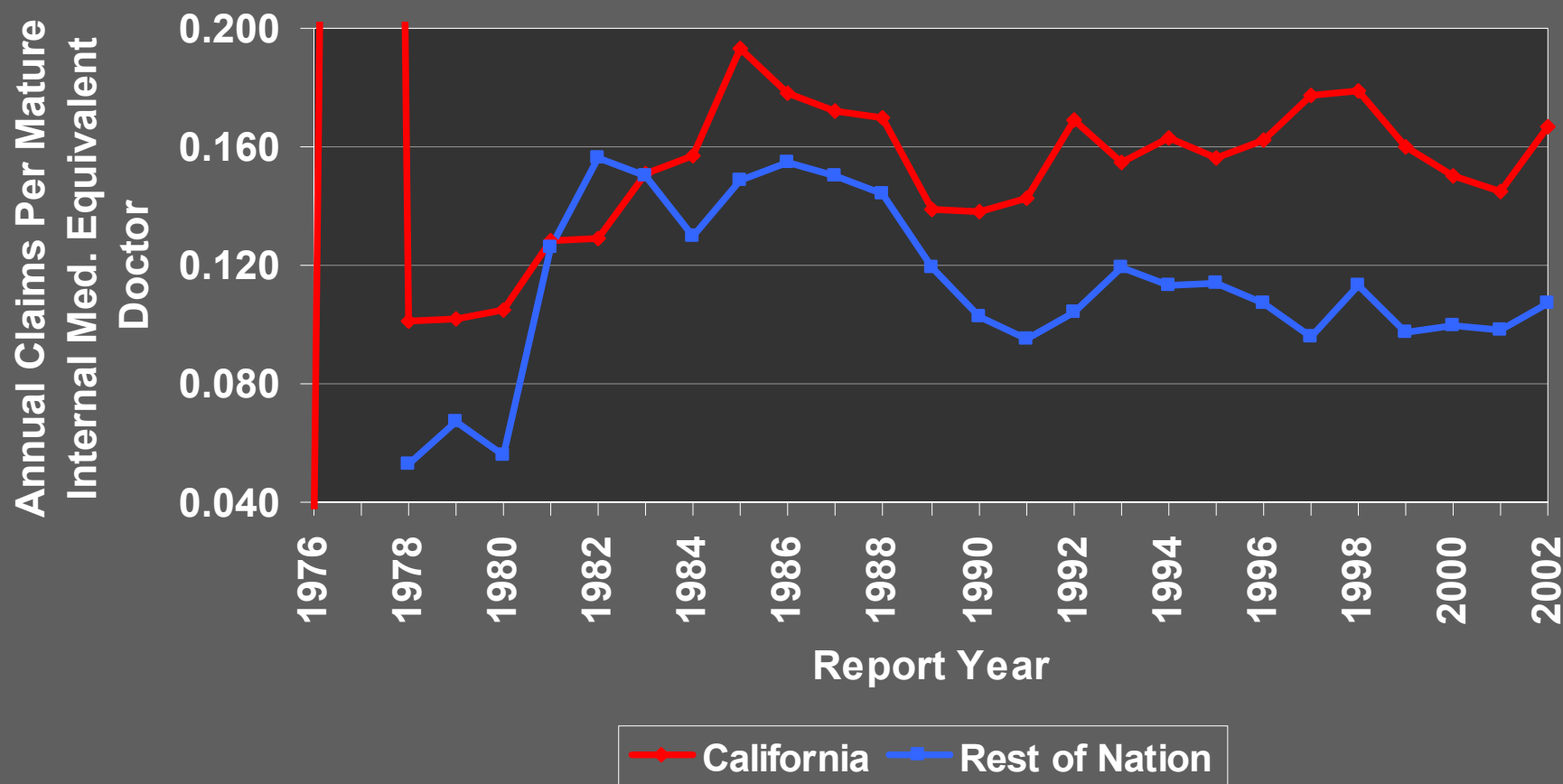
	Total % Increase 1984-2000	Average Annual Increase
Average Indemnity Cost	153.1%	5.6%
Health Care Cost	144.2%	5.4%
All Consumer Items Inflation	65.7%	3.0%

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

# MICRA Does Not Limit Access to Courts



## TDC PHYSICIAN CLAIM FREQUENCY

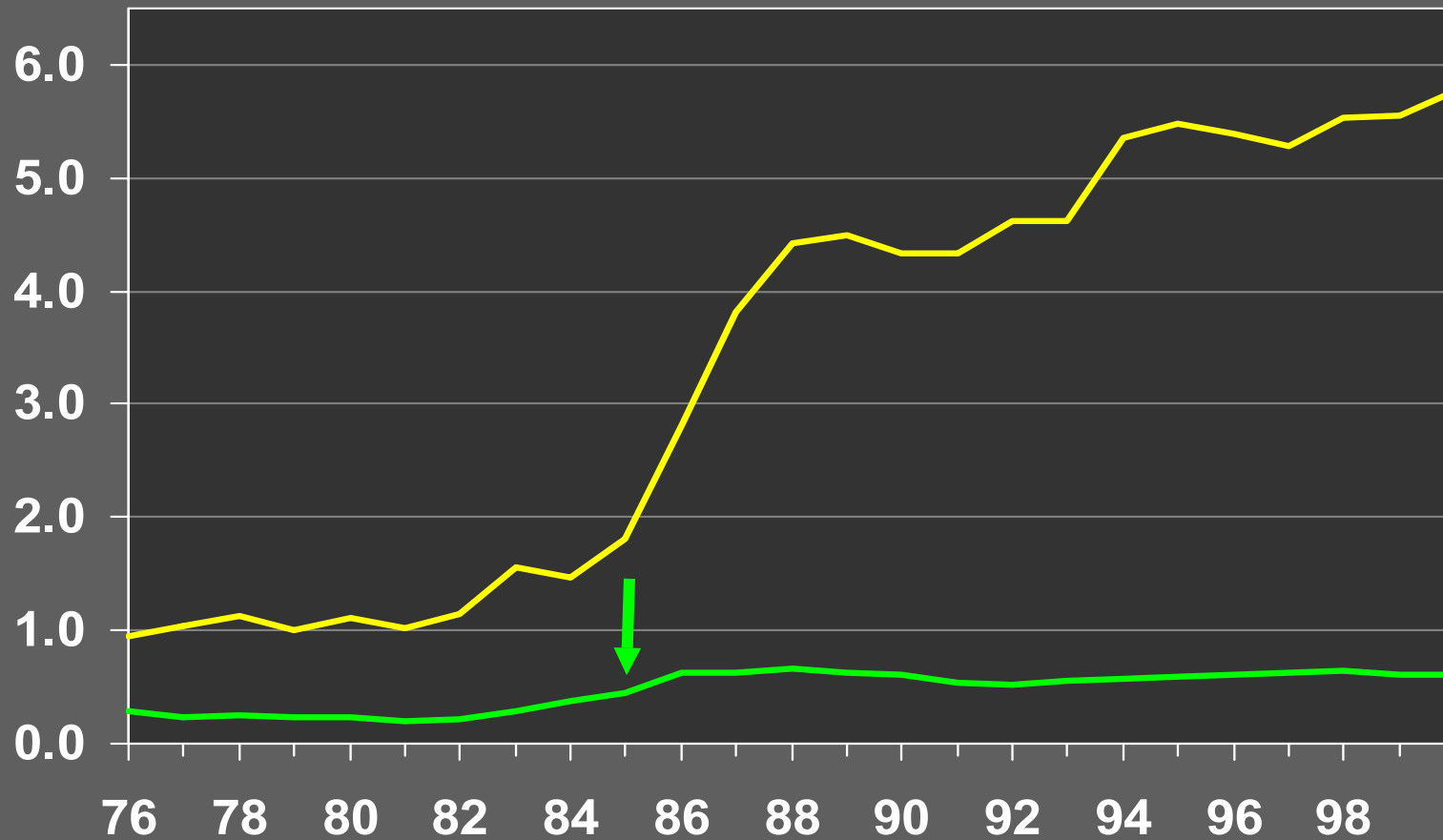


# Savings from MICRA Reforms



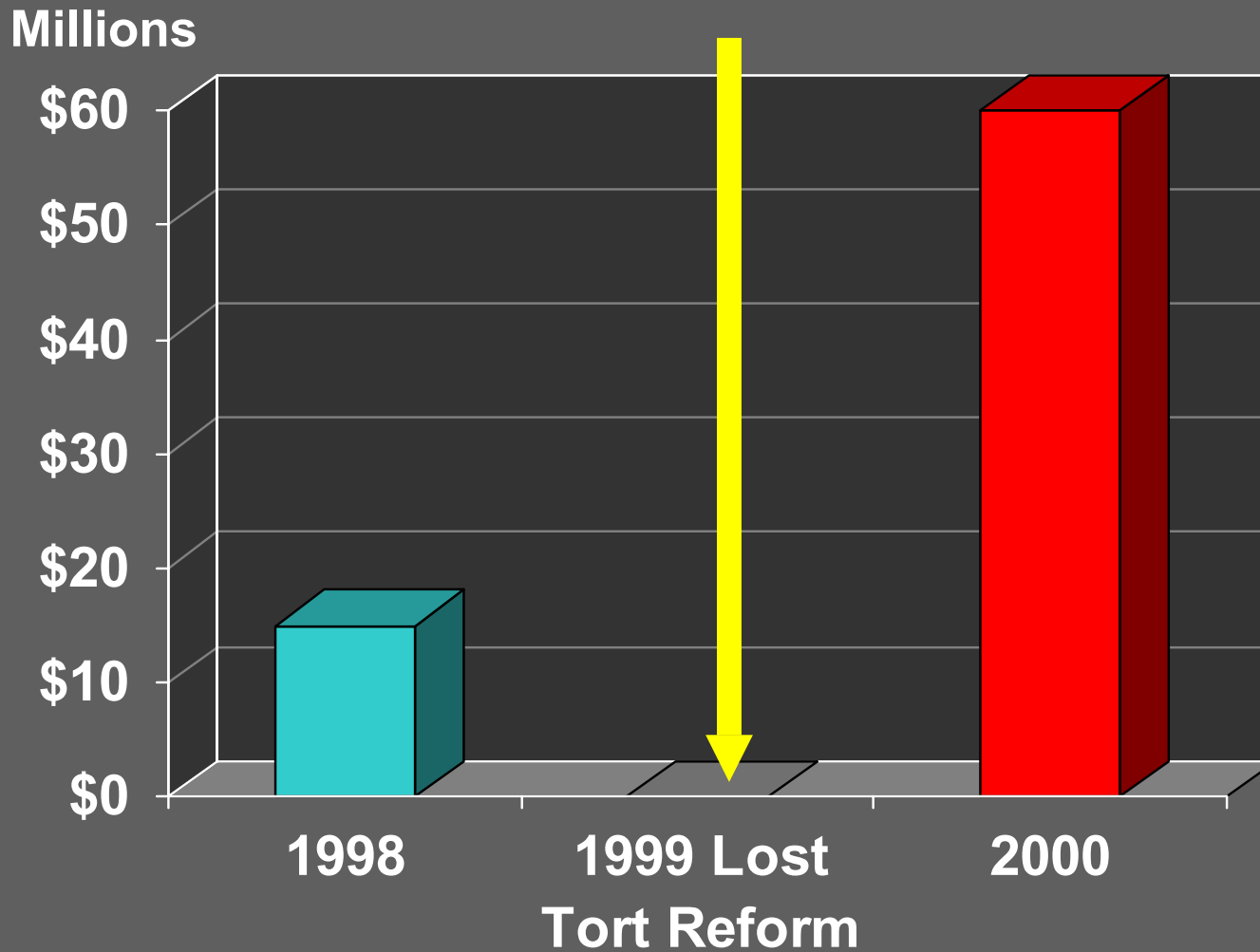
## California vs. U.S. Premiums 1976 -2000

\$ Billions



Source: NAIC Profitability By Line By State

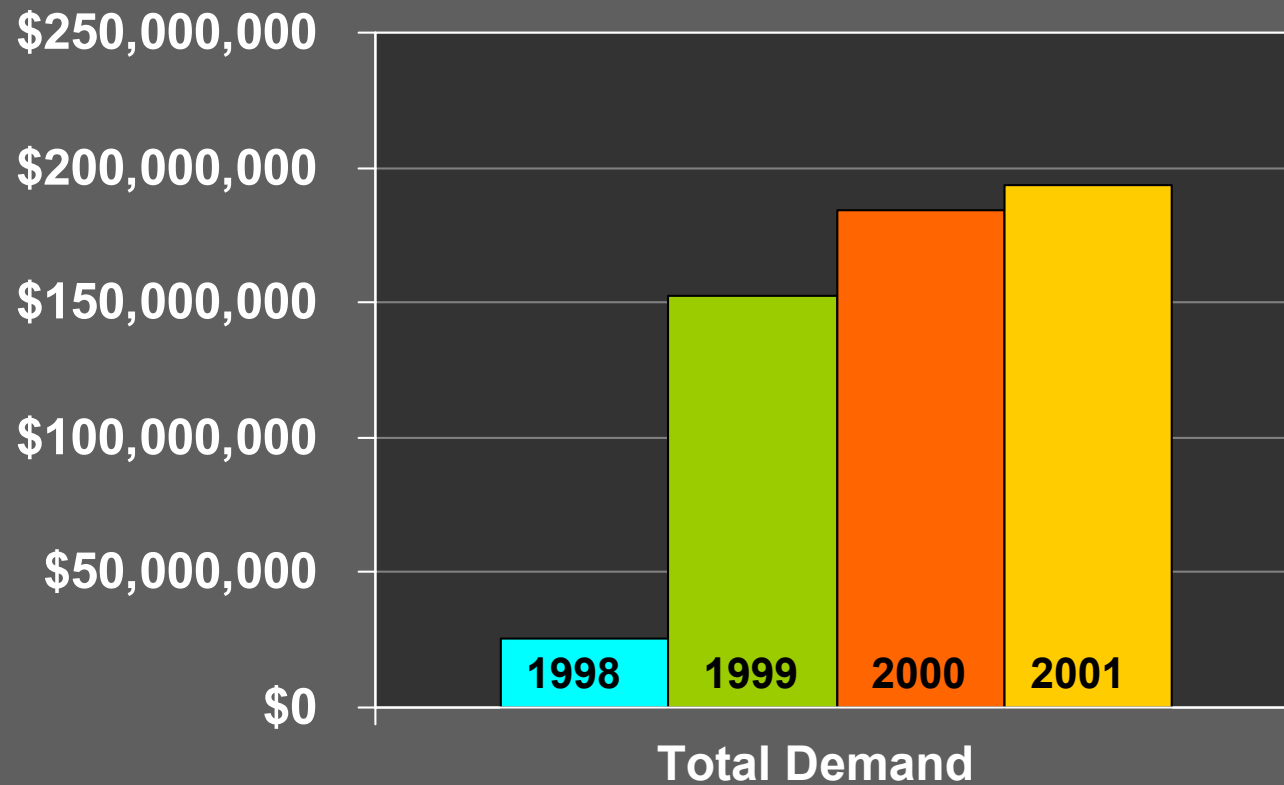
# Oregon and the Loss of Tort Reform



# Oregon: Loss of Tort Reform



## Total Plaintiff's Demand in Settled Cases





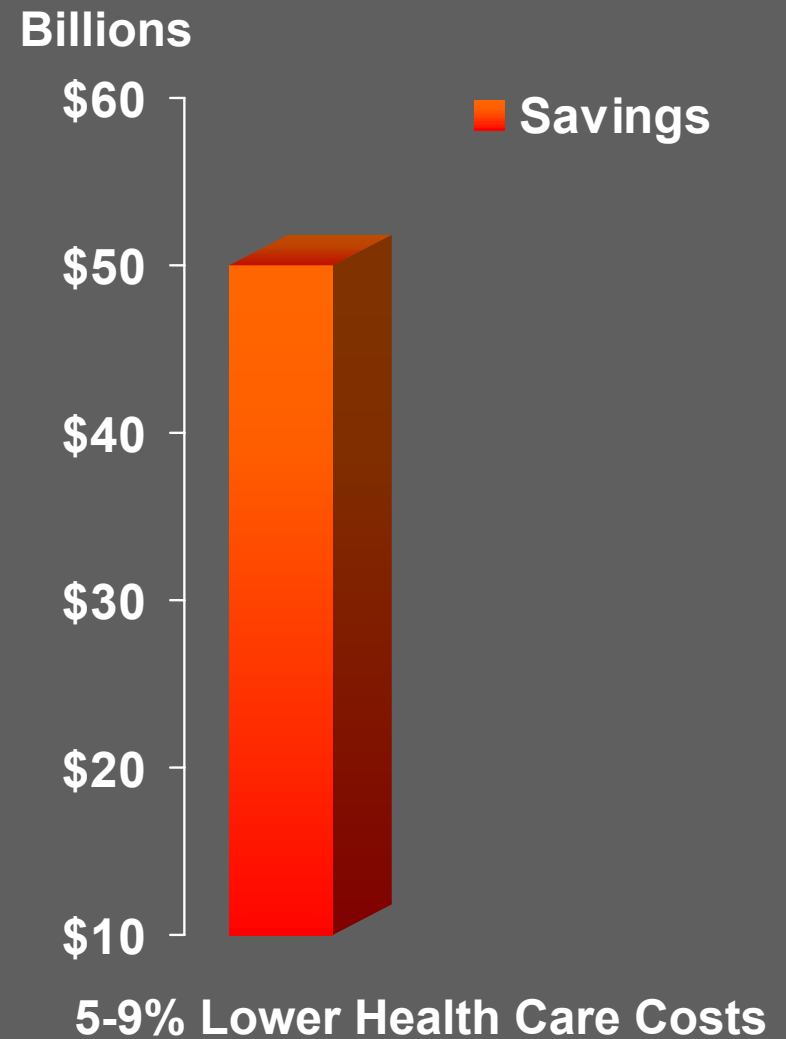
# Stanford Study: The Cost of Defensive Medicine



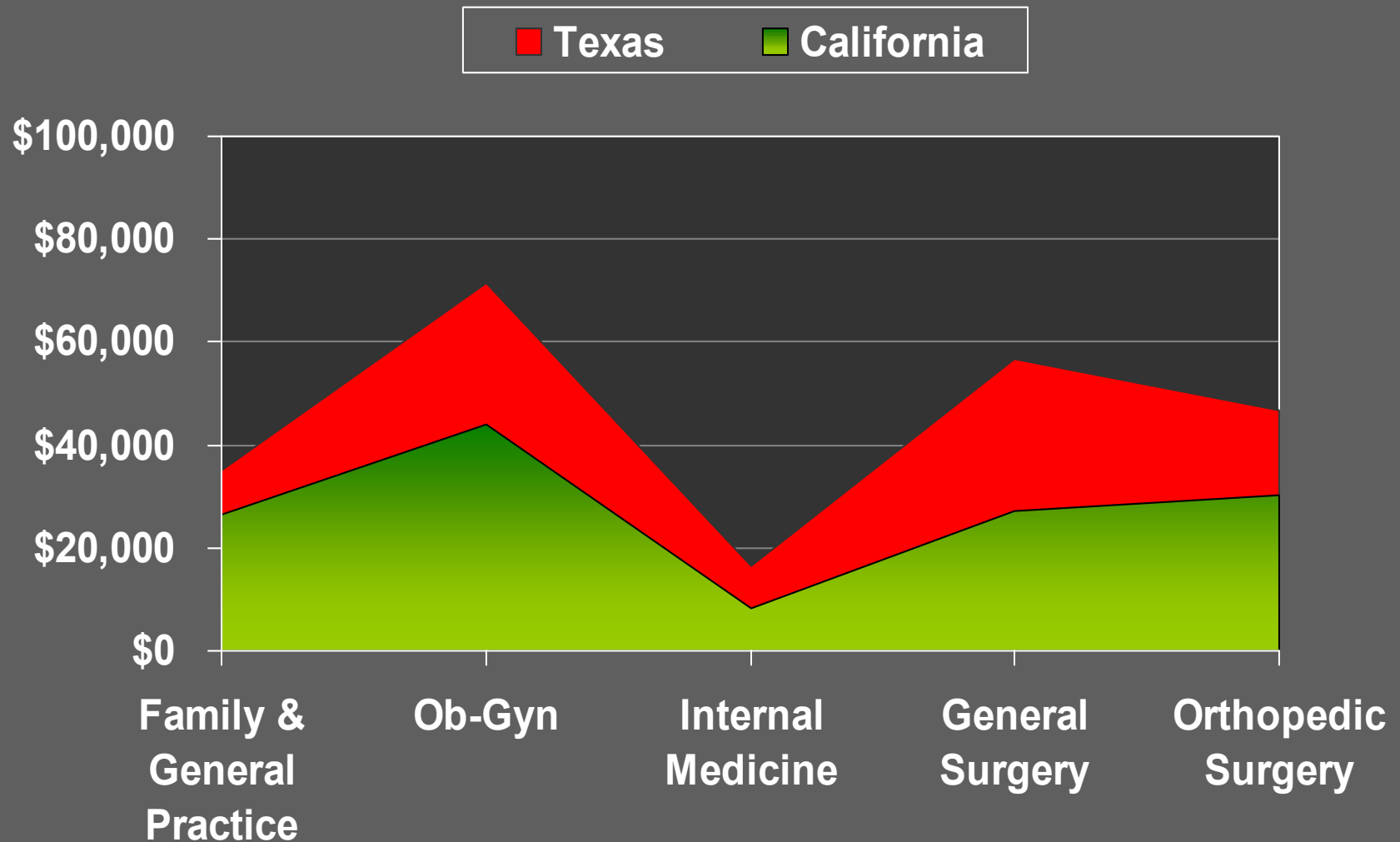
States with effective tort reform lower health care costs 5-9%.

Savings nationally would be \$50 billion.

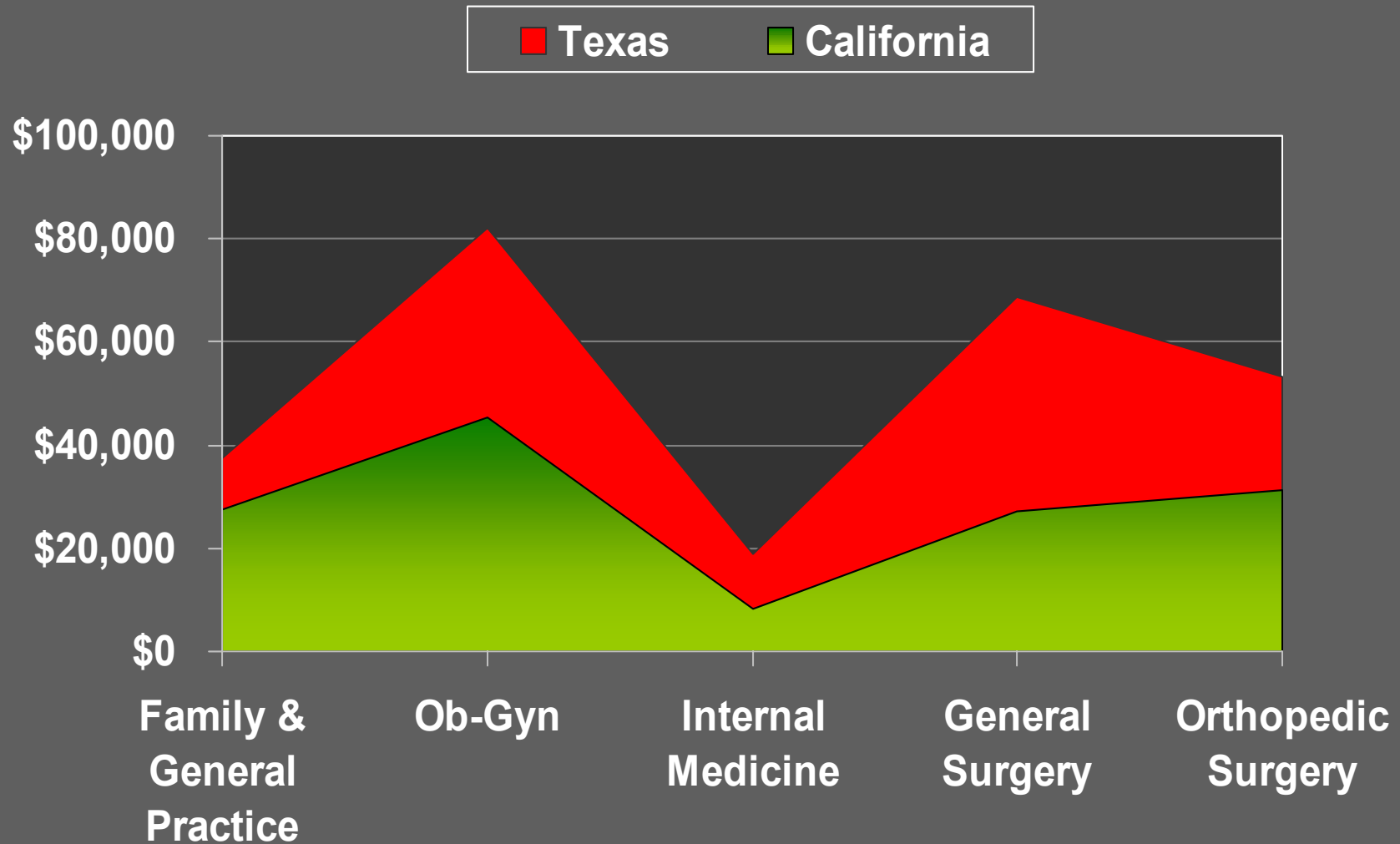
HHS: up to \$110 billion



# California vs. Texas 1998-2002 Average Rate by Specialty



# California vs. Texas 2002 Average Rate by Specialty



# Implications of a \$268,000,000 Verdict



- You cannot afford to go to court.
- Cost of settlement rises dramatically.
- System of indemnification unsustainable.

# Implications of a \$268,000,000 Verdict



- *If society wishes to have **unlimited judgments**, then insurance companies will be required to charge **unlimited premiums**. Unlimited medical malpractice premiums mean **unlimited increases in the cost of healthcare**. Unlimited increases in the cost of healthcare means **decreased access to healthcare**. Limitations of access inevitably affect the **most vulnerable members of our society**.*

# Corroboration

# MICRA Works



- Congressional Budget Office
  - 25-30% reduction in premiums
- National Association of Insurance Commissioners
- American Academy of Actuaries
  - \$250,000 cap
  - Comprehensive set of reforms

- Florida Governor's Select Task Force
  - “The primary cause of increased medical malpractice premiums has been the substantial increase in loss payments...”
  - \$250,000 cap
    - “...will bring relief to this current crisis”
    - “Without the inclusion of a cap on potential awards of non-economic damages in a legislative package, no legislative reform plan can be successful in achieving the goal of controlling increases in healthcare costs, and thereby promoting improved access to healthcare”



# MICRA Works



- “...there is no other alternative remedy that will immediately alleviate Florida’s crisis...”
- “...a cap of \$250,000 per incident will lead to significantly lower malpractice premiums.”

# Summary

- We know, we do not speculate that MICRA is effective
  - in providing sustainable insurance rates
  - in preserving access to medical care
  - In providing full indemnification of injured patients.
- We know unlimited judgments require unlimited premiums which lead to unlimited increases in the cost of healthcare and decreased access by the most vulnerable among us.

# Summary

- We know
  - “There is an overpowering public necessity for the reform measures recommended in this report, and no alternative method of meeting such public necessity can be shown.” (p. 217)