

MICRA Amendments— What is Coming Your Way...

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OVERVIEW OF AMENDED STATUTES

Business &
Professions Code
§ 6146
Attorneys' Fees

Civil Code §
3333.2
Non-Economic
Damages
Limitation

Code of Civil
Procedure §
667.7
Periodic
Payments

Health & Safety
Code § 103
Expressions of
Fault

CIVIL CODE SECTION 3333.2—What is new?

Increased cap for
non-economic
damages

- Non-death cases
- Death cases

Separate caps for
three categories
of defendants

- “Health care provider”
- “Health care institution”
- “Unaffiliated” health care provider or institution

Increased Cap Amounts

Personal Injury
Claims

\$430,000

Wrongful Death
Claims

\$600,000

Separate Categories of Defendants

Health Care
Providers

Health Care
Institutions

Unaffiliated
Health Care
Provider or
Institution

“Affiliated” v. “Unaffiliated”

- When one corporation is directly/indirectly through one or more intermediaries, controls, is controlled by or under common control with another corporation
- Employed by another
- Performing under a contract with another
- Owner of another
- Joint Venture with another
- In the same “health system”

Separate Cap Amounts

Health Care Providers

- Single cap for all providers
- Excludes unaffiliated Health Care Providers

Health Care Institutions

- Single cap for all institutions
- Excludes unaffiliated Health Care Institutions

Separate Cap Amounts

Unaffiliated Health Care Provider or Health Care Institution

- Unaffiliated with another HCP or HCI
- Liability is based on separate and independent acts of negligence, and
- Negligence occurred at an unaffiliated HCI, or
- Negligence occurred in relation to a medical transport

General Limits On The Number Of Caps

Three potential caps

No HCP or HC institution defendant shall be liable for non-economic damages in more than one of the three categories

The caps apply regardless of the number of defendant HCP and HC institutions or number of causes of action

When do the new damages caps apply?

The new caps apply to actions filed in 2023

The amount of the cap is based on the date of settlement/verdict

- “...at the time of judgment, arbitration award, or settlement shall apply to an action” CCP 3333.2(g)

Increasing non-economic damages caps

First 10 years, starting 1/1/24:

- Non-death actions increase \$40,000/yr.
- Death action increase \$50,000/yr.

Starting 1/1/34:

- Caps are adjusted for inflation annually by 2%

Year	Personal Injury Cap	Wrongful Death Cap
2023	\$350,000	\$500,000
2024	\$390,000	\$550,000
2025	\$430,000	\$600,000
2026	\$470,000	\$650,000
2027	\$510,000	\$700,000
2028	\$550,000	\$750,000
2029	\$590,000	\$800,000
2030	\$630,000	\$850,000
2031	\$670,000	\$900,000
2032	\$710,000	\$950,000
2033	\$750,000	\$1,000,000
2034 (2% adj. starts)	\$765,000	\$1,020,000
2035	\$780,300	\$1,040,400
2036	\$795,906	\$1,061,208
2037	\$811,824.12	\$1,082,432.16
2038	\$828,060.60	\$1,104,080.80
2039	\$844,621.81	\$1,126,162.42
2040	\$861,514.25	\$1,148,685.67
2041	\$878,744.54	\$1,171,659.38
2042	\$896,319.43	\$1,195,092.57
2043	\$914,245.81	\$1,218,994.42

Periodic Payments –Code Civ. Proc. § 667.7



RAISES QUALIFYING AMOUNT FROM
\$50,000 TO \$250,000



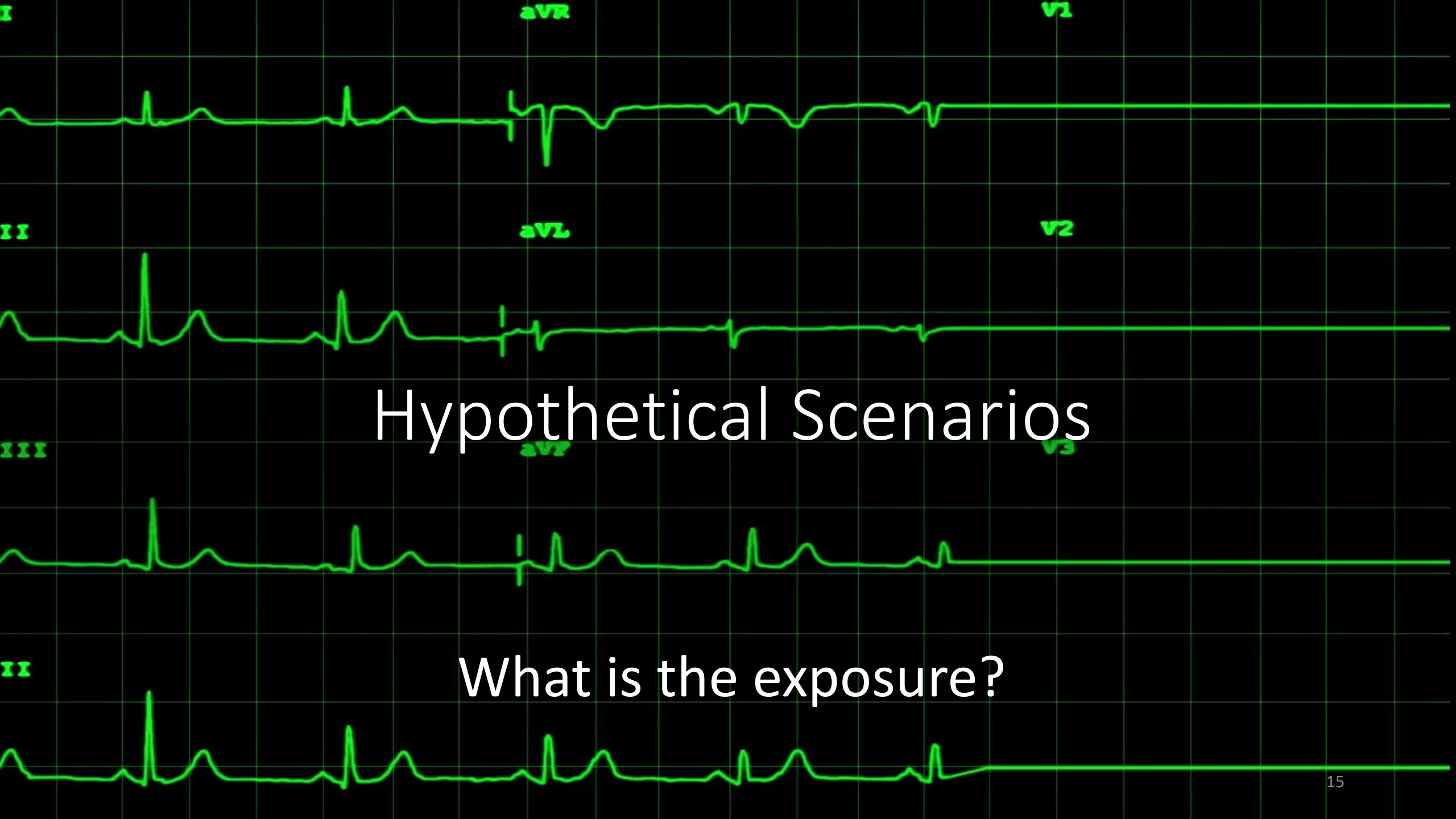
MAINTAINED THE
PRIOR DEFINITIONS

Increased Limits on Fees

25% pre-litigation

33% post-litigation

Motion for higher percentage
post-trial/arbitration



Hypothetical Scenarios

What is the exposure?

Hospital and Nurses

Hospital and
nurses are sued
and alleged to be
negligent

Case is set for trial
in January 2026

What is the
potential exposure
to non-economic
damages?

Hospital System, Hospital, Treating Doctor, and Nurse

Hospital System,
Hospital, treating
doctor and nurse
are sued and alleged
to be negligent

Patient died and
wrongful death suit
is filed

What is the
potential exposure
to non-economic
damages?

Hospital, Treating Doctor, Doctor's Group, and Nurse

Hospital, treating doctor, doctor's group and nurse are sued and alleged to be negligent

Patient lived, filed suit after 1/1/23, then died during the litigation...

What is the potential exposure to non-economic damages?

Hospital and Treating Doctor

Hospital and
treating doctor are
sued for negligence
and loss of
consortium

Patient filed suit
after 1/1/23...

What is the
potential exposure
to non-economic
damages?

Hospital, Treating Doctor, Nurse, and Ambulance Company

Hospital, treating
doctor, nurse,
and ambulance
company are
sued and alleged
to be negligent

Patient's heirs
brought a
wrongful death
lawsuit...

What is the
potential
exposure to non-
economic
damages?

Hospital and ER Doctor



ER doctor is sued
for negligence,
Hospital is sued for
ostensible agency



Plaintiffs claim there are
two separate
recoverable limits...



How many limits
apply?



Jury Verdict

Case is tried against
hospital, doctor,
nurse, and
ambulance company

What questions
does the jury need
to decide?

Does the jury decide
an allocation of
fault?

Jury Verdict

Jury finds hospital,
nurse, and doctor
liable for \$1.5M in
wrongful death
lawsuit

40% to hospital
10% to nurse
50% to doctor

Who pays what?