

# 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

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## 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

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### Increased Cap Amounts

**Personal Injury  
Claims**

**\$430,000**

**Wrongful Death  
Claims**

**\$600,000**

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## Separate Categories of Defendants

Health Care Providers

Health Care Institutions

Unaffiliated Health Care Provider or Institution

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## “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”

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## 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

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## 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

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## 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

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## 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)

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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%

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| 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<br>(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     |

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## Periodic Payments –Code Civ. Proc. § 667.7



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

MAINTAINED THE  
PRIOR DEFINITIONS

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Increased  
Limits on  
Fees

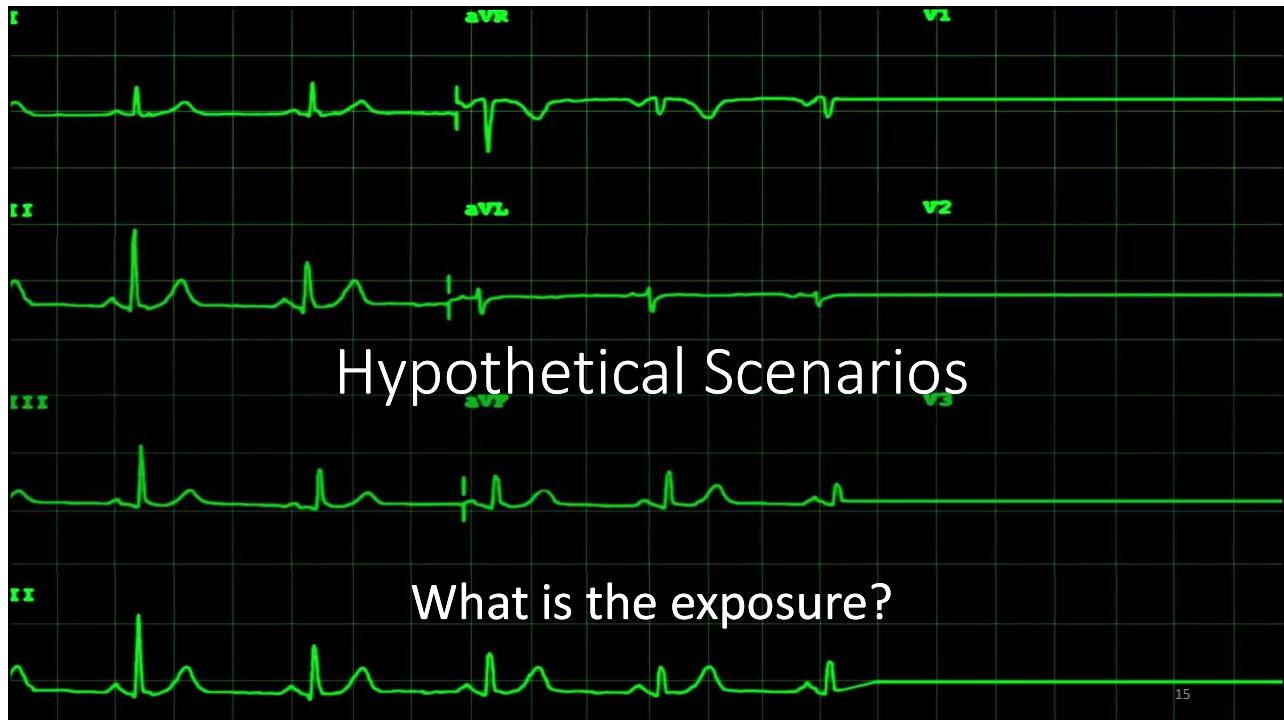
25% pre-litigation

33% post-litigation

Motion for higher percentage  
post-trial/arbitration

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## 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?

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## 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?

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## 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?

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## 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?

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## 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?

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## 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?

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## 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?

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## 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?

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