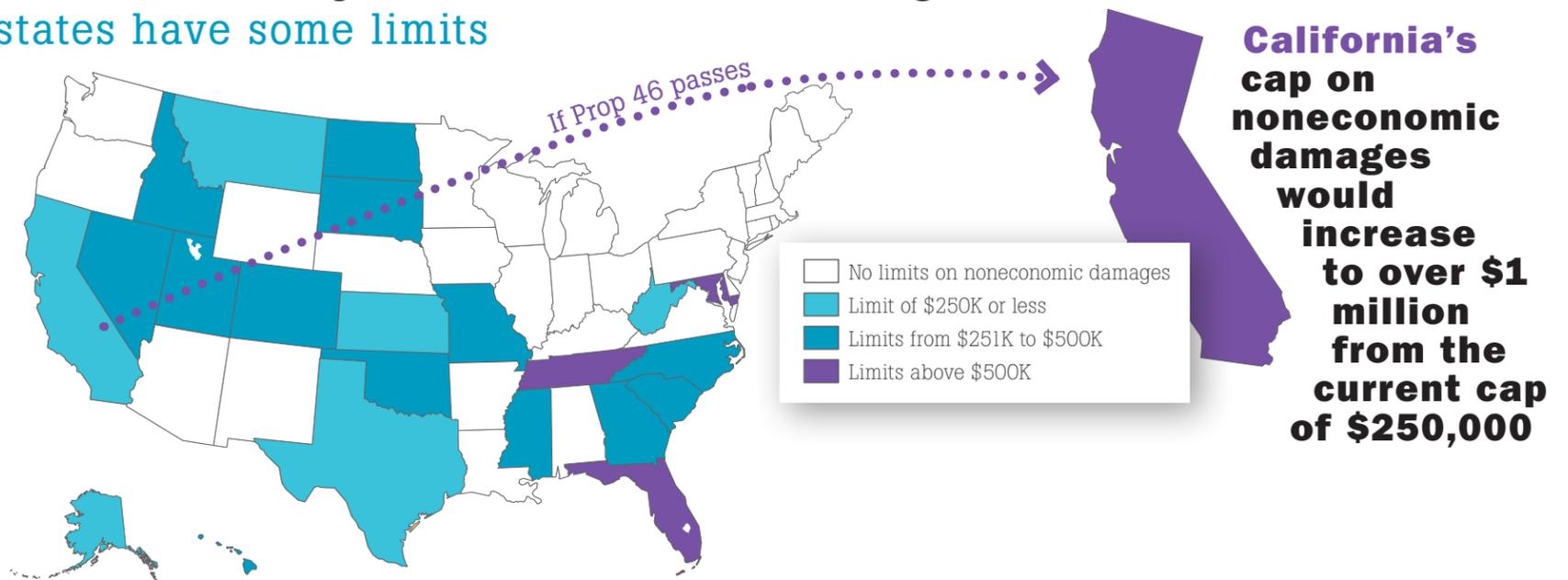


About Proposition 46

CALIFORNIA WOULD JOIN THREE OTHER STATES WITH SIMILAR CAPS

28 states currently have no limits on damages,
22 states have some limits



Proposition 46, officially titled the "Troy and Alana Pack Patient Safety Act of 2014", is a ballot initiative that will go before California voters in November 2014. If approved, it will enact important changes to how payments in medical malpractice cases are calculated.

CURRENT CAP IS \$250,000

California's Medical Injury Compensation Reform Act of 1975 (MICRA) limits (or "caps") to \$250,000 the amount a plaintiff alleging instances of medical malpractice can recover at trial for noneconomic damages such as pain, suffering, emotional distress, or mental anguish. (Economic damage awards, for out-of-pocket expenses, such as medical care costs or wage loss, are not capped). A jury can award whatever amount it believes is appropriate for noneconomic loss, but following the verdict the judge will reduce that portion of the award to \$250,000 (if necessary) prior to entering the final judgment in the case.

IF PASSED, NEW CAP WOULD RISE TO OVER \$1.1 MILLION

The cap on noneconomic damages has stayed fixed at \$250,000 since MICRA's passage nearly 40 years ago. If approved by voters in California, Prop. 46 will increase the state's cap to more than \$1 million to take into account inflation that has occurred since 1975. It will also automatically increase the cap in future years according to the rate of inflation.

The initiative will also (LAO 2014):

- Require healthcare providers to check a statewide database prior to prescribing certain drugs for the first time in an effort to curb prescription drug abuse
- Require hospitals to subject certain physicians to random drug and alcohol testing
- Require the California Medical Board to discipline physicians who have been found to be practicing while impaired by drugs or alcohol
- Require healthcare practitioners to report information suggesting drug or alcohol impairment or medical negligence by their colleagues

Source: <http://www.lao.ca.gov/ballot/2014/prop-46-110414.pdf>



This infographic describes work done in the RAND Institute for Civil Justice and documented in *Is Better Patient Safety Associated with Less Malpractice Activity? Evidence from California* by Michael D. Greenberg, Amelia M. Haviland, J. Scott Ashwood, Regan Main, TR-824-ICJ (available at www.rand.org/t/TR824.html), 2010; *Patterns of Specialization in Medical Malpractice Among Contingency Fee Attorneys* by Michael D. Greenberg, Steven Garber, WR-700-ICJ (available at www.rand.org/pubs/working_papers/WR700.html), 2009; and *Capping Non-Economic Awards in Medical Malpractice Trials California Jury Verdicts Under MICRA* by Nicholas M. Pace, Laura Zakaras, Daniela Golinelli, MG-234-ICJ (available at www.rand.org/t/MG234.html), 2004. The RAND Corporation is a research organization that develops solutions to public policy challenges to help make communities throughout the world safer and more secure, healthier and more prosperous. RAND is nonprofit, nonpartisan, and committed to the public interest. RAND's publications do not necessarily reflect the opinions of its research clients and sponsors. RAND® is a registered trademark.

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