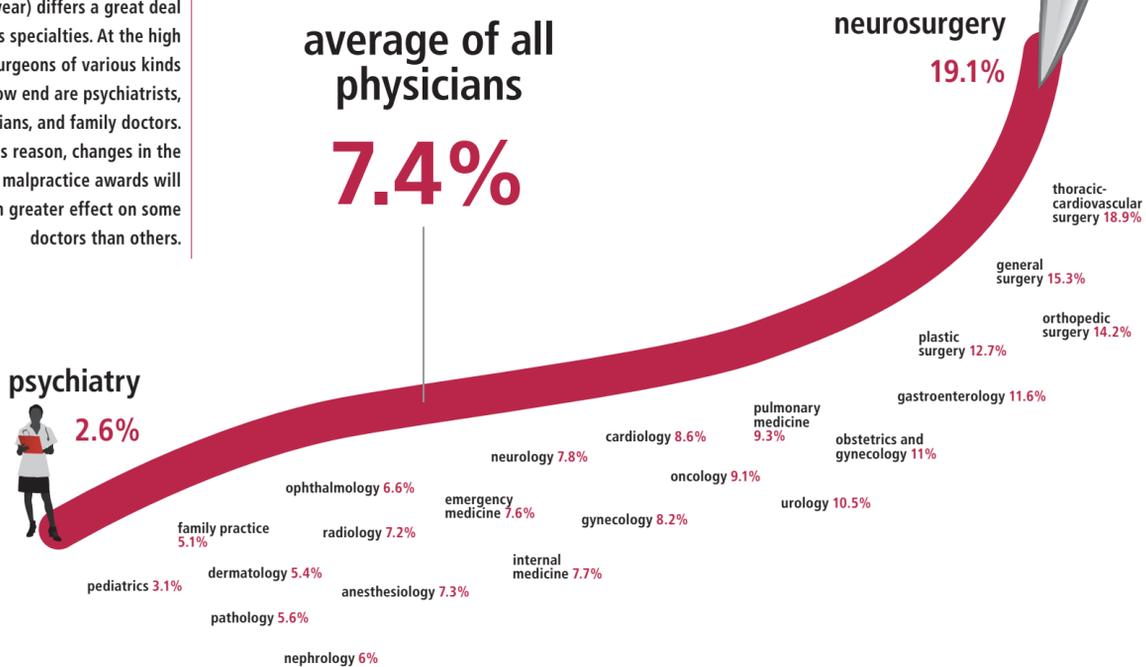


Would it decrease the number of physicians?

Yes, evidence suggests that increasing physician liability as proposed in Proposition 46 would slightly reduce the number of doctors in high-risk specialties in a typical state. However, forecasting changes for any particular state (such as California) is difficult because many other factors besides liability influence where doctors decide to practice.

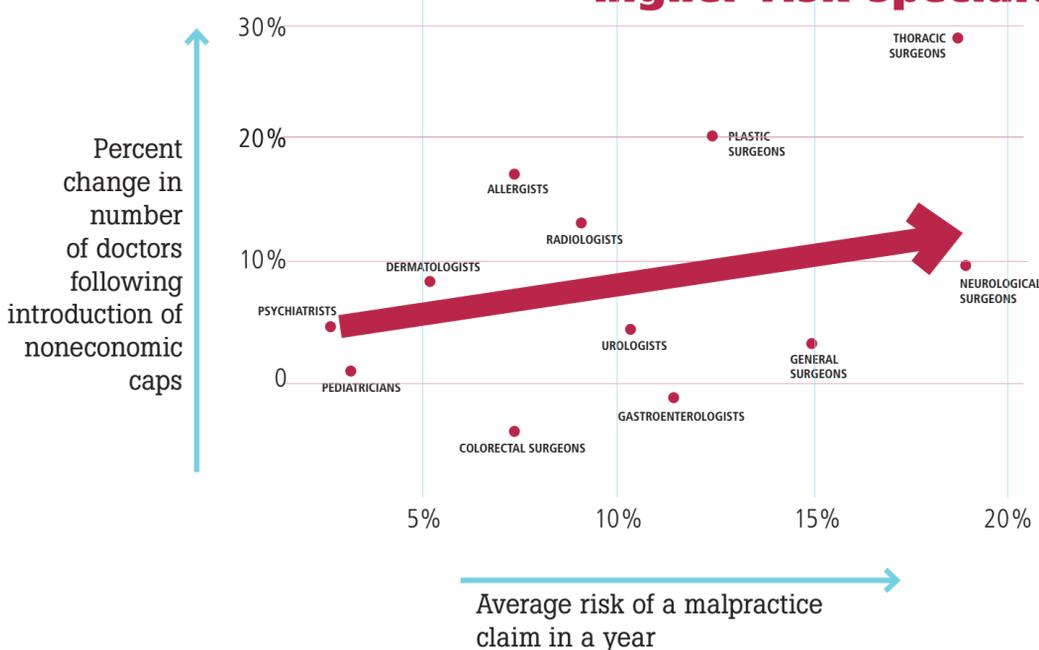
SOME SPECIALTIES FACE HIGHER MALPRACTICE RISK

Liability risk (the likelihood of being sued for malpractice in a given year) differs a great deal across specialties. At the high end are surgeons of various kinds and at low end are psychiatrists, pediatricians, and family doctors. For this reason, changes in the limits on malpractice awards will have much greater effect on some doctors than others.



DOCTORS WITH HIGHER RISK ARE MORE AFFECTED BY CAPS

When awards are capped, there is an increase in the number of doctors who practice higher risk specialties.



The impact of imposing a strict limit (\$250,000) on noneconomic damages on the supply (number per capita) of physicians in various specialties, as compared to no limit. The figure represents the average experience across all states undergoing physician liability reform between 1995 and 2010.

For specialties with doctors who most often face a malpractice claim, limited liability causes the largest increase in the number of physicians per capita. Over all, consistent with previous research on the subject by other scholars, we found that adopting noneconomic damage caps like California's MICRA leads to modest increases in the number of physicians in high-risk specialties—about a 1 to 7 percent increase.

Conversely, raising the limit on caps as proposed by the initiative is likely to decrease the number physicians in high-risk specialties holding other factors equal.

To put these changes in perspective, in the average state in our sample there are about 54 doctors per 100,000 people practicing in high-risk specialties. Thus, a 7 percent reduction would result in about 3.6 per 100,000 fewer physicians practicing in one of the high-risk specialties per year.

Although these results capture only the average effect across states that have enacted caps, the evidence suggests that, holding other factors equal, there may be slight declines in the number of doctors working in high-risk specialties in California if the MICRA cap is raised.

However, precise forecasts of physician decreases should be treated skeptically

- Proposition 46 does not completely eliminate the noneconomic damage cap; it increases it to approximately \$1.1 million and indexes it to inflation thereafter.
- Although there are reasons to believe that a high cap will have similar consequences to no cap, most research to date is based upon comparisons of states with and without caps, which is not completely equivalent to what would occur under Proposition 46.
- Many other factors beyond the malpractice environment affect whether physicians are willing to locate in a state, and there is considerable uncertainty about how those factors will evolve in California in the future.

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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