

AMENDED IN ASSEMBLY MAY 24, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1380

Introduced by Assembly Member Villaraigosa

(Coauthors: Assembly Members Alquist, Aroner, Bock, Calderon, Cardenas, Cardoza, Cedillo, Corbett, Correa, Davis, Ducheny, Dutra, Firebaugh, Florez, Floyd, Gallegos, Havice, Hertzberg, Honda, Jackson, Keeley, Knox, Kuehl, Lempert, Longville, Lowenthal, Machado, Mazzoni, Migden, Nakano, Reyes, Romero, Scott, Shelley, Soto, Steinberg, Strom-Martin, Thomson, Torlakson, Vincent, Washington, Wayne, Wesson, Wiggins, Wildman, and Wright)

February 26, 1999

An act to amend Section 3333.2 of the Civil Code, relating to liability.

LEGISLATIVE COUNSEL'S DIGEST

AB 1380, as amended, Villaraigosa. Liability: health care providers.

Existing law limits the liability of health care providers for noneconomic damages for personal injury or death for professional negligence to \$250,000.

This bill would ~~set forth findings of fact, including a statement that the limits need to be changed,~~ provide for a cost-of-living adjustment of that amount based on the Consumer Price Index, as specified.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~—yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds that the
2 Medical Injury Compensation Reform Act of 1975
3 (MICRA) needs revision in order to balance the interests
4 of health care professionals with the crucial need to
5 ensure adequate compensation for medical malpractice
6 victims, particularly women, children, the elderly and
7 lower income Californians.

8 (b) MICRA's limits on general damages for pain,
9 suffering, inconvenience, disfigurement, or loss of quality
10 of life to two hundred fifty thousand dollars (\$250,000)
11 have not been changed since the statute's enactment in
12 1975.

13 (c) Since the law was enacted 24 years ago, the cost of
14 living has increased so that the two hundred fifty
15 thousand dollars (\$250,000) cap on damages is estimated
16 to be worth eighty-four thousand dollars (\$84,000) today.

17 (d) The Legislature also finds that the MICRA law
18 disproportionately affects women, children, the elderly,
19 and lower income Californians because they are less
20 likely than other citizens to have incurred substantial
21 economic loss and must rely on noneconomic damages as
22 the main source of compensation for the injuries suffered
23 because of medical negligence.

24 (e) Therefore, the people of the State of California
25 hereby recognize that the interests of justice and fairness
26 demand immediate change to the MICRA law in order to
27 better protect its citizens.

28 *SEC. 2. Section 3333.2 of the Civil Code is amended*
29 *to read:*

30 3333.2. (a) In any action for injury against a health
31 care provider based on professional negligence, the
32 injured plaintiff shall be entitled to recover noneconomic
33 losses to compensate for pain, suffering, inconvenience,
34 physical impairment, disfigurement and other
35 nonpecuniary damage.



1 (b) ~~In~~—*Except as provided in subdivision (c), in no*
2 *action shall the amount of damages for noneconomic*
3 *losses exceed two hundred fifty thousand dollars*
4 *(\$250,000).*

5 (c) *On February 1 of each year, the Treasurer shall*
6 *adjust the limitation of noneconomic loss set forth in*
7 *subdivision (b) to reflect the cumulative percentage*
8 *change in the Consumer Price Index for all items*
9 *published by the United States Bureau of Labor Statistics*
10 *of the United States Bureau of Labor Statistics of the*
11 *United States Department of Labor for the preceding*
12 *calendar year.*

13 (d) For the purposes of this section:

14 (1) “Health care provider” means any person licensed
15 or certified pursuant to Division 2 (commencing with
16 Section 500) of the Business and Professions Code, or
17 licensed pursuant to the Osteopathic Initiative Act, or the
18 Chiropractic Initiative Act, or licensed pursuant to
19 Chapter 2.5 (commencing with Section 1440) of Division
20 2 of the Health and Safety Code; and any clinic, health
21 dispensary, or health facility, licensed pursuant to
22 Division 2 (commencing with Section 1200) of the Health
23 and Safety Code. “Health care provider” includes the
24 legal representatives of a health care provider;

25 (2) “Professional negligence” means a negligent act or
26 omission to act by a health care provider in the rendering
27 of professional services, which act or omission is the
28 proximate cause of a personal injury or wrongful death,
29 provided that such services are within the scope of
30 services for which the provider is licensed and which are
31 not within any restriction imposed by the licensing
32 agency or licensed hospital.

