



It's been a year of success for CAOC

FROM MICRA TO FINANCIAL RESPONSIBILITY LIMITS

Finally, after 47 years...a win for victims of medical negligence and their families! With the Fairness for Injured Patients Act (FIPA) pending on the ballot in November, there was an opportunity for a negotiated compromise to revise MICRA. The California Medical Association approached CAOC to begin discussions in the fall of 2021, and then starting in January 2022 CAOC worked with Nick Rowley and Consumer Watchdog to have further talks to make this a reality. Nick and CAOC President Craig Peters negotiated an agreement in principle in March that included a raise in California's long-outdated cap on non-economic damages. The grueling process of hammering out the legislative language followed over the next several weeks, until we finally were able to get the legislation across the table on April 27.

That bill, Assembly Bill 35 (Reyes/Umberg), moved quickly through the legislature and was signed by Gov. Newsom less than a month after it was introduced. Under the new law, for a non-death case, the cap increases from \$250,000 to \$350,000 on January 1, 2023, and increases every year by \$40,000 over the next ten years until it reaches \$750,000. For a wrongful-death case, the cap increases from \$250,000 to \$500,000 on January 1, 2023, and increases every year by \$50,000 over the next 10 years until it reaches \$1,000,000. The caps increase an additional 2% each year starting January 1, 2034. The contingency fee cap goes to 25% if the action is settled prior to the filing of an action and 33% if the recovery occurs thereafter.

Current law limits a plaintiff's recovery to \$250,000, regardless of the number of defendants. AB 35 creates three separate categories of defendants for a total of three possible caps, all under the new amounts: one cap for health care providers (regardless of the number of providers or causes of action); one cap for health care institutions (regardless of the number of institutions or causes of action); and one cap for an unaffiliated health care provider or health care institution.

These changes will have a profoundly positive impact on the lives of medical-malpractice victims and their families. For almost five decades, CAOC leadership has fought, alongside our members and thousands of injured patients, in the pursuit of fair compensation for those whose rights have been violated.

20% contingency cap derailed...for now

Updating MICRA is just part of what has made this a great year so far for CAOC. Faced with CAOC's show of resources, ad campaigns and support from legislators, the anti-consumer Civil Justice Association of California called off its attempt to put an initiative before voters this year that would have capped your contingency fees at 20 percent. And business groups that proposed a ballot initiative to end the Private Attorneys General Act and take such labor disputes out of the courts have decided not to go forward this year. But we aren't out of the woods. Both the fee cap initiative and the PAGA initiative are likely to be back in 2024. We are preparing for battle on both.

Major increase in financial responsibility limits

In another significant triumph for CAOC, we are one step closer to increasing California's outdated financial responsibility laws, as our CAOC-sponsored Senate Bill 1107 (Dodd) has been passed by the state Senate and, as this was written, is working its way through the Assembly. We anticipate this negotiated bill should get to Gov. Newsom for signature this year.

Acknowledging political challenges with the Assembly Insurance Committee, CAOC engaged in serious negotiations with the main insurance organization, the Personal Insurance Federation of California (PIFC). The final negotiated product contains the following key provisions:

- New mandatory minimum insurance limits of \$30,000, \$60,000 and \$15,000 (respectively), effective January 1, 2025 (the delayed effective date is necessary for the insurers to apply for and receive rate increases at the Department of Insurance).
- A further increase to \$50,000, \$100,000 and \$25,000 (respectively), effective January 1, 2035. This increase will put California in the highest level of mandatory financial responsibility limits in the United States.

In return, we agreed to a new statutory structure on pre-litigation time-limited demands. The language was the product of discussions with attorneys representing PIFC and our key committee members and insurance experts. Under the proposed statute, time-limited demands must be clearly identified and remain open for 30 days from date of transmission, or 33 days if mailed. They will need to include the claim number, if known, date of loss and other basic information that largely reflects current practice. The amendments reflecting the agreement with the insurers are in Senate Bill 1155 (Caballero).

SB 1107 will mark the first increase in California's auto insurance liability minimums since they were enacted in 1967. This has long been a priority for CAOC's advocacy team and is a significant achievement for your clients.

CAOC election successes

CAOC-endorsed candidates did very well in California's June primary election: 100% of the constitutional officers supported by CAOC moved on to the November election, as did 86% of the legislative candidates we supported and 100% of the incumbents we supported. Most of these races are all but determined after the primary.

CAOC is dedicated to working where we believe we can influence the outcome and elect people who will serve the people of California, not the corporations that want to escape accountability. As an organization that works hard to elect legislators who are strong defenders of the civil justice system, we constantly fight to raise awareness about the importance of these down-ticket races where success can be more tangible. Candidates who are not afraid to take on corporations and who want to represent people, not the powerful, will be those who will fight for your clients' rights and who will be dedicated to protecting workers and the environment.