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FOR IMMEDIATE RELEASE: July 24, 2013

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Trial Lawyers Sponsor Self-Serving Ballot Measure to Make it Easier and More Lucrative to File Meritless Health Care Lawsuits and Generate More in Legal Fees

Measure would increase MICRA's cap on speculative, non-economic damages from \$250,000 to more than \$1.2 million

SACRAMENTO – Doctors, hospitals, nurses, community clinics, local governments, labor unions, police, emergency responders, employer groups and others today denounced a trial lawyer-sponsored ballot measure filed Wednesday that will make it easier and more lucrative for lawyers to file lawsuits against health care providers and generate more in legal fees. The initiative's main provision makes changes to California's landmark Medical Injury Compensation Reform Act (MICRA) to increase the cap on speculative, "non-economic" damages from the current \$250,000 to more than \$1.2 million (based on an adjustment mandated in the initiative).

Filing a ballot measure is just the first in a long series of steps needed to qualify a measure for the November 2014 ballot. While trial lawyers have failed to follow through on many similar threats in the past, if they actually go forward and qualify the measure, a coalition of doctors, hospitals, nurses, community clinics, local governments, labor unions, police, emergency responders, employer groups and others vowed to wage a significant campaign to expose the lawyers' self-serving agenda and to defeat the measure.

MICRA governs legal proceedings and lawsuit payouts when someone is injured in a medical procedure. The measure filed includes other provisions serving as "window dressing" relating to drug testing and prescription drugs. But make no mistake, the main purpose is to change MICRA to make it easier and more lucrative for lawyers to file lawsuits against doctors, hospitals, community clinics, and other health care providers, and generate big paydays for themselves. The measure would increase costs for consumers by billions of dollars per year while reducing patient access to health care providers.

"The measure filed today is nothing more than a self-serving attempt by trial lawyers to generate more in legal fees," said **Paul R. Phinney, M.D., President, California Medical Association**. "More meritless lawsuits against health care providers do nothing to improve health care quality. They only enrich lawyers at everyone else's expense."

Phinney pointed to recent polling which found that 59% of voters support MICRA, with 30% "strongly" in support.

"The trial lawyer lobby has threatened – unsuccessfully – many times in the past to pursue changes. If they do go forward this time, we are confident voters will overwhelmingly reject their scheme," continued Phinney.

C. Duane Dauner, President and CEO, California Hospital Association said, "At a time when hospitals and health care providers are attempting to lower costs and prepare for an influx of new patients, any attempt to increase lawsuit payouts will harm patient access and increase costs. The CAPP partners will join together to defeat this misguided initiative on behalf of the patients we serve."

Prior to MICRA, California faced a crisis. Lawsuits against health care providers were causing liability insurance rates to skyrocket, providers were closing their doors, leaving California, or choosing to go without coverage. Patients were losing access to care. Since MICRA's inception, rates have stabilized and California providers have remained in practice, treating patients.

"Planned Parenthood strongly supports MICRA and opposes any efforts to undercut its protections. Doing so will result in higher health care costs and reduced patient access to their trusted doctors, clinics and health care providers," said **Kathy Kneer, President and CEO, Planned Parenthood Affiliates of California**. "Without MICRA in California, we'd have trouble attracting physicians to serve our patients. In the end it's our patients who will lose out if MICRA is changed to allow more lawsuits against providers."

Jim Mangia, President and CEO, St. John's Well Child & Family Center, Los Angeles, stated "Most community clinics are operating on thin margins. If MICRA is changed and our medical liability rates go up, we have to offset those higher costs somehow, either through a reduction in services, a reduction in hours, or a reduction in staff. Either way, it's our patients, mostly low-income and people of color with few health options, who will lose access to needed health care services."

Continued Mangia: "Even worse, this possible change is coming at the exact time community clinics are trying to expand to take on millions more Medi-Cal patients. We should be focused on lowering health care costs to expand access to care, not the other way around."

"Counties and taxpayers will be hit two ways if MICRA is changed," said **Mitchell Katz, M.D., Director of the Los Angeles County Department of Health Services**. "First, the resulting higher health care costs will make it more expensive for counties to provide care to those who depend on the health care safety net. Second, local governments self-insure against medical liability lawsuits. A change in MICRA allowing more lawsuits will sap that funding."

Concluded **Phinney**: "If trial lawyers pursue this all the way to the ballot box or to legislation, a large coalition of doctors, hospitals, nurses, clinics, police, firefighters, labor unions and many others will vigorously fight it and make sure voters and legislators understand what this is really about: more money for lawyers."

Background on MICRA

MICRA fairly compensates patients by awarding unlimited economic compensation for any and all economic or out of pocket costs, including past and future medical care, past and future lost wages, and unlimited punitive damages.

MICRA provides up to \$250,000 for speculative non-economic damages. This reasonable non-economic damages limit helps reduce incentives by lawyers to file meritless lawsuits which drive up health care costs.

MICRA also includes a descending fee schedule, limiting how much a lawyer can take as payment, ensuring more money goes to the patient for medical care and other costs, not to lawyers. Under MICRA, payments to patients are going up at more than twice the rate of inflation. For more information on the MICRA, go [here](#) and [here](#).

Lawyers have wanted to change MICRA's non-economic damages cap since the law's inception. Attempts to change the law have been rejected numerous times in the California State Legislature except for once when MICRA was changed as part of the 1987 "Napkin Deal." The change sought by trial lawyers increased fees to give lawyers a bigger percentage of their clients' awards.