

Lawyers Looking for Larger Payday from Health Care Lawsuits
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A newly filed ballot measure could undermine California's best efforts to expand health care for our underserved. Last week a group affiliated with California trial lawyers filed a potential November 2014 ballot measure that would eliminate a key protection which makes medical liability insurance more affordable for the physicians, nurses, hospitals and nonprofit community health centers serving poor children and families.

The Medical Injury Compensation Reform Act, or MICRA, limits incentives for attorneys to file frivolous lawsuits against health care providers and reap huge legal fees. Fewer lawsuits help keep health care costs lower and keep clinics in business, treating patients. Changes to this law threaten our viability. Community clinics and health centers are nonprofit organizations that provide high-quality care to the communities they serve. Today there are more than 200 clinic sites across Los Angeles County.

The vast majority of those served by the clinics are low income: 69 percent of clinic patients live below the poverty level, and 58 percent are uninsured. More than half (59 percent) are children. Many of these children receive care at clinics on public school campuses.

But if the lawyers go forward with their ballot measure it will gut MICRA to allow more lawsuits and higher lawyer payouts, and clinics will be too hamstrung by higher health care costs to effectively expand to serve the newly insured seeking care.

MICRA governs legal proceedings when a patient is injured in a medical procedure and is fair to patients -- allowing for unlimited economic compensation for medical care, lost wages and punitive damages. Instead of getting 40 percent of awards like lawyers normally do, MICRA has a sliding scale for attorneys' fees so patients, not their lawyers, get more from their legal awards.

Finally, MICRA also includes up to \$250,000 for speculative noneconomic damages. This reasonable limit reduces the incentives for lawyers to file meritless claims. Fewer lawsuits help health care providers reduce costs for medical liability insurance.

The ballot measure includes changes to MICRA to increase the cap on speculative, "noneconomic" damages from the current \$250,000 to more than \$1.2 million (based on an adjustment mandated in the initiative).

It also 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.

If lawyers are successful, the end result will be more meritless lawsuits against health care providers like community clinics, more lawsuit payouts and more fees for lawyers.

These lawsuits will come with a price tag that affects consumers and providers in the form of higher health care costs. Our concern is that medical liability insurance costs for clinics will balloon to what they were before MICRA was passed, forcing clinics to offset those cost increases by cutting expenses elsewhere such as reducing hours, cutting staff or reducing services. It will also make it more difficult to attract doctors to work in California. California would go from the forefront of implementing the Affordable Care Act to having its ability to expand coverage and access for its citizens severely curtailed.

For-profit lawyers want to undermine MICRA to line their pockets. Unfortunately, that will only make health care more expensive and further out of reach to the people who need it most.

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(*Ran in LA Daily News, Long Beach Press-Telegram, San Gabriel Valley Tribune, Torrance Daily Breeze, Pasadena Star-News, Whittier Daily News, San Bernardino Sun, Inland Valley Daily Bulletin, Redlands Daily Facts)