

**Proposed SCPS motion regarding AB 35 and subsequent SCPS actions**

2022-05-08

**Whereas,**

AB 35 is overwhelmingly favored to be passed by the California legislature via a fast-track process that will be concluded by July and will result in the withdrawal of the FIPA initiative that will eliminate MICRA; and

**Whereas,**

The process by which AB 35 was negotiated with FIPA supporters was opaque to member-driven medical organizations across California; and

**Whereas,**

SCPS had no role in the negotiation of the exchange of FIPA for AB 35; and

**Whereas,**

AB 35 will likely have significant impact on multiple aspects of medical practice and patient care; and

**Whereas,**

The practical implications of any position taken by SCPS on AB 35 would be unrelated to increasing or decreasing the chances of AB 35 passage; and

**Whereas,**

Any position taken by SCPS on AB 35 risks alienating without sufficient purpose significant numbers of SCPS members and other organizations with whom SCPS otherwise has much common cause;

**Whereas,**

SCPS Policy Platform MI 1\* supports assertive and productive work with CMA to address and mitigate through legislative advocacy the serious consequences of AB 35 related to stability of medical practices, costs of health services, and access to care;

**Therefore, be it resolved that:**

SCPS will:

1. Proactively inform SCPS membership via the SCPS website, emails, and newsletter of the reasons that the passage of AB 35 has been overwhelmingly assured through negotiations that occurred without input of any member-driven specialty medical organizations, and the manner in which SCPS will engage with CMA through our CSAP representation on the CMA Council on Legislation (COL) to prioritize legislative advocacy to mitigate the consequences of AB 35 for stability of medical practice, costs of health services, and access to care for our patients
2. Develop through CSAP and other member-driven advocacy organizations a statewide effort to address through legislation the effects of AB 35, existing policies of the State Department of Justice, and insurance industry actions upon physician practice and patient access, including, but not limited to:
  1. Increasing the current \$30,000 settlement dollar threshold for medical board investigations. For example, the dollar threshold should increase at the same rate as the increased cap limits on damages.
  2. Developing effective regulatory guidelines governing CURES investigations by the medical board for physicians who are investigated by the medical board for non-prescribing related settlements
  3. Developing state regulations to increase protections against frivolous liability cases
  4. Developing robust and effective regulatory oversight and control of medical liability insurance costs and associated insurance industry practices
  5. Developing regulations to more effectively govern Medical Board and state investigative procedures associated with adverse finding regarding medical liability and settlement costs.
3. Urge all California DBs to join with us through our CSAP representatives on the CMA Council on Legislation to strongly recommend to CMA leadership that:
  1. CMA more fully involves member-driven local and statewide medical organizations in future negotiations regarding legislation that critically affects the economics of professional practice and access of patients to medical care and thereby:
  2. Ensure those organizations will have both the foundation and credibility for joining CMA in supporting the outcomes of such negotiations.

#### \*IX. MALPRACTICE INSURANCE

*The cost of malpractice insurance adds to the cost of care. Frivolous lawsuits add to the cost of insurance without improving care.*

MI 1: Endorse the Medical Injury Compensation Reform Act (MICRA) and its cap on non-compensatory (“pain and suffering”) damages.