



California  
CHAPTER

# LEGISLATIVE REPORT #262

MICRA Initiative Qualifies For November 2014 Ballot

COMING THIS NOVEMBER TO A BALLOT NEAR YOU:

ANOTHER FLAWED GOVERNMENT-RUN DATABASE MANDATE WITH NEW  
THREATS TO PERSONAL PRIVACY

Experts Agree MICRA Measure Mandate “Won’t Work” While Opening  
Floodgates to Personal Prescription Drug Records of Millions of  
Californians with No Additional Security Safeguards

**NOTE: If you are approached by media please refer all inquiries to the campaign team who can be reached at (916) 710-2288. The campaign website is [www.stophigherhealthcarecosts.com](http://www.stophigherhealthcarecosts.com)**

**May 15, 2014: SACRAMENTO** – A coalition of business, medical, labor and civil liberties organizations have come together to fight a misguided, deceptive initiative that would increase health costs, reduce health access, and rely on a government-run computer system that isn’t close to fully functional – all while putting the prescription drug histories of millions of California patients at privacy risk with no additional security protections.

The initiative, which qualified for the November ballot today, is written and funded by trial attorneys and their allies. In addition to increasing the overall number of medical lawsuits and the cost of health care across the board, it contains a number of unrelated provisions designed to mislead and deceive voters – including a little-discussed mandate relying on a massive expansion of a government-run prescription drug database, which third-party analysts say cannot be implemented as written and will leave personal medical information vulnerable to privacy breach.

"We always knew this flawed measure was bad for the pocketbooks of everyday Californians, but the more they read the fine print, the more they realize it's equally bad for their personal privacy," said Jim DeBoo, campaign manager for the broad-based coalition of Californians formed to oppose the initiative. "If this measure passes, it will mandate a database that isn't properly working and open the privacy floodgates to the sensitive personal medical data of millions of Californians with no increased security safeguards or funding. It's a hacker's dream – and a privacy nightmare."

The so-called MICRA ("Medical Injury Compensation Reform Act") initiative requires health care practitioners and pharmacists to consult a government-run prescription drug database (known as CURES) prior to prescribing or dispensing Schedule II or III controlled substances to patients.

The mandate relies on the uploading of personal prescription drug records of millions of California patients onto the database – accessible by hundreds of thousands of users. But the initiative fails to add new funding for its expedited expansion or require any additional security standards or safeguards to prevent hacking, theft or improper access by non-medical personnel.

What's more, experts say the CURES mandate will not work as required by the measure, will not be operational by the law's effective date and will put doctors in the impossible position of choosing between violating their oath as health providers or violating the law.

"The CURES mandate on physicians cannot be implemented as written. CURES needs to be updated and modernized and nothing in the initiative does that." said Tim Gage, former California Finance Director and Principal at Blue Sky Consulting. "Therefore, the initiative will put health providers in the untenable position of either violating the new law or withholding necessary treatment from patients unless the law is suspended."

"The consequences of mandating the use of a government-run website that experts say won't work when required before physicians are allowed to prescribe needed medication is nothing less than a recipe for disaster," said Dr. Richard Thorp, M.D., President of the California Medical Association.

The CURES database mandate problem comes at a time of widespread reports of illegal hacking, much of it involving digital medical records. Studies show that public fears about personal privacy are at an all-time high. Last month, it was reported the FBI had taken the extraordinary step of warning that the entire health sector was particularly vulnerable to "attacks by hackers searching for Americans' personal medical records" (Reuters, April 23, 2014).

Since 2009, the U.S. Department of Health and Human Services has reported 991 separate incidences of medical data breaches involving 500 people or more, affecting a total of 30 million patients. While many states are moving to increase protections for online prescription drug data, this measure would have the opposite effect in California.

"The public and lawmakers are really starting to understand what kinds of threats to privacy come when you start centralizing great quantities of sensitive personal information in giant electronic databases," said

Nathan Wessler, an attorney with the American Civil Liberties Union, last week to the Wall Street Journal (May 7, 2014).

As proposed, the CURES database maintains an accessible online record of every dispensed prescription of a Schedule II or III controlled substance, including highly sensitive and potentially stigmatizing details about a person's health. This prescription information could include medicines used to treat anxiety, insomnia, obesity, narcolepsy, drug detoxification, pain, epilepsy, conditions related to cancer and AIDS, asthma, chronic infection, and other sensitive medical conditions.

The MICRA lawsuit measure which qualified today is formally opposed by (**partial list**):

- AFSCME California PEOPLE
- International Brotherhood of Electrical Workers, Ninth District
- International Brotherhood of Electrical Workers, Local 477
- Service Employees International Union (SEIU) California
- Union of American Physicians and Dentists (UAPD), AFSCME Local 206
- California Medical Association
- California Dental Association
- California Hospital Association
- California Pharmacists Association
- American Congress of Obstetricians and Gynecologists
- American College of Emergency Physicians, California Chapter
- California Association of Physician Groups
- California Association for Nurse Practitioners
- Planned Parenthood Affiliates of California
- Community Clinics Association of Los Angeles County
- La Clínica de La Raza
- California Association of Rural Health Clinics
- Central Valley Health Network
- California Chamber of Commerce
- California Black Chamber of Commerce
- California Hispanic Chamber of Commerce

- City of Long Beach
- American Civil Liberties Union of California

To learn much more about the myriad hidden costs, consequences and flaws in the trial-lawyer-supported MICRA lawsuit initiative, visit the "Stop Higher Health Care Costs/Protect Access to Care" website at: <http://www.StopHigherHealthCareCosts.com>.