

June 2, 2025

Tammy Smick

7840 Raviller Drive

Downey, CA 90240

Re: Support SB 29

Senator Archuleta,

I am a survivor of medical negligence and your constituent. I live at 7840 Raviller Drive in Downey. I lost my son due to gross medical negligence and, at the time, there were no pre-death pain and suffering damages available. That prevented my family from finding justice in a court of law because the damages were not great enough.

The lifting of the ban on pre-death pain and suffering allows more survivors to seek justice so families are not locked out of the courts as I was. As Consumer Watchdog's research, attached, shows there has been no increase in medical malpractice claims as a result of the changes. I have been a board member of Consumer Watchdog for over a decade. We need your support for SB 29!

Alex had a wonderful life mapped out for himself. At 20, he was studying to be a surgical technician. He was athletic, played a mean guitar, treasured his tight-knit family and had a lifetime of friends growing up in the suburban L.A. community of Downey. He couldn't wait to graduate and get a job to start saving money for an engagement ring for his longtime girlfriend. Alex was "living the American dream." But in February 2012, this happy future dove into a bizarre death spiral when Alex sought help for prescription drug dependency. In a twisted mix of tragedy and irony, Alex died of prescription medications given at the hospital where he sought relief.



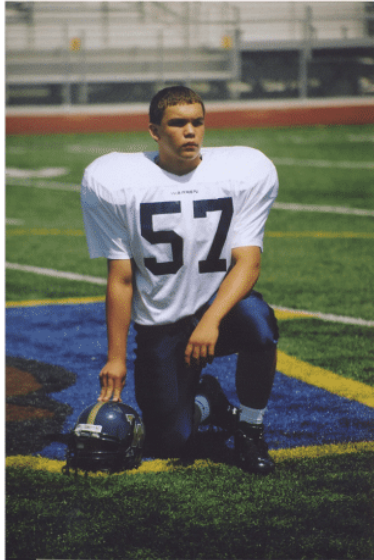
Losing a son is difficult enough. But when we sought answers and accountability, we felt victimized again by a California law that has frozen the value of a human life taken by grievous health care mistakes at the same level for almost 50 years.

We learned his life was worth just \$250,000. Then, the Medical Board of California failed us by letting his doctor off the hook with nothing more than a reprimand. Our odyssey began in May 2010 when Alex was riding a skateboard being towed by the family bulldog, Scar. After a bad tumble, Alex couldn't get up, he screamed in pain, and we rushed him to the hospital.



When an MRI was finally performed after 10 months of haggling with his health insurance company, it revealed serious damage – a stress fracture to his back and five bulging discs. But doctors held off surgery. Alex was too young, they said, let's try therapy instead. And they prescribed more pain meds. Ultimately, nearly two years into his ordeal, Alex could take no more, and pushed for surgery. But his pain management doctor had one final prescription – morphine tablets. Alex took one and felt relief. He was overjoyed, so he took another. More relief. And another. By the third, he began to lose track of how many pills he had taken. He grew worried and drove himself to the nearest hospital. Doctors told Alex they believed he had a problem with his pain meds. He needed to break his dependency on the drugs, they said, recommending he enter a hospital in Laguna Beach. They would treat his back with acupuncture and wean him off the pain killers.

Within two hours of arriving, Alex was back on a new regimen of medications. By the next morning, he was dead. How could this happen? Answers were slow to come. Ultimately, a toxicology report determined the cause: Alex had died of a poisonous mix of prescription drugs administered in a hospital he entered to get off such medications. We wanted to hold his doctor accountable. We turned to the Medical Board of California to stop him from killing another patient. The Medical Board took four long years to reach a decision. During those years, the case got passed between several analysts and investigators. I had to constantly call to make sure the case was still being investigated at all.



The Board threatened to close the case when they could not find documents she had already sent. After I re-sent them, I was notified that the original copies were found at a former analyst's desk. After the Attorney General's office filed an Accusation recommending strict disciplinary action for Gross Negligence, including revocation of the doctor's license, a secret backroom deal was struck, and the doctor got away with a Public Reprimand for repeated negligent acts rather than gross negligence – nothing more than a slap on the wrist. The Medical Board completely went against their own disciplinary guidelines.

I thought surely this regulatory agency would do the right thing, and take swift action against the dangerous doctor who killed my son. I thought they were there to protect the public. But I was so wrong.

SB 29 gives survivors a chance to find justice and get real deterrence from dangerous doctors. It deserves your full support. Do it for Alex Smick!

Thanks,

Tammy Smick

562-400-4109



Floor Alert -- SB 29 (Laird) Support

Consumer Watchdog urges support for SB 29 -- which extends the sunset on predeath pain and suffering damages until 2030. Until 2022, California was one of only four states that did not have predeath pain and suffering damages available to victims. Those surviving medical negligence faced retrenched defendants who often ran out the clock on their cases in hope they would die and their claim for pain and suffering would die with them.

All the evidence shows there has been no increase in claims since the law has applied to medical negligence cases in 2022. The opponents have not one shred of evidence to show an increase in costs from the change.

Medical malpractice insurance company loss ratios are the way to determine whether costs have increased. The loss ratio is the percent of premiums paid in claims. As you can see from the table below, **the loss ratios for the top five medical malpractice insurance companies in California were among the lowest in history the year after the pre-death pain and suffering ban was lifted in 2022 – at a mere 7%.**

	2019	2020	2021	2022	2023	2024
Avg LR for Top 5 Med Mal Insurers in CA	47.4%	26.3%	36.1%	7.4%	56.3%	17.2%

In 2023, after the MICRA reforms took effect there was an uptick in claims resulting in a higher loss ratio, but as you can see the loss ratio in 2024 was very low historically as well.

California medical malpractice loss ratios are historically lower than national ratios due to the impact of the strict limits in the Medical Injury Compensation Reform Act (MICRA). Data from the Department of Insurance shows that the 10-year average loss ratio for 2014-2023 for all CA companies combined is 35.8%. By contrast, the 10-year average medical malpractice loss ratio for 2014-2023 for all companies combined nationwide is 50.6% according to the latest data from the National Association of Insurance Commissioners (NAIC). These loss ratio numbers show that there is no cost of physicians with the addition of pre-death pain and suffering and, in fact, California physicians continue to overpay for their medical malpractice premiums compared to physicians elsewhere based on lower loss ratios in the state.

The idea that the pre-death pain and suffering is driving up loss ratios is a nothing burger.

