



February 9, 2020

California Governor Gavin Newsom
Senate President Pro Tempore Toni Atkins
Speaker of the Assembly Anthony Rendon
State Capitol Building
Sacramento, CA 95814

Dear Gov. Newsom, Senate Pro Tem Atkins, and Speaker Rendon:

Black lives are not valued in the medical system. We receive less care, we are not believed when we come in with pain or problems, and we are written off when we could be cured. This unequal treatment is made worse by California's law limiting the rights of injured patients that keeps people of color and working class people out of the courts and stands in the way of accountability and reform.

We write to ask for your commitment to updating that law to ensure equal justice for black families harmed by medical negligence.

On the early morning of April 26th, 2019, Shawn Edward Washington II died due to medical negligence after waiting 8 hours for medical care in a California Kaiser Emergency Room. Despite repeatedly telling his doctors "I can't breathe," Shawn died of an undiagnosed lung hemorrhage caused by a delayed diagnosis of sepsis.

Kaiser wasted hours focused on his insurance status instead of treating him, and doctors asked multiple times whether he was HIV-positive or had used needles. Shawn coughed up bags full of blood during the night and pleaded for intubation to help him breathe, but that help never came. This otherwise healthy 29 year old black male was a son, grandson, and expectant father who died a sudden but preventable death and there needs to be accountability and change.

Shawn's family sought to hold the medical providers accountable for his tragic and preventable death, only to learn of the outdated cap that makes it nearly impossible for families like theirs to get justice. The law is racist, it's biased, and it works to keep people of color out of the courts to be able to seek justice. It silences us.

Under the Medical Injury Compensation Reform Act of 1975 (MICRA), there is a cap on compensation for non-economic damages at \$250,000 to the family of the victim, limits on attorney fees, and time limits on the statute of limitations to file against a medical facility. It is our view that MICRA hinders grieving families from obtaining an attorney, therefore denying them access to the courts.

The cap is unjust and disproportionately impacts black families. A person's wealth or skin color should not determine whether their family can seek justice for their death or win a change in hospital practices that could protect future patients from the same harm.

MICRA protects medical facilities that have histories of medical negligence while discouraging victims from seeking justice. According to a Harvard Medical Practice Study, Black people experience a higher rate of medical negligence, especially at hospitals that serve predominantly minority communities. Another study by the Institute of Medicine found that uninsured people were less likely to receive adequate medical care, and died sooner than those who were insured.

Removing the compensation cap, the limit on attorney fees, and the shortened statute of limitations would assist economically disadvantaged victims and their families to receive the justice they deserve. While some may argue that \$250,000 is more than enough of an award for victims, it does not provide a large enough incentive for these facilities to implement systemic change. A limit on attorney fees places victims at yet another disadvantage within the justice system when firms are hesitant to take the large financial risk inherent in any lawsuit, even in cases where medical negligence is clear. Finally, a grieving family should not have to be burdened with gathering evidence, securing an attorney, filing paperwork, and learning to carry on without their loved one all while meeting an arbitrary deadline.

Families are not seeking a big payout; they are demanding a way to seek accountability and change.

We write this letter with a heavy heart, but it is time that our elected officials take the initiative on a much-needed change to an outdated law. Every year that has passed since the cap was enacted in 1975 has made its impact increasingly worse for black families. By re-examining its language, we can work toward justice that works for everyone.

The Fairness for Injured Patients Act will be on the 2022 ballot in California and it will help combat the injustice our fellow citizens have endured. Your endorsement of the Fairness Act and commitment to legislation to reform the law will create lasting change that will save lives like Shawn Edward Washington, II's. We formally and publicly ask you to lend your voice in support of reforming the medical negligence law that has denied our communities justice and made healthcare less safe for far too long.

Sincerely,

Change 4 Shawn
BLM Manteca
Central Valley BIPOC Coalition
Power to Persist
Time to Act
Turlock BLM Movement