G | P
Grand Park Law Group
A Professional Corporation

Westside Towers
11835 W. Olympic Boulevard #870E
Los Angeles, California 90064

O:+1 888.629.4754
F: +1 310.900.0805

INSIGHT · MEDICAL MALPRACTICE

Elder Abuse vs. Medical Malpractice: How EADACPA Beats MICRA in Skilled-Nursing Cases

Grand Park Law Group · April 19, 2026 · 9 min read



California's Elder Abuse and Dependent Adult Civil Protection Act (EADACPA) provides statutory pathways to recover uncapped non-economic damages and attorney fees in skilled-nursing litigation.

I. The Statutory Framework: EADACPA vs. MICRA

California's Elder Abuse and Dependent Adult Civil Protection Act (Welf. & Inst. Code §§ 15600–15675) provides a distinct cause of action for neglect of elders and dependent adults. When a skilled-nursing facility's conduct rises above ordinary negligence to "recklessness, oppression, fraud, or malice," the EADACPA unlocks heightened remedies that the Medical Injury Compensation Reform Act (MICRA) cannot provide.

MICRA caps non-economic damages in medical malpractice actions and limits contingency fees. The EADACPA, by contrast, provides for uncapped non-economic damages, attorneys' fees under Welfare & Institutions Code § 15657, and — critically — recovery for pre-death pain and suffering in survival actions, which is barred under the ordinary wrongful death and survival framework.

II. The Recklessness Threshold Under Delaney

The California Supreme Court's decision in *Delaney v. Baker*, 20 Cal.4th 23 (1999), established that the heightened remedies under § 15657 require proof by clear and convincing evidence that the defendant was guilty of "recklessness, oppression, fraud, or malice in the commission of" the abuse or neglect. The Court drew from the punitive damages standard under Civil Code § 3294 but applied it to the distinct statutory context of elder abuse.

In the skilled-nursing context, recklessness typically involves evidence of chronic understaffing, systematic failure to follow care plans, repeated regulatory citations for the same deficiencies, or knowing tolerance of conditions that foreseeably harm residents. The bar is high — but the factual record in many skilled-nursing cases clears it.

III. Heightened Remedies Under § 15657

When a plaintiff meets the clear-and-convincing standard, the EADACPA provides three categories of enhanced recovery:

First, non-economic damages without the MICRA cap. Under AB 35's revised MICRA framework, the cap for wrongful death cases rises to $500,000 in 2026 and increases annually. But for EADACPA claims, there is no cap at all — the jury may award whatever non-economic damages it finds appropriate.

Second, reasonable attorneys' fees. Section 15657 provides for mandatory fee-shifting when the heightened standard is met, which fundamentally changes the economics of prosecution.

Third, pre-death pain and suffering in survival actions. Under Code of Civil Procedure § 377.34, a decedent's estate generally cannot recover damages for pain and suffering. The EADACPA overrides this limitation, permitting recovery for the decedent's conscious suffering before death.

IV. Pleading Mixed-Theory Cases in 2026

Most skilled-nursing litigation involves both an EADACPA claim and a standard medical malpractice claim. The challenge is keeping both theories alive through demurrer and summary judgment while preserving the tactical advantages of each.

Defendants routinely argue that the plaintiff's elder abuse claim is merely a repackaged negligence claim subject to MICRA. Courts apply the *Covenant Care* framework to distinguish: if the gravamen of the claim is professional negligence in the delivery of health care, MICRA applies; if the gravamen is custodial neglect or reckless failure to protect, the EADACPA controls.

Practically, plaintiffs should plead both theories, develop distinct factual records for each, and resist defense motions to collapse the elder abuse claim into the malpractice claim. The discovery strategy must target institutional evidence — staffing records, regulatory history, corporate policies — to support the recklessness finding.

Practice	Medical Malpractice
Topics	Elder Abuse · EADACPA · MICRA
Publication	Medical Negligence · April 19, 2026

Available online at grandparklawgroup.com/insights/articles/elder-abuse-vs-micra-eadacpa-skilled-nursing. This publication is provided for general information and is not legal advice.
© 2026 Grand Park Law Group, A.P.C. Attorney Advertising.