



# Liability: Limits on Attorney Fees

AAFP State Government Relations

## Issue

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## Considerations

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## State Activity

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## AAFP Policy

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The AAFP *Medical Liability Strike Force Report* may be viewed at [http://members.aafp.org/members/PreBuilt/congress\\_boardreportI.pdf](http://members.aafp.org/members/PreBuilt/congress_boardreportI.pdf) (*Members Only*)

### Additional Resources

Medical Liability/Medical Malpractice from the National Conference of State Legislatures  
<http://www.ncsl.org/programs/health/medmalmain.htm>

State	Limits on Attorney Fees
Alabama	<i>No limitations.</i>
Alaska	<i>No limitations.</i>
Arizona	<b>§12-568.</b> <i>Not limited, but court may review reasonableness of fees upon request of either party.</i>
Arkansas	<i>No limitations.</i>
California	<b>Business and Professions §6146.</b> Sliding scale, not to exceed 40% of first \$50,000, 33 1/3% of next \$50,000, 25% of next \$500,000, and 15% of damages exceeding \$600,000.
Colorado	<i>No limitations.</i>
Connecticut	<b>§52-251c.</b> Sliding scale, not to exceed 1/3 of first \$300,000; 25% of next \$300,000; 20% of next \$300,000; 15% of next \$300,000; and 10% of damages exceeding \$1.2 million.
Delaware	<b>§18.6865.</b> Sliding scale, not to exceed 35% of first \$100,000; 25% of next \$100,000; and 10% of all damages exceeding \$200,000.
Florida	<b>Adopted 2004: Florida Constitution, Article I, Section 26.</b> Limits attorney fees in malpractice lawsuits to 30% of first \$250,000; 10% of any award over \$250,000.
Georgia	<i>No limitations.</i>
Hawaii	<b>§663.10.9.</b> When negligence is less than 25%, noneconomic damages awarded in proportion according to degree of fault.
Idaho	<i>No limitations.</i>
Illinois	<b>§735 5/2-1114.</b> Sliding scale, not to exceed 1/3 of first \$150,000; 25% of \$150,000 to \$1 million; 20% of damages over \$1 million.
Indiana	<b>§34-18-18-1.</b> Plaintiff's attorney fees may not exceed 15% of any award made from Patient Compensation Fund.
Iowa	<b>§147.138.</b> Court to review plaintiff attorney fees in any personal injury or wrongful death action against specified health care providers or hospitals.
Kansas	<b>§7.121b.</b> Attorney fees must be approved by court.
Kentucky	<i>No limitations.</i>
Louisiana	<i>No limitations.</i>
Maine	<b>§24.2961.</b> Sliding scale, not to exceed 1/3 of first \$100,000; 25% of next \$100,000; and 20% of damages exceeding \$200,000.
Maryland	<i>No limitations.</i>
Massachusetts	<b>§231.601.</b> Sliding scale, not to exceed 40% of first \$150,000; 33.33% of next \$150,000; 30% of next \$200,000 and 25% of award over \$500,000.
Michigan	<b>Court Rules 8.121(b).</b> Maximum contingency fee for personal injury action is third of amount recovered.
Minnesota	<i>No limitations.</i>

State	Limits on Attorney Fees
Mississippi	<i>No limitations.</i>
Missouri	<i>No limitations.</i>
Montana	<i>No limitations.</i>
Nebraska	<b>§44.2834.</b> <i>No limitations, but court can review for reasonableness at request of prevailing party.</i>
Nevada	<b>§7.095.</b> Sliding scale for attorney fees, not to exceed 40% of first \$50,000; 33 1/3% of next \$50,000; 25% of next \$500,000; 15% of any amount over \$600,000.
New Hampshire	<b>§507-C:8.</b> Sliding scale, not to exceed 50% of first \$1000; 40% of next \$2000; 1/3 of next \$97,000; 20% of excess of \$100,000. If settled out of court, fee limited to 25% of up to \$50,000.
New Jersey	<b>Court Rules §1:2107.</b> Sliding scale, not to exceed 1/3 of first \$500,000; 30% of next \$500,000; 25% of third \$500,000; and 20% of fourth \$500,000. 25% limit for minor or incompetent plaintiff.
New Mexico	<i>No limitations.</i>
New York	<b>Jud. §474-A.</b> Sliding scale, not to exceed 30% of first \$250,000; 25% of second \$250,000; 20% of next \$500,000; 15% of next \$250,000; 10% over \$1.25 million.
North Carolina	<i>No limitations.</i>
North Dakota	<i>No limitations.</i>
Ohio	<b>§2323.43 (F).</b> <i>No limitations but court must approve if fees exceed limits on damage award.</i>
Oklahoma	<b>§5-7.</b> Fee may not exceed 50% of net judgment.
Oregon	<b>§31.735.</b> No more than 20% of punitive damages to attorney, no limitation of percentage of economic damages.
Pennsylvania	<i>No limitations.</i>
Rhode Island	<i>No limitations.</i>
South Carolina	<i>No limitations.</i>
South Dakota	<i>No limitations.</i>
Tennessee	<b>§29.26.120.</b> Fees limited to 1/3 of award to plaintiff.
Texas	<i>No limitations.</i>
Utah	<b>§78.14.7.5.</b> Contingency fee not to exceed 1/3 of award.
Vermont	<i>No limitations.</i>
Virginia	<i>No limitations.</i>
Washington	<b>§7.70.070.</b> Court to determine reasonableness of each party's attorney fees.
West Virginia	<i>No limitations.</i>
Wisconsin	<b>§655.013.</b> Sliding scale, not to exceed 1/3 of first \$1 million, or 25% of first \$1 million recovered if liability is stipulated within time limits, 20% of any amount exceeding \$1 million.
Wyoming	<b>Ct. Rules, R. 5.</b> Recovery \$1 million or less: 1/3 if claim settled prior to 60 days after filing; 40% if settled after 60 days or judgment; 30% over \$1 million.

**Source:** National Conference of State Legislatures. *State Medical Malpractice Laws: Section 1.* (<http://www.ncsl.org/standcomm/sclaw/statelaws1.htm>, accessed 13 October 2005.)