



# Liability: Limits on Damage Awards

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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Vj g CCHR *Medical Liability Strike Force Report* o c { dg xlgy gf cv [j wr <lo go dgtu Qcr Qti lo go dgtu Rtg Dkwkveqpi tguadqctf tgr qtvk f h](#) \*Members Only+

State	Limits on Damage Awards
Alabama	<i>No limitations. Limits declared unconstitutional by State Supreme Court.</i>
Alaska	<b>Enacted 2005: §09.55.549.</b> Noneconomic damages limited to \$250,000; limited to \$400,000 for wrongful death or injury over 70% disabling; limits not applicable to intentional or reckless acts or omissions.  <b>§9.17.020.</b> Punitive damages limited to \$500,000 or 3 times compensatory damages.
Arizona	<i>No limitations. Limits constitutionally prohibited.</i>
Arkansas	<b>§16-55-205 – 209.</b> Punitive damages limited to \$250,000 per plaintiff or 3 times amount of economic damages. Not to exceed \$1 million. Limits adjusted for inflation at 3-year intervals beginning in 2006. Contingent on proof of recklessness or intentional malice.
California	<b>Civil Code §3333.2.</b> \$250,000 limit for noneconomic damages.
Colorado	<b>§13-64-302.</b> \$1 million total limit on all damages; \$300,000 noneconomic limitation.
Connecticut	<i>No limitations.</i>
Delaware	<b>§18.6855.</b> <i>Punitive damages may be awarded only on finding of malicious intent to injure or willful or wanton misconduct. No mandated limit.</i>
Florida	<b>§766.118.</b> Noneconomic damages limited to \$500,000 per claimant. Death or permanent vegetative state noneconomic damages not to exceed \$1 million.  <b>§768.73.</b> Punitive damages limited to the greater of 3 times amount of economic damages or \$500,000. If deliberate intent to harm, no limit on punitive damages.
Georgia	<b>Enacted 2005: §51-13-1.</b> Noneconomic damages in medical malpractice actions limited to \$350,000 against physicians regardless of number of defendants. Noneconomic damages limited to \$350,000 against single medical facility; \$700,000 against multiple facilities. Aggregate amount of noneconomic damages limited to \$1.05 million.
Hawaii	<b>§663.8.5, 8.7.</b> \$375,000 limit for pain and suffering damages.
Idaho	<b>§6.1603-4.</b> \$250,000 limit on noneconomic damages, adjusted annually according to state's average annual wage. Punitive damages limited to \$250,000 or amount 3 times of compensatory damages.
Illinois	<b>Enacted 2005: §735 5/2-1706.5.</b> Noneconomic damages limited to \$500,000 against individual physician, \$1 million against hospital.  <b>§735 5/2-1115.</b> Punitive damages not recoverable in medical malpractice cases.
Indiana	<b>§34-18-4-3.</b> \$1,250,000 total limit. Liability limited to \$250,000 per health care provider. Any award beyond limits covered by Patient Compensation Fund.
Iowa	<i>No limitations.</i>
Kansas	<b>§60.19a02.</b> \$250,000 limit on noneconomic damages recoverable by each party from all defendants.

State	Limits on Damage Awards
Kansas (cont.)	<b>§60.3702.</b> Punitive damages limited to lesser of defendant's highest gross income for prior 5 years or \$5 million.
Kentucky	<i>No limitations.</i>
Louisiana	<b>RS §40:1299.42.</b> \$500,000 limit for total recovery. Health care provider liability limited to \$100,000. Any award in excess of all liable providers paid from Patient's Compensation Fund.
Maine	<b>Enacted 2005: §24.2907.</b> Noneconomic damages in medical liability actions limited to \$250,000; punitive damages limited to \$75,000.  <b>§18A.2.804.</b> Noneconomic damages in wrongful death cases limited to \$400,000, punitive damages limited to \$75,000.
Maryland	<b>§3-2A-09(A).</b> Noneconomic damages limited to \$650,000 from 2005 to 2008, thereafter increasing by \$15,000 per year beginning on January 1 of applicable year.
Massachusetts	<b>§231.60H.</b> \$500,000 limit for noneconomic damages, some exceptions released from limitations.
Michigan	<b>§600.1483.</b> \$280,000 limit on noneconomic damages; \$500,000 limit on noneconomic damages applies to certain other circumstance. Limit adjusted annually by state treasurer according to consumer price index.
Minnesota	<b>§549.20.</b> <i>No limitation for punitive damages but are only allowed if defendant proven to have deliberate disregard to safety. Award subject to judicial review.</i>
Mississippi	<b>§11.1.60.</b> \$500,000 limit on noneconomic damages.  <b>§11.1.65.</b> Punitive damages only awarded if willful malice or gross negligence proved. Court determines if award granted and amount. Damages limited based on defendant's net worth.
Missouri	<b>Amended 2005: §538.210.</b> Noneconomic damages limited to \$350,000 regardless of number of defendants. (Inflation index repealed.)  <b>Enacted 2005: §510.265.</b> Punitive damages limited to \$500,000 or 5 times net amount of judgment.
Montana	<b>§25.9.411.</b> \$250,000 limit on noneconomic damages.  <b>§27.1.221.</b> Liability for punitive damages determined by court, defendant must have been proven guilty of deliberate malice.  <b>Enacted 2005: §27.6.103.</b> Damages for negligence awarded based on "reduced chance of recovery."
Nebraska	<b>§44.2825.</b> Total damages limited to \$1,750,000. Health care provider liability limited to \$500,000. Any excess of total liability of all health care providers paid from Excess Liability Fund.

State	Limits on Damage Awards
Nevada	<p><b>§41A.035.</b> \$350,000 limit on noneconomic damages, no exceptions.</p> <p><b>§42.005.</b> Punitive damages limited to \$300,000 or 3 times compensatory damages; only awarded by court for fraud, oppression, or malice.</p>
New Hampshire	<i>No limitations. Limits declared unconstitutional by State Supreme Court.</i>
New Jersey	<p><b>§2A:15-5.14.</b> \$350,000 limit on punitive damages, or 5 times compensatory damages, whichever is greater.</p>
New Mexico	<p><b>§41.5.6-7.</b> \$600,000 total limit on all damages. Health care providers not liable for any amount over \$200,000; any judgment in excess paid from Patient's Compensation Fund.</p>
New York	<i>No limitations.</i>
North Carolina	<p><b>§1D-25.</b> \$250,000 limit on punitive damages, or 3 times economic damages, whichever is greater.</p>
North Dakota	<p><b>§32.42.02.</b> \$500,000 limit on noneconomic damages.</p> <p><b>§32.03.2.08.</b> Economic damage awards in excess of \$250,000 subject to court review.</p>
Ohio	<p><b>§2315.18.</b> \$250,000 limit on noneconomic damages or three times plaintiff's economic loss, determined by court. Maximum noneconomic damages \$350,000 per plaintiff or \$500,000 per occurrence. No limit for permanent injury that prevents victim from independently caring for self.</p> <p><b>§2315.21.</b> Punitive damages limited to twice amount of economic damages or percentage of defendant's net worth. No limit where defendant acted knowingly.</p>
Oklahoma	<p><b>§63-1-1708.1F.</b> \$300,000 limit on noneconomic damages; also specific to obstetric and emergency room care. No limits for negligence or wrongful death.</p> <p><b>§23-9.1.</b> Punitive damages based on misconduct.</p>
Oregon	<p><i>No limitations. Limits declared unconstitutional by State Supreme Court; 2004 ballot measure to institute noneconomic damage limits rejected by voters.</i></p> <p><b>§31.740.</b> Punitive damages not awarded if physician is found acting in scope of duties without malice.</p>
Pennsylvania	<p><i>No limitations. Constitutionally prohibited.</i></p> <p><b>§40.1301.812-A.</b> Punitive damages granted only if defendant found guilty of willful misconduct or reckless disregard.</p>
Rhode Island	<p><i>No limitations.</i></p> <p><b>§9.19.34.1.</b> Collateral source rule requires jury to reduce award for damages by sum</p>

State	Limits on Damage Awards
Rhode Island (cont.)	equal to difference between total benefits received and total amount paid to secure benefits by plaintiff.
South Carolina	<b>Enacted 2005: §15-32-220.</b> Noneconomic damages limited to \$350,000 against single health care provider or facility; limit of \$1.05 million for multiple defendants. Limits increased or decreased annually based on Consumer Price Index. No limits on noneconomic or punitive damages for cases of willful negligence or misconduct.
South Dakota	<b>§21-3-11.</b> \$500,000 limit on noneconomic damages. No limit on special damages.
Tennessee	<i>No limitations.</i>
Texas	<b>Civil Practice §74.301.</b> \$250,000 limit per claimant for noneconomic damages. \$500,000 limit per claimant for noneconomic damages in judgments against health care institutions.
Utah	<b>§78.14.7.1.</b> \$400,000 limit on noneconomic damages for actions arising after July 1, 2002. Adjusted annually by Administrative Office of Courts.
Vermont	<i>No limitations.</i>
Virginia	<b>§8.01-581.15.</b> \$1.5 million limit on recovery damages. Increased by \$50,000 each year from 2001 to 2006. Increased by \$75,000 each year in 2007 and 2008.
Washington	<b>§4.56.250.</b> <i>No specific limits on damage awards. Judgment for noneconomic damages cannot exceed formulation of average annual wage and life expectancy of injured.</i>
West Virginia	<b>§55.7B.8.</b> \$250,000 limit for noneconomic damages. \$500,000 limit for compensatory damages, limit goes up beginning in 2004 according to inflation index. Physicians must carry at least \$1 million malpractice insurance to qualify for limits.
Wisconsin	<b>July 2005: State Supreme Court declared caps on noneconomic damages in medical injury cases unconstitutional, <i>Ferdon v. Wisconsin</i>. (Statute §893.55(4)(d).)</b>
Wyoming	<b>§97.3.027.</b> <i>Limits prohibited. 2004 ballot measure to adopt constitutional amendment allowing noneconomic damage limits rejected by voters.</i>

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