

CAPS ON DAMAGES

ISSUE - Should the State limit by law the amount of money that a Plaintiff in a lawsuit can recover from a Defendant?

ISBA POSITION - The Iowa State Bar Association opposes arbitrary caps on damages that can be awarded to an injured citizen. Every Iowa citizen should have an opportunity to have their case decided on the merits of their own individual case. If damages are to be awarded, a jury of the parties' peers should determine what an appropriate award, based upon the actual facts of the case. In addition, caps on damages have been found unconstitutional in many of the states in which they have been enacted. These states include: Alabama, Florida, Georgia, Illinois, Missouri, New Hampshire, Oregon and Washington. Damage caps have been found to be unconstitutional for different reasons, such as violating guarantee of equal protection, access to courts, right to jury trial, and separation of powers clause.

Slightly over 50% of the states limit the damages awarded to a plaintiff in some sort of way. Many of these states have not yet had their constitutionality been challenged.

Although the press often dramatizes and publicizes large jury awards, such awards are not typical in Iowa's Courts. When large awards are made, Iowa's Court system and Court rules provide several mechanisms for the awards to be invalidated or reduced if they are not based upon the evidence.

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Additional Information

Alabama Cap on noneconomic damages in medical malpractice actions is unconstitutional. Ala. Code § 6-5-544.

Alaska Cap on noneconomic damages in all tort actions: \$400,000 (or life expectancy \$8,000); for severe permanent injury or disfigurement, \$1,000,000 (or life expectancy \$25,000). Alaska Stat. Ann. § 09.17.010.

Arizona No cap, state constitution prohibits caps on recoverable damages. Ariz. Const. art. II, § 31, and Ariz. Const. art. XVIII, § 6.

Arkansas No Cap, state constitution prohibits limiting recoverable damages resulting from injury or death. Ark. Const. art. V, § 32.

California Limits noneconomic damages in medical liability cases to \$250,000. Cal. Civ. Code Ann. § 3333.2.

Colorado Limits the total award of damages to \$1,000,000, of which no more than \$300,000 can be for noneconomic damages. Colo. Rev. Stat. Ann. § 13-64-302. Cap on noneconomic damages in all tort actions other than medical malpractice: \$250,000. Colo. Rev. Stat. Ann. § 13-21-102.5.

Connecticut No Cap

Delaware No Cap

Florida Cap on noneconomic damages in wrongful death medical malpractice cases was held unconstitutional. Fla. Stat. Ann. § 766.118.

Georgia Damage caps for non-economic damages in medical malpractice cases is unconstitutional. Ga. Code Ann. § 51-13-1.

Hawaii Damages recoverable for pain and suffering in any tort case shall be limited to a maximum award of \$375,000. Haw. Rev. Stat. § 663-8.7. *proposed legislation exists attempting to limit maximum award to 250,000.

Idaho \$250,000 cap on non-economic damages in tort cases. Idaho Code Ann. § 6-1603.

Illinois Caps ruled unconstitutional. No cap for any kind of damages in medical malpractice or tort cases. 735 ILCS 5/2-1115.1 and 735 ILCS 5/2-1706.5.

Indiana Medical Malpractice damages have a \$1.25 million cap on total damages available. Ind. Code Ann. § 34-18-14-3.

Iowa No cap

Kansas \$250,000 limit on non-economic damages for each plaintiff in a medical malpractice lawsuit and for any wrongful death action. Kan. Stat. Ann. § § 60-19a02, 60-1903.

Kentucky State constitution prohibits caps on damages. Ky. Const. § 54.

Louisiana Limits total damages awards to \$500,000 in medical malpractice cases. La. Stat. Ann. § 40:1299.42.

Maine Damages are capped at \$500,000 for any personal injury case involving allegations of wrongful death. 18-A Me. Rev. Stat. § 2-804.

Maryland The cap of \$785,000 applies to all causes of action, both for injuries and wrongful death. Noneconomic damages for medical malpractice claims is at \$725,000. Md. Cts. & Jud. Proc. Code Ann. § 11-108.

Massachusetts Caps non-economic damages at \$500,000 in medical malpractice cases. Mass. Gen. Laws Ann. ch. 231 § 60H.

Michigan Limits the award of noneconomic damages in medical liability cases to \$433,400, as of 2013, except in severe cases. Mich. Comp. Laws Ann. § 600.1483.

Minnesota No cap for medical malpractice cases. Prior statute was repealed.

Mississippi Cap on non-economic damages is unconstitutional. Miss. Code. Ann. § 11-1-60 (held unconstitutional).

Missouri Statutory caps on damages are unconstitutional. Mo. Rev. Stat. Ann. § 538.210.

Montana Limits the award of noneconomic damages in medical malpractice cases to \$250,000. Mont. Code Ann. § 25-9-411.

Nebraska \$1.75 million total cap on damages in medical malpractice cases. Neb. Rev. Stat. § 44-2825.

Nevada Imposes a cap on non-economic damages in medical malpractice actions at \$350,000. Nev. Rev. Stat. Ann. § 41A.035.

New Hampshire Damage caps are unconstitutional. N.H. Rev. Stat. § 508:4-d.

New Jersey No cap

New Mexico Cap on damages in medical malpractice actions: \$600,000 cap on total damages, excluding punitive damages and past and future medical care; \$200,000 cap on personal liability of health care providers. N. M. S. A. 1978, § 41-5-6.

New York No cap

North Carolina Cap on noneconomic damages in medical malpractice actions is \$500,000. N.C. Gen. Stat. Ann. § 90-21.19.

North Dakota Cap on non-economic damages in medical malpractice actions of \$500,000. N.D. Cent. Code Ann. § 32-42-02.

Ohio Limits non-economic damages in tort actions to sliding scale between \$250,000 and \$500,000, with no limit in cases of severe injury such as deformity or loss of limb. Ohio Rev. Code Ann. § 2315.18. Constitution prohibits limit on wrongful death cases. Ohio Const. art. I, § 19a.

Oklahoma Caps non-economic damages in actions for bodily injury at \$350,000. Okla. Stat. Ann. tit. 23, § 61.2. Constitutional prohibition on damage caps in wrongful death cases. Okla. Const. art. XXIII, § 7

Oregon Caps on non-economic damages in bodily injury, death or property damage actions are unconstitutional. However, cap is constitutional in wrongful death and other actions that were not recognized at common law. Or. Rev. Stat. Ann. § 31.710.

Pennsylvania No cap. State constitution prohibits limiting damages for personal injury or death. Pa. Const., art. III § 18.

Rhode Island No cap

South Carolina Cap on noneconomic damages in medical malpractice actions: \$350,000 per claimant from each provider or institution; \$1,050,000 total per claimant from all providers or institutions. S.C. Code Ann. § 15-32-220.

South Dakota Cap on total general damages in medical malpractice actions is \$500,000. S.D. Codified Laws § 21-3-11.

Tennessee Caps non-economic damages in medical malpractice actions to \$750,000 per plaintiff and \$1,000,000 for catastrophic injuries with no cap in cases of intentional torts, falsification or concealment of records, defendant's intoxication, or felonious act by defendant. Tenn. Code Ann. § 29-39-102.

Texas Cap on noneconomic damages in medical malpractice actions: \$250,000 against all providers; \$250,000 against health care institutions, not to exceed \$500,000. Tex. Civ. Prac. & Rem. Code Ann. § 74.301.

Cap on all damages in wrongful death claims against medical providers: \$500,000 for each claimant. Tex. Civ. Prac. & Rem. Code Ann. § 74.303.

Utah Cap on noneconomic damages in medical malpractice actions is \$450,000. Utah Code Ann. § 78B-3-410.

Vermont No cap

Virginia Caps total damages recoverable in medical malpractice actions to an amount adjusted each year; currently \$2.05 million. Va. Code Ann. § 8.01-581.15.

Washington Unconstitutional to limit noneconomic damages in all actions for personal injury or death. Wash. Rev. Code Ann. § 4.56.250.

West Virginia Cap on noneconomic damages in medical malpractice actions: \$250,000 per occurrence; \$500,000 per occurrence in cases of wrongful death, physical deformity, loss of use of limb or organ system, or injury that prevents injured person from independently caring for himself. W. Va. Code Ann. § 55-7B-8.

Wisconsin Cap on noneconomic damages in medical malpractice actions is \$750,000. Wis. Stat. Ann. § 893.55.

Wyoming Statutory caps are prohibited. Wyo. Const. art. X, § 4.

No cap on damages in medical malpractice cases

Alabama, Arizona, Arkansas, Connecticut, Delaware, Florida, Illinois, Iowa, Kentucky, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Washington, Wyoming

Strike down statutorily enacted med mal damage caps

Alabama, Georgia, Florida, Illinois, Missouri, New Hampshire, Oregon, Washington

Constitutional prohibitions on damage caps in wrongful death medical malpractice cases

Ohio, Oklahoma

Constitutional prohibitions on damage caps

Arizona, Arkansas, Kentucky, Pennsylvania, Wyoming