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The Medical Profession – More Protection for Negligence Than Any Profession in the Country

The following is a list of major tort restrictions enacted by states, each of which takes away the rights of patients injured by medical negligence, makes it more difficult for them to obtain fair compensation, and makes it harder to hold accountable those responsible.

No profession in the country currently has more legal protection for their negligence than the medical profession. Do they really need more?

And if the system is not working well for patients, here's the reason why:

Alabama

- 87: med mal cap, noneconomic (but declared unconstitutional in 91)
- 87: med mal cap, total damages (but declared unconstitutional in 95)
- 87: punitive cap (but declared unconstitutional in 93)
- 87: collateral source (declared unconstitutional in part in 96, but then overruled in 2000)
- 99: punitive cap

Alaska

- 86: cap, noneconomic
- 86: joint and several liability
- 86: collateral source rule
- 88: joint and several liability (ballot initiative)
- 97: cap, noneconomic
- 97: punitive cap
- 97: prejudgment interest

Arizona

- Pre-1985: med mal collateral source
- 87: joint and several
- 89: med mal structured settlements (but declared unconstitutional in 94)

Arkansas

- Pre-1985: medical malpractice structured settlements
- 03: punitive cap
- 03: joint and several liability

California

Pre-1985: med mal cap, noneconomic; med mal collateral source; med mal contingency fees; med mal structured settlements

86: joint and several liability (ballot initiative)

Colorado

86: cap, noneconomic

86: joint and several liability

86: punitive cap

86: collateral source

88: med mal cap, non economic and all damages

88: med mal statute of repose

88: med mal structured settlements

92: med mal collateral source

03: med mal cap, noneconomic

Connecticut

Pre-1985: punitive cap, products

85: med mal collateral source

86: joint and several (i.e. proportional) liability

86: contingency fees

86: structured settlements

Delaware

Pre-1985: collateral source; med mal contingency fees; med mal structured settlements

District of Columbia

Pre-1985: collateral source

Florida

86: cap, noneconomic (but declared unconstitutional in 1987)

86: joint and several liability

86: collateral source

86: med mal structured settlements

86: contingency fees

86: punitive cap

88: med mal cap, noneconomic (depending on arbitration)

99: punitive cap

03: med mal cap, noneconomic

Georgia

87: punitive cap

87: joint and several liability

87: collateral source (but declared unconstitutional in 91)

03: prejudgment interest

Hawaii

86: cap, noneconomic
86: joint and several liability (except medical products)
86: collateral source (liens)

Idaho

87: cap, noneconomic
87: joint and several liability (except medical products)
87: structured settlements
90: collateral source
03: cap, noneconomic
03: punitive cap
03: joint and several liability, medical products

Illinois

Pre-1985: med mal collateral source
85: medical malpractice structured settlements
85: med mal contingency fees
95: cap, noneconomic (but declared unconstitutional in 97)
95: joint and several liability (but declared unconstitutional in 97)
95: punitive cap (but declared unconstitutional in 97)

Indiana

Pre-1985: joint and several liability
86: collateral source
93: med mal cap, all damages
93: med mal contingency fee
95: punitive cap

Iowa

Pre-1985: joint and several liability; med mal collateral source
86: structured settlements
87: collateral source
87: prejudgment interest
87: structured settlements
97: joint and several liability
97: prejudgment interest

Kansas

85: med mal punitive cap (but expired in 88)
86: med mal cap (but declared unconstitutional in 88)
86: med mal structured settlements (but declared unconstitutional in 88)
87: cap, noneconomic
87: punitive cap
88: cap, noneconomic
88: collateral source (but declared unconstitutional in 93)

Kentucky

88: joint and several liability (but codified common law rule)

88: collateral source (but declared unconstitutional in 95)

Louisiana

Pre-1985: med mal cap; med mal structured settlements (Patients Comp. fund); joint and several liability

87: joint and several liability

87: prejudgment interest

96: joint and several liability

03: med mal cap, noneconomic, for cases against nursing homes

Maine

85: med mal structured settlements

85: med mal contingency fees

88: prejudgment interest

89: med mal collateral source

Maryland

Pre-1985: collateral source

86: cap, noneconomic

86: structured settlements

Massachusetts

86: med mal cap, noneconomic

86: med mal collateral source

86: med mal contingency fees

Michigan

86: med mal cap, noneconomic

86: collateral source

86: structured settlements

86: prejudgment interest

87: joint and several liability

93: med mal cap, noneconomic

95: joint and several liability

Minnesota

86: cap, noneconomic (but repealed in 90)

86: collateral source

86: prejudgment interest

88: joint and several liability

Mississippi

89: joint and several liability

98: med mal statute of repose

02: med mal cap, noneconomic

02: joint and several liability, med mal
04: med mal cap, noneconomic
04: cap, noneconomic
04: punitive cap
04: joint and several liability

Missouri

86: med mal cap, noneconomic
86: med mal structured settlements
87: joint and several liability
87: collateral source

Montana:

87: joint and several liability (but declared unconstitutional in 94)
87: collateral source
95: med mal cap, noneconomic
95: med mal structured settlements
97: joint and several liability
03: punitive cap

Nebraska

Pre-1985: collateral source
Pre-1985: med mal cap, all damages (cap increased in 92, 03)
86: prejudgment interest (but improved prior standard)
92: joint and several liability (but improved prior standard)

Nevada

Pre-1985: med mal collateral source
87: joint and several liability
89: punitive cap
02: med mal cap, noneconomic
02: joint and several liability
04: med mal cap, noneconomic (initiative)
04: joint and several liability (initiative)
04: structured settlements (initiative)

New Hampshire

86: cap, noneconomic (but declared unconstitutional in 91)
86: punitive damages abolished
89: joint and several liability
95: prejudgment interest
01: prejudgment interest

New Jersey

Pre-1985: contingency fees
87: joint and several liability
87: collateral source

95: punitive cap
95: joint and several liability

New Mexico

87: joint and several liability (but codified common law)
92: med mal structured settlement
92: med mal cap (except punitive damages)

New York

86: joint and several liability
86: collateral source
86: structured settlements
86: med mal contingency fees
03: structured settlements

North Carolina

95: punitive cap

North Dakota

87: joint and several liability
87: collateral source
87: structured settlements
93: punitive cap
95: med mal cap, noneconomic

Ohio

87: joint and several liability
87: structured settlements
96: cap, noneconomic (but declared unconstitutional in 99)
96: joint and several liability (but declared unconstitutional in 99)
96: punitive cap (but declared unconstitutional in 99)
96: collateral source (but declared unconstitutional in 99)
96: prejudgment interest
03: med mal cap, noneconomic
03: joint and several liability
03: collateral source, med mal
04: cap, noneconomic
04: punitive cap
04: collateral source
04: prejudgment interest

Oklahoma:

86: prejudgment interest
95: punitive cap
03: med mal cap, noneconomic
03: collateral source
03: prejudgment interest, med mal

04: med mal cap, noneconomic
04: joint and several liability
04: prejudgment interest

Oregon

87: cap, noneconomic (but declared unconstitutional in 99)
87: joint and several liability
87: med mal punitive damages abolished against doctors
87: collateral source
95: joint and several liability

Pennsylvania

Pre-1985: med mal collateral source
96: med mal punitive cap
02: joint and several liability
02: collateral source
02: structured settlements

Rhode Island

86: med mal collateral source
87: prejudgment interest

South Carolina

Pre-1985: med mal structured settlements (Patient Comp. Fund with annual cap)

South Dakota

Pre-1985: med mal collateral source
Pre-1985: med mal cap, noneconomic
86: med mal cap, economic (but declared unconstitutional 96)
86: med mal structured settlements
87: joint and several liability

Tennessee

Pre-1985: med mal collateral source

Texas

87: med mal cap (but declared unconstitutional in 88, although allowed for wrongful death in 90)
87: joint and several liability
87: punitive cap
87: prejudgment interest
95: joint and several liability
95: punitive cap
03: med mal cap, noneconomic
03: joint and several liability
03: prejudgment interest

Utah

85: med mal collateral source
86: med mal cap, noneconomic
86: joint and several liability
86: med mal structured settlements
99: joint and several liability

Vermont:

Pre-85: joint and several liability

Virginia

Pre-1985: med mal cap (although cap raised in 83 and 99)
87: med mal (children injured at birth, no right to sue, no noneconomic or punitive damages)
87: punitive cap

Washington

Pre-1985: punitive cap; med mal collateral source
86: cap, noneconomic damages (but declared unconstitutional in 89)
86: joint and several liability
86: structured settlements
04: prejudgment interest

West Virginia

86: med mal cap, noneconomic
86: med mal joint and several liability
03: med mal cap, noneconomic
03: joint and several liability

Wisconsin

Pre-1985: med mal (Patient Compensation Fund)
86: med mal cap, noneconomic (but expired 90)
86: med mal contingency fees
95: med mal cap, noneconomic
95: joint and several liability
95: med mal structured settlements
95: med mal collateral source

Wyoming

86: joint and several liability