Survey of Statutory Caps by State

Alaska – Like the majority of states in the U.S., Alaska has passed laws that limit or “cap” the amount of compensation a medical malpractice plaintiff can receive after a successful lawsuit -- one in which the defendant (the plaintiff’s doctor or other care provider) has been found liable for medical negligence. It’s important to note at the outset that Alaska’s medical malpractice damages caps don’t apply to your economic losses stemming from the malpractice. So, you can get compensation for your past and future medical care, your lost income to date, and any measurable reduction on your ability to work and earn a living in the future due to the malpractice (as well as any other damages that can be captured by a dollar amount). So, when *do* these damage caps apply? In Alaska, there is a $250,000 cap on non-economic damages in a medical malpractice case. The cap bumps up to $400,000 for non-economic damages in med mal cases involving wrongful death or “severe permanent physical impairment” that is over 70 percent debilitating. Your next question is probably, "What are non-economic damages?" They include compensation for a medical malpractice plaintiff’s pain and suffering, anxiety, fear, lost enjoyment of life, disfigurement, scarring, and other negative effects of their injuries and additional medical treatment made necessary by the defendant’s malpractice.

California – Like many states, California has a law on the books that limits the amount of money that an injured patient can receive even after a jury has found that the patient’s doctor (or other health care provider) committed medical malpractice. You can find California’s take on medical malpractice damage caps in the Medical Injury Compensation Reform Act (MICRA), which was passed in 1975. Among other things, MICRA places a $250,000 cap on non-economic damages in medical malpractice cases. So, what are non-economic damages? They are awarded to a plaintiff to compensate for things like pain and suffering, discomfort, loss of enjoyment of life, anxiety, and even the psychological impact of scarring or disfigurement. They are called “non-economic” damages because they represent the kinds of losses that cannot be easily measured by a dollar amount. Keep in mind that California has no cap on the amount of money that an injured patient can receive as compensation for medical care (past and future) made necessary by the malpractice, nor is there a cap on lost income or impairment of the patient’s ability to earn a living because of the malpractice. These kinds of losses would be categorized as economic damages, and MICRA’s cap doesn’t affect them.
It’s important to note one of the more controversial aspects of MICRA: the $250,000 cap has no provision that accounts for inflation; it is the same in 2013 as it was when it was when the law was passed in 1975.

Colorado – Like a lot of other states, Colorado has passed a number of laws that put limits on the amount of compensation that a patient can receive even after a jury has found that an error by a doctor or other health care professional liable caused the patient’s injuries. Colorado is a little unique in that the state actually has two damage caps on med mal cases. First, there is a **$1 million “umbrella” cap** on the total amount of compensation that a medical malpractice plaintiff can receive, whether economic losses -- which includes payment of past and future medical bills, as well as compensation for lost income and reduced earning capacity -- or non-

economic losses, which we'll explain in more detail below. A plaintiff might be able to get around Colorado's $1 million cap if there is good cause for doing so and the court finds that application of the cap would be unfair under the specific circumstances of the case, but any amount in excess of $1 million will typically be limited to compensation for future medical care and future earnings. The second Colorado law you need to know about sets a **damage cap of $300,000 on non-economic damages** in a medical malpractice case. Non-economic damages are those that aren't as easy to quantify or capture with a dollar amount. That includes compensation for "pain and suffering," loss of enjoyment of life, fear and anxiety, sleeplessness, scarring, disfigurement, and other subjective negative consequences of the defendant's medical malpractice.

Florida – Like many other states, Florida has a number of laws on the books that limit or "cap" certain damages that are available to a medical malpractice plaintiff who has been successful in a lawsuit against a doctor or other health care professional. As is the case in most states, Florida's medical malpractice damage caps apply only to a plaintiff's non-economic damages. That means compensation for things like pain and suffering, mental anguish, anxiety, loss of companionship, scarring, disfigurement, and other subjective losses stemming from the defendant's malpractice. Florida also utilizes different caps for "medical practitioners" (cases involving errors by doctors and other care providers) versus "non-practitioner" defendants. There is a $500,000 cap on non-economic damages in medical malpractice lawsuits against practitioners, while the cap jumps up to $750,000 in lawsuits against non-practitioner defendants. A number of exceptions apply, and the court might increase the cap (or do away with it altogether) if a specific case merits doing so. It is important to note that, while Florida's medical malpractice damage caps can get complicated, one thing remains clear: these caps do not apply to an injured patient's economic damages. In other words, there is no limit on the amount of compensation a medical malpractice plaintiff can recover for past and future medical care necessitated by the malpractice, lost income, lost future earning capacity, and any other measurable economic losses attributable to the defendant's malpractice.

Georgia – Like dozens of other states, Georgia has a number of laws that limit or "cap" medical malpractice damages available to a plaintiff who has been successful in a tort lawsuit against a doctor or other health care professional. Like most states, Georgia's medical malpractice damage caps apply only to non-economic damages. That includes compensation for pain and suffering, anxiety, mental anguish, loss of enjoyment, lost companionship, scarring, and similar difficult-to-quantify losses caused by the defendant's malpractice. Georgia has a $350,000 cap in place on non-economic damages in any single medical malpractice claim against health care providers. For claims against a single health care facility there is a $350,000 cap on non-economic damages, which bumps up to $700,000 if more than one facility is deemed liable. For any single medical malpractice case, there is an overall $1.05 million cap on non-economic damages. ***[Editor's note: In 2010, Georgia's cap on non-economic damages was deemed unconstitutional by the Georgia Supreme Court, so the application of this law is very much in doubt when it comes to medical malpractice lawsuits filed in Georgia after 2010.]*** Keep in mind that, although Georgia's damages caps for medical malpractice cases are a little complicated, one thing is clear: these caps have no effect on a med mal plaintiff's economic

damages. Put another way, there is no limit on how much compensation a medical malpractice plaintiff can receive for things like medical care (past and future) necessitated by the malpractice, lost earnings, lost future earning capacity, and any other economic losses attributable to the defendant's malpractice.

Hawaii – Hawaii, like a number of states, has passed a law that limits or "caps" certain kinds of compensation in a medical malpractice case. Also like most states, Hawaii's cap applies only to non-economic damages like pain and suffering, scarring, loss of enjoyment of life, and other more subject and tough-to-quantify losses that were caused by the defendant's medical malpractice. Hawaii Revised Statutes section 663-8.7 limits pain and suffering damages to $375,000 in almost any kind of personal injury (tort) case in Hawaii, including medical malpractice lawsuits. So, even if a jury in Hawaii found a doctor liable for malpractice and awarded an injured patient $1.5 million as compensation for pain and suffering, this law would kick in to reduce that award to $375,000. But remember, Hawaii's medical malpractice damages cap does not apply to economic losses stemming from the malpractice. So there is no limit on an injured patient's ability to get compensation for past and future medical treatment, lost income, diminished earning capacity, and any other calculable financial losses.

Idaho – In fact, it's not just medical malpractice cases. Idaho is one of the few states that sets a limit or cap on certain kinds of damages in all "tort" or personal injury cases, which includes those stemming from medical malpractice. Idaho Code section 6-1603 puts a $250,000 cap on non-economic damages in personal injury cases. By law, this $250,000 cap is a variable one; it increases or decreases along with the Idaho Industrial Commission's adjustment of the "annual living wage" in accord with Idaho Code section 72-409(2). So, what are non-economic damages? They're the kinds of losses that are more subjective to the plaintiff (the person who was injured), and they're not very easy to quantify with a dollar amount. Non-economic damages include pain and suffering, anxiety, discomfort, lost enjoyment, lost companionship, and other negative effects of the accident, injuries, and medical treatment. It's very important to note that Idaho's $250,000 cap on non-economic damages does not apply to the other main category of compensation available to a medical malpractice plaintiff: economic damages. Those include medical expenses (past and future), lost income, lost or decreased ability to earn a living in the future, and any other losses that can be captured with a dollar figure. There is no cap on economic damages in Idaho medical malpractice cases (or in standard personal injury cases in Idaho, for that matter.)

Illinois – Prior to 2010, the clear answer to this question was yes. Like a lot of states, Illinois passed a law that put a limit or "cap" on how much a plaintiff could receive in the way of non-economic damages after a successful medical malpractice lawsuit. Illinois had in place a $500,000 cap on non-economic damages for cases against a negligent doctor or other health care professional, and a $1 million cap for lawsuits against a hospital or other health care facility. But this cap was declared unconstitutional by the Illinois Supreme Court in the 2010 case of *LeBron v. Gottlieb Memorial Hospital*. So, for any medical malpractice case filed after that decision, there is no cap of any kind on damages in medical malpractice cases. You may be wondering, what are non-economic damages? They represent compensation for the kinds of

more subjective losses that typically aren't easy to quantify by a dollar figure. Non-economic damages include compensation for pain and suffering, loss of enjoyment, anxiety, lost companionship, scarring, disfigurement, and other negative effects of the plaintiff's injuries. Remember that, if it even applies to your case in light of the Illinois Supreme Court's 2010 decision, any cap on medical malpractice damages does not apply to the other main category of compensation that med mal plaintiffs typically receive: economic damages. This includes reimbursement and payment of past and future medical expenses, reimbursement of lost income, payment for diminished ability to earn a living, and any other financial losses stemming from the medical malpractice.

Indiana – Indiana does have a law on the books that limits or "caps" the amount of money that a plaintiff can receive even after a successful medic al malpractice lawsuit against a negligent health care provider. Indiana is also fairly unique among states in that its "damage cap" applies to the total amount of compensation that an injured patient can recover -- not just to certain categories of damages (many states limit only the recovery of non-economic damages, which includes compensation for things like "pain and suffering"). Here is a snapshot overview of Indiana's medical malpractice damage caps, which were passed in 1975 and have been raised twice over the years (you can find the full text of these laws at Indiana Code Chapter 34-18-14):
* For health care treatment errors that occurred after June 30, 1999, there is a $1.25 million cap on total damages available to the plaintiff.
* For medical malpractice that occurred prior to July 1, 1999, there is a $750,000 cap on total damages available to the plaintiff. (The cap is lower for pre-1989 cases; check the statute for details.)
* An individual health care provider (i.e. a doctor or other health care professional) cannot be held liable for more than $250,000 in damages. Any damages in excess of that $250,000 will be paid by the state of Indiana's Patient Compensation Fund.

Kansas – Like a lot of states, Kansas has a law on the books that limits or "caps" damages that are available to plaintiffs in medical malpractice lawsuits. Kansas places a $250,000 limit on non-economic damages for each plaintiff in a medical malpractice lawsuit, regardless of how many defendants there are in the case. So, even when a plaintiff has made a successful case and a Kansas jury finds that a doctor or other health care provider was negligent, this cap limits the amount of non-economic damages that the plaintiff can receive. So, now you're probably wondering, what are non-economic damages? They are damages that aren't easy to capture with a dollar figure, and they are usually pretty subjective from plaintiff to plaintiff. Non-economic damages include compensation for pain and suffering, anxiety, stress, loss of enjoyment, scarring, and other negative effects of the medical malpractice and the extra medical treatment made necessary by it. It's important to note here that Kansas's medical malpractice damages cap does not apply to the other main category of compensation available to a med mal plaintiff: economic damages. This includes payment of past medical bills and all ongoing future medical care, reimbursement of lost income, and compensation for diminished inability to earn a living. These kinds of damages are uncapped in Kansas.

Louisiana – Like most states, Louisiana limits the amount of compensation that a medical malpractice plaintiff can receive, even after he or she has been successful in a lawsuit and a jury has found the defendant liable for medical negligence. Louisiana is pretty unique among states in that it has enacted a cap on the total amount of damages available to a plaintiff, not just a limit on certain categories of damages. Louisiana limits total damages awards to $500,000 in medical malpractice cases, with the exception that costs of future medical care are not subject to the cap. The Louisiana Supreme Court has reviewed the constitutionality of this cap -- and upheld it in the face of challenges by medical malpractice plaintiffs -- as recently as 2012. One twist to this cap is that any amount over $100,000 in Louisiana will be paid out through the state Patient's Compensation Fund, an insurance-type fund that automatically covers all state health care providers (public hospitals and associated physicians), and includes private doctors and other health care providers who have met certain eligibility requirements.

Maine – In Maine, there is no law on the books that specifically limits or caps damages in a medical malpractice case -- meaning compensation that is available to a plaintiff after a successful lawsuit in court. But there is a Maine law that caps damages for any personal injury case involving allegations of wrongful death. In those cases, damages are capped at $500,000. So, for a medical malpractice case where the plaintiff(s) is alleging that the defendant's medical negligence caused a patient's wrongful death, even where the plaintiff ends up winning the lawsuit, any damage award will not be able to exceed $500,000 in accord with Maine law. You can find this rule codified at Maine Revised Statutes Title 18A section 2-804.

Maryland – Like a number of states, Maryland has passed a law that places a limit or "cap" on certain kinds of damages (compensation) that are available to a plaintiff who has been successful in a medical malpractice lawsuit. Currently, Maryland has a $725,000 cap on non-economic damages in any malpractice claim arising from the same medical injury, regardless of how many defendants there are. So, what are non-economic damages in a medical malpractice case? It is a category of damages that includes compensation for the plaintiff's pain and suffering, anxiety, loss of enjoyment of life, scarring, and other negative effects of the medical negligence. These kinds of damages aren't easily captured by a dollar figure, and they are more subjective from plaintiff to plaintiff. By law, since 2009, Maryland's medical malpractice damages cap is set to increase by $15,000 each year. So, for 2014 the cap will be $740,000, for 2015 the cap will be $755,000, and so on. It's important to note that this cap has no effect on the other main category of damages available to a med mal plaintiff: economic damages. Those include compensation for past medical expenses, payment for ongoing medical care, reimbursement for lost income, and compensation for any harm to the plaintiff's ability to earn a living. Maryland has no cap for these kinds of damages in a medical malpractice case.

Massachusetts – Like dozens of other states, Massachusetts has a law on the books that limits or "caps" certain types of damages (compensation, in other words) available to a plaintiff who has been successful in a medical malpractice lawsuit. Massachusetts caps non-economic damages at $500,000 in medical malpractice cases (though exceptions exist; more on this below). So, what are non-economic damages, you ask? They include compensation for the plaintiff's pain and suffering, lost enjoyment, anxiety, disfigurement, and other effects of the

defendant’s medical negligence. These kinds of damages aren’t easily captured by a dollar figure, and they are more subjective from plaintiff to plaintiff. It’s important to note that Massachusetts has placed no cap on the other main type of damages available to a medical malpractice plaintiff, which is economic damages. This includes compensation for past medical expenses, ongoing medical care lost income, and any damage to the plaintiff’s ability to earn a living. Finally, the Massachusetts cap on non-economic damages in a medical malpractice case will not apply if it is shown that the plaintiff's injuries include a substantial or permanent loss or impairment of a bodily function, or substantial disfigurement, or if some other special circumstance exists which warrants a finding that use of the cap would deprive the plaintiff of fair compensation for his or her injuries.

Michigan – Like the majority of states, Michigan “caps” or limits the amount of damages that are available to a plaintiff who has been successful in a medical malpractice lawsuit. Michigan’s cap is a little more complex than most states’. According to Michigan Compiled Laws section 600.1483, there is a $280,000 cap on non-economic damages available in a single medical malpractice claim. Non-economic damages include compensation for the medical malpractice plaintiff’s pain and suffering, loss of enjoyment of life, stress, anxiety, and other effects of the defendant’s medical negligence. But that’s not all. In Michigan, the non-economic damages cap is increased to $500,000 if:
1) the plaintiff is rendered hemiplegic, paraplegic, or quadriplegic because of the malpractice, and has suffered a total permanent functional loss of a limb because of injury to the brain or spinal cord, or
2) the malpractice has left the plaintiff with a permanently impaired cognitive capacity and rendered him or her incapable of making independent, responsible life decisions, and permanently incapable of independently performing the activities of normal daily life, or
(3) the malpractice has caused permanent loss of or damage to a reproductive organ resulting in the plaintiff’s inability to procreate.
Since 1994, both the $280,000 cap and the $500,000 cap have been reviewed at the end of each calendar year and adjusted according to the consumer price index. As of 2013, the $280,000 cap had increased to $433,400, and the $500,000 cap had been bumped up to $774,000.
Remember that Michigan places no cap on the other main category of damages available to a medical malpractice plaintiff, economic damages, which includes compensation for past medical expenses, ongoing medical care, lost income, harm to the plaintiff’s ability to earn a living, and any other measurable financial losses.

Mississippi – Like a lot of states, Mississippi caps non-economic damages in medical malpractice cases, effectively limiting the amount of money that a successful plaintiff can receive even after a jury has found the defendant liable for medical malpractice. Mississippi's cap for non-economic damages is set at **$500,000**, and you can find this law codified at Mississippi Code section 11-1-60. It's important to understand the kinds of compensation that this law does and does not affect when it comes to medical malpractice lawsuits. Non-economic damages are those that are meant to compensate the plaintiff for the negative effects of the

malpractice that aren't so easily calculable, and at the same time are more subjective from plaintiff to plaintiff. They include compensation for pain and suffering, stress and anxiety, loss of enjoyment of life, scarring and disfigurement, and similar losses caused by the defendant's malpractice. Mississippi's cap on medical malpractice damages does not apply to economic damages, which include payment of past medical bills, prospective payment for future medical care, reimbursement of lost income, compensation for any limitations on the plaintiff's ability to earn a living because of the malpractice, and any other provable losses that can be tied to the malpractice and/or to the medical treatment that was made necessary by it.

Missouri - For now, no. Like dozens of other states, Missouri had passed a law that caps non-economic damages in medical malpractice cases, basically limiting the amount of money that a successful plaintiff can be awarded even after a jury has held that the defendant is liable for committing medical malpractice. Until 2012, Missouri's cap for non-economic damages in medical malpractice cases was firmly set at **$350,000.** You can still find this law codified at Missouri Revised Statutes section 538.210, but in 2012 the Missouri Supreme Court held that the law was an unconstitutional violation of the right to a jury trial. Non-economic damages are meant to compensate the plaintiff for the negative effects of medical malpractice that aren't easily calculable, and are more subjective from plaintiff to plaintiff. They include compensation for pain and suffering, stress and anxiety, loss of enjoyment of life, scarring and disfigurement, and similar losses caused by the defendant's malpractice. A bill that would restore Missouri's medical malpractice damages cap is currently being considered by state lawmakers. But for now, any medical malpractice lawsuit filed post-2012 won't be subject to a damages cap in Missouri.

Montana – Like many states, Montana has passed a law that limits (or “caps”) non-economic damages in medical malpractice cases, effectively limiting the amount of money that a successful plaintiff can receive, even after a jury has found the defendant liable for medical malpractice. Montana's cap for non-economic damages in medical malpractice cases is set at **$250,000**, according to Montana Code Annotated section 25-9-411. So, what are non-economic damages? They are meant to compensate the plaintiff for the negative effects of medical malpractice that aren't easily calculable; losses that are more subjective from plaintiff to plaintiff. They include compensation for pain and suffering, stress and anxiety, loss of enjoyment of life, scarring and disfigurement, and similar harm caused by the defendant's malpractice. It's important to point out that Montana's cap on medical malpractice damages does not apply to economic damages, which are losses that include the plaintiff's past medical bills, cost of future medical care, reimbursement of lost earnings, compensation for harm to the plaintiff's ability to work because of the malpractice, and any other provable losses that can be tied to the malpractice and/or to the medical treatment that was made necessary by it.

Nebraska – Like a lot of states, Nebraska has a law on the books that limits the amount of compensation that a plaintiff can receive in a medical malpractice case, even after the plaintiff has been successful at trial and the jury has issued a finding that the defendant's medical negligence caused significant harm to the plaintiff. Nebraska's damages cap is pretty unique among states. That's because most states place a cap only on one category of medical malpractice damages: non-economic damages, which includes compensation for things like pain and suffering, loss of enjoyment of life, anxiety, emotional distress, and other subjective harm caused by the malpractice. But in accord with Nebraska Revised Statutes section 44-2825, the state has placed a $1.75 million total cap on damages in medical malpractice cases. This includes the plaintiff's economic damages -- meaning payment for past and future medical care, lost income, and future lost earnings or harm to earning capacity -- as well as non-economic harm. Another wrinkle in Nebraska's med mal damages cap is that health care providers who qualify under the state's Hospital-Medical Liability Act won't pay more than $500,000 in total damages, and any amount above that $500,000 is paid out from the state's Excess Liability Fund (up to the $1.75 million overall cap, of course).

Nevada – Like a lot of states in the U.S., Nevada has a law on the books that limits (or "caps") non-economic damages in medical malpractice cases, effectively limiting the amount of money that a successful plaintiff can receive, even after a jury has heard all the evidence at trial and found the defendant liable for medical malpractice. Nevada's cap on non-economic damages in medical malpractice cases is set at **$350,000.** That is the maximum amount that each plaintiff may receive from each defendant as compensation for non-economic damages. You can find this law codified at Nevada Revised Statutes section 41A.035. So, what are non-economic damages? They are meant to compensate the plaintiff for the negative effects of medical malpractice that aren't easily calculable; losses that are more subjective from plaintiff to plaintiff. They include compensation for pain and suffering, stress and anxiety, loss of enjoyment of life, scarring and disfigurement, and similar harm caused by the defendant's malpractice. It's important to keep in mind that Nevada's cap on medical malpractice damages does not apply to economic damages, which are losses that include the plaintiff's past medical bills, cost of future medical care, reimbursement of lost earnings, compensation for harm to the plaintiff's ability to work because of the malpractice, and any other provable losses that can be tied to the malpractice and/or to the medical treatment that was made necessary by it.

New Jersey – There is currently no overall cap on compensatory (economic or non-economic) damages in medical malpractice cases in New Jersey. But in any injury case, punitive damages are limited to $350,000 or five times the amount of compensatory damages, whichever is greater. This law is codified at New Jersey Statutes section 2A:15-5.14. Keep in mind that punitive damages are pretty rare in a medical malpractice lawsuit, and in New Jersey they require proof that the defendant acted with "actual malice" or a "wanton and willful disregard" of whether or not someone would be harmed or injured. Something to keep an eye on: In the 2012-2013 New Jersey Assembly session, a bill (New Jersey Assembly No. A-966) was

introduced that would cap non-economic damages at $250,000 in medical malpractice cases. Non-economic damages include compensation for things like the plaintiff's pain and suffering, loss of enjoyment of life, stress, anxiety, and other effects of the defendant's medical negligence. About half of U.S. states have placed a cap on these kinds of damages in med mal cases, and New Jersey may follow suit, so stay tuned.

New Mexico – Like many states, New Mexico "caps" or limits the amount of compensation that is available to a plaintiff who has been successful in a medical malpractice lawsuit. Most states' medical malpractice damage caps apply only to non-economic damages like pain and suffering, loss of enjoyment of life, and similar subjective damages. New Mexico's cap is a little different, although it functions to cap non-economic losses as well. New Mexico utilizes an overall cap of **$600,000** on all categories of damages available to a medical malpractice plaintiff, but the cap specifically excludes compensation for past and future medical care. So, the cap does not apply to compensation for any medical and rehabilitative care made necessary by the defendant's malpractice, including payment of ongoing care in cases of permanent disability. But it will apply to other economic compensation such as payment of lost income and lost ability to earn a living, and it applies to all varieties of non-economic damages as well. Learn more about damages in a medical malpractice case. (Note: New Mexico's cap also does not apply to punitive damages, which are pretty rare in medical malpractice cases.)
New Mexico also caps each individual health care provider's liability at $200,000, and any amount above that limit will be paid to the plaintiff out of a state compensation fund that has been set up for patients who have been injured by medical malpractice.

North Carolina – Like a lot of states, North Carolina places a limit or "cap" on the amount of compensation that is available to a plaintiff who has been successful in a medical malpractice lawsuit. In other words, the jury finds the defendant liable for malpractice, and awards the plaintiff a certain amount of damages, but (fair or not) this law kicks in to limit the actual amount that the plaintiff can receive. In 2001, North Carolina passed a law capping non-economic damages at **$500,000** in medical malpractice cases. Non-economic damages include compensation for things like pain and suffering, emotional distress, and the loss of enjoyment of life that result from the defendant's medical malpractice. Non-economic damages are often described as more "subjective" because they tend to vary from plaintiff to plaintiff. Beginning in 2014, North Carolina's $500,000 cap will be adjusted upward for inflation every year. You can see the full text of this law at N.C. General Statutes section 90-21.19. One important exception to North Carolina's medical malpractice damages cap: The law will not apply at all in cases where the injured patient suffered certain kinds of disfiguring or permanent injury AND the defendant's malpractice arose from recklessness, malice, an intentional act, or gross negligence. Where those criteria are met in a medical malpractice case, all damages are uncapped. It's important to remember that compensation for losses like past and future medical bills, lost income, lost earning capacity, and other economic damages are not subject to any sort of cap in a North Carolina medical malpractice case.

North Dakota – Just like a number of states, North Dakota places a limit or "cap" on the amount of compensation that is available to a plaintiff who has been successful in a medical malpractice lawsuit. In other words, even after a jury holds a defendant liable for malpractice and awards a plaintiff a certain amount of damages, this law (fair or not) kicks in to cap the actual amount that the plaintiff will end up getting. In North Dakota, there is a **$500,000** cap on non-economic damages in medical malpractice cases. Non-economic damages include compensation for things like pain and suffering, emotional distress, and the loss of enjoyment of life that result from the defendant's medical malpractice. Non-economic damages are often described as more "subjective" because they tend to vary from plaintiff to plaintiff, and they're not so easy to capture with a dollar amount. As for economic damages in medical malpractice cases in North Dakota -- which includes compensation for losses like past and future medical bills, lost income, lost earning capacity, and other financial harm -- there is no statutory limit, but any economic damages award over $250,000 may be challenged by the defendant and reviewed for reasonableness by the court. However, when such an award is challenged, the defendant has the burden of persuading the court that the dollar amount does not reasonably reflect the injured patient's economic losses.

Ohio – Like lawmakers in a lot of states, the Ohio legislature has passed a statute that places a limit or "cap" on the amount of compensation that can be awarded to a plaintiff who has been successful in a medical malpractice lawsuit. In other words, even after a jury holds a defendant liable for malpractice, this law kicks in to cap the actual amount that the plaintiff will end up getting. First, it's important to understand the two main types of damages in medical malpractice cases: economic and non-economic. Economic damages include payment of past and future medical care, reimbursement of lost income, compensation for lost earning capacity, and other financial losses stemming from the malpractice. Non-economic damages include compensation for things like pain and suffering, emotional distress, and the loss of enjoyment of life that result from the defendant's medical malpractice. Non-economic damages are often described as more "subjective" because they tend to vary from plaintiff to plaintiff, and they're not so easy to capture with a dollar amount. Ohio's medical malpractice damages cap applies only to non-economic damages. So, what does the law say? Under Ohio Rev. Code Ann. § 2323.43, non-economic damages in a medical malpractice case can't exceed the greater of $250,000 or three times the plaintiff's economic damages -- with an overall maximum of $350,000 per plaintiff or $500,000 for each case (if there is more than one plaintiff).
The cap will be bumped up to $500,000 per plaintiff or $1 million per case if the malpractice caused certain permanent and/or catastrophic injuries.

Oklahoma – Like lawmakers in a lot of states, the Ohio legislature has passed a statute that places a limit or "cap" on the amount of compensation that can be awarded to a plaintiff who has been successful in a medical malpractice lawsuit. In other words, even after a jury holds a defendant liable for malpractice, this law kicks in to cap the actual amount that the plaintiff will end up getting. First, it's important to understand the two main types of damages in medical

malpractice cases: economic and non-economic. Economic damages include payment of past and future medical care, reimbursement of lost income, compensation for lost earning capacity, and other financial losses stemming from the malpractice. Non-economic damages include compensation for things like pain and suffering, emotional distress, and the loss of enjoyment of life that result from the defendant's medical malpractice. Non-economic damages are often described as more "subjective" because they tend to vary from plaintiff to plaintiff, and they're not so easy to capture with a dollar amount. Ohio's medical malpractice damages cap applies only to non-economic damages. So, what does the law say? Under Ohio Rev. Code Ann. § 2323.43, non-economic damages in a medical malpractice case can't exceed the greater of $250,000 or three times the plaintiff's economic damages -- with an overall maximum of $350,000 per plaintiff or $500,000 for each case (if there is more than one plaintiff).
The cap will be bumped up to $500,000 per plaintiff or $1 million per case if the malpractice caused certain permanent and/or catastrophic injuries.

Oregon – Yes, but only in cases where the defendant's medical malpractice played a role in causing a patient's wrongful death. First, it helps to understand what damage caps are. In the context of a medical malpractice case, they are laws that place a limit on the amount of money that a plaintiff can receive, even after the plaintiff proves -- and a jury agrees -- that the defendant's malpractice caused harm. A lot of states have passed medical malpractice damage caps. Most states cap (or limit) non-economic damages, which include compensation for things like pain and suffering, emotional distress, and other more subjective losses stemming from the malpractice. Oregon is fairly unique among states in that its damage cap only applies to non-economic damages in wrongful death cases arising from medical malpractice. That cap is set at $500,000 under Oregon law. A wrongful death case is brought by the heirs or personal representatives of the deceased, and non-economic damages are usually available to compensate both the deceased pre-death pain and suffering, and the loss of companionship and other emotional losses suffered by the heirs or other family members bringing the wrongful death lawsuit. (Learn more about wrongful death lawsuits.) Keep in mind that Oregon has no cap on economic damages in medical malpractice cases (whether they involve wrongful death or not). So, there is no limit on compensation for medical treatment (past and future), lost income, lost earning capacity, loss of financial support, and other calculable harm caused by the defendant's malpractice.

South Carolina – Like many states, South Carolina has a statute on the books that places a limit or "cap" on the amount of compensation that can be awarded to a plaintiff in a medical malpractice case. In other words, even after a plaintiff proves (and the jury agrees) that the defendant committed malpractice, this law limits the actual amount of damages that the plaintiff can receive. Before we get to what South Carolina's medical malpractice damages law says, let's distinguish between the two main types of damages in these kinds of cases: economic and non-economic. Economic damages typically consist of payment for past and future medical care, reimbursement of lost income, compensation for lost earning capacity, and other financial losses that can be attributed to the doctor or hospital error on which the

malpractice lawsuit is based. Non-economic damages include compensation for things like pain and suffering, emotional distress, and the loss of enjoyment of life that result from the malpractice. Non-economic damages are said to be more “subjective” from plaintiff to plaintiff, and they’re not so easy to capture with a dollar amount.
South Carolina’s medical malpractice damages cap applies only to non-economic damages, and it’s got a few variations. You can find the full text of the law at S.C. Code of Laws Title 15, Chapter 32. Here are the highlights:

- There is a **$350,000** cap on non-economic damages in any medical malpractice case against a single care provider or institution.
- For a judgment against more than one defendant, total non-economic damages can’t exceed **$1.05 million**, and a single care provider or institution cannot be on the hook for more than **$350,000** in non-economic compensation.

South Dakota – South Dakota, like a lot of states, has a law on the books that places a limit or “cap” on the amount of compensation a plaintiff can receive in a medical malpractice case. The effect of laws like this is that, even after a plaintiff proves that the defendant committed malpractice -- and the jury reaches the same conclusion -- this law limits the actual amount of damages that the plaintiff can be awarded. In South Dakota, non-economic damages in medical malpractice cases are capped at **$500,000**, according to S.D. Cod. Laws section 21-3-11. This includes cases against almost any kind of health care provider you can think of, including physicians, chiropractors, optometrists, dentists, hospitals, registered nurses, physicians' assistants, and corporate employers. So, what are non-economic (also called “general” damages)? They include compensation for things like pain and suffering, emotional distress, and the loss of enjoyment of life that result from the malpractice. Non-economic damages are said to be more “subjective” from plaintiff to plaintiff, and they’re not so easy to capture with a dollar amount. Economic damages, on the other hand, typically consist of payment for past and future medical care, reimbursement of lost income, compensation for lost earning capacity, and other financial losses that can be attributed to the doctor or hospital erroron which the malpractice lawsuit is based. South Dakota does not cap economic damages in medical malpractice cases, and that’s an important distinction to keep in mind.

Tennessee – Tennessee recently joined a majority of U.S. states by passing a law that places a limit or “cap” on the amount of compensation a plaintiff can receive in a medical malpractice case. The controversial effect of laws like this is that, when a plaintiff proves that the defendant committed malpractice -- and a jury makes the same finding -- the statute limits the actual amount of damages the plaintiff can be awarded. In Tennessee, non-economic damages in medical malpractice cases are capped at **$750,000** per claim, and that limit also captures related claims made by the injured patient’s family members. But the cap will increase to **$1 million** for non-economic damages where the defendant’s medical malpractice causes “catastrophic” injury, such as paralysis, amputation of multiple limbs, and certain instances of wrongful death. So, your next question is probably, “What are non-economic damages”?

In any injury case, non-economic damages include compensation for things like pain and suffering, emotional distress, and loss of enjoyment of life. Non-economic damages are said to be more “subjective” from plaintiff to plaintiff, and they’re not so easy to capture with a dollar amount. Economic damages, on the other hand, typically consist of payment for past and future medical care, reimbursement of lost income, compensation for lost earning capacity, and other financial losses that can be attributed to the doctor or hospital error on which the malpractice lawsuit is based. Tennessee does not cap economic damages in medical malpractice cases, and that’s an important distinction to keep in mind.

Texas – Like the majority of U.S. states, Texas has passed a law that limits or “caps” the amount of compensation a plaintiff can receive in a medical malpractice case. The controversial effect of laws like this is that, even after a plaintiff proves that the defendant committed malpractice -- and a jury makes the same finding -- the statute limits the actual amount of damages the plaintiff can be awarded. Also like most states, Texas’s caps apply only to non-economic damages. Here are the highlights of the law (you can find the full text at Texas Civ. Prac. & Rem. Code section 74.301):

- There is a per-claimant **$250,000** cap on non-economic damages in medical malpractice cases against a physician or health care provider.
- For medical malpractice cases against a single health care institution, there is a per-claimant **$250,000** cap on non-economic damages.
- For cases against multiple health care institutions, there is an overall cap of **$500,000** per-claimant for non-economic damages, and no single institution can be on the hook for more than **$250,000** in non-economics, per-claimant.

So, what are these all-important “non-economic damages”? In any injury case, non-economic damages include compensation for things like pain and suffering, emotional distress, and loss of enjoyment of life. Non-economic damages are said to be more “subjective” from plaintiff to plaintiff, and they’re not so easy to capture with a dollar amount.

Remember that Texas does not cap economic damages, which typically consist of payment for past and future medical care, reimbursement of lost income, compensation for lost earning capacity, and other financial losses that can be attributed to the malpractice on which the lawsuit is based.

Utah – Like most U.S. states, Utah has a law on the books that limits or “caps” the amount of compensation a plaintiff can receive in a medical malpractice case. The controversial impact of laws like this is that, even where a plaintiff proves that the defendant committed malpractice -- and a jury reaches the same conclusion -- the actual amount of damages the plaintiff can be awarded is limited. Also like most states, Utah’s cap applies only to non-economic damages, limiting those to **$450,000** for any medical malpractice case arising after May 15, 2010. You can find the full text of this law at Utah Code section 78B-3-410. So, what are these all-important “non-economic damages”? In any injury case, non-economic damages include compensation for things like pain and suffering, emotional distress, and loss of enjoyment of life. Non-economic damages are said to be more “subjective” from plaintiff to plaintiff, and they’re not

so easy to capture with a dollar amount. Remember that Utah does not cap economic damages, which typically consist of payment for past and future medical care, reimbursement of lost income, compensation for lost earning capacity, and other financial losses that can be attributed to the malpractice on which the lawsuit is based.

Virginia – Like dozens of other states, Virginia has a statute that places a limit or "cap" on the amount of compensation a plaintiff can receive in a medical malpractice case. The controversial impact of laws like this is that, even where a plaintiff establishes the defendant's liability for malpractice -- and a jury reaches the same judgment -- there is a limit on the actual amount of damages the plaintiff can be awarded, regardless of the plaintiff's specific claimed losses. Unlike most states, Virginia's cap applies to all varieties of damages in a medical malpractice case -- it does not matter whether they are economic damages (medical bills, lost income, diminished earning capacity) or non-economic damages (compensation for pain and suffering, emotional distress, etc.). Learn more about Damages in Medical Malpractice Cases. Also unlike most states, Virginia's medical malpractice damages cap sets out a detailed and gradual year-by-year raising of the total damages limit. Here's a look at the current state of the cap and the planned increases in coming years:
* for cases arising from July 1, 2013, through June 30, 2014: $2.10 million
* for cases arising from July 1, 2014, through June 30, 2015: $2.15 million
* for cases arising from July 1, 2015, through June 30, 2016: $2.20 million
* for cases arising from July 1, 2016, through June 30, 2017: $2.25 million
The cap is currently set to stop increasing in 2031, when the limit will be $3 million. You can see the planned year-by-year raising of the cap for all years -- for medical malpractice cases arising from 1999 through 2030 -- by checking out the full text of the law at Virginia Code section 8.01-581.15.

West Virginia – Like many states, West Virginia has a statute on the books that places a limit or "cap" on the amount of compensation a plaintiff can receive in a medical malpractice case. The controversial impact of laws like this is that, even where a plaintiff establishes the defendant's liability for malpractice, there is a limit on the actual amount of damages the jury can award, regardless of the plaintiff's specific losses. West Virginia puts a **$250,000** per-occurrence cap on non-economic damages in medical malpractice cases. This cap bumps up to **$500,000** for non-economic damages if the medical malpractice resulted in certain catastrophic damages including wrongful death, permanent and serious disfigurement, or an injury that permanently prevents the plaintiff from being able to care for him/herself and perform life-sustaining activities. For the details, see West Virginia Code section 55-7B-8. So, what are these all-important "non-economic damages"? In any injury case, non-economic damages include compensation for things like pain and suffering, emotional distress, and loss of enjoyment of life. Non-economic damages are said to be more "subjective" from plaintiff to plaintiff, and they're not so easy to capture with a dollar amount. Remember that West Virginia does not cap economic damages in medical malpractice cases. Economic (sometimes called "special") damages typically consist of payment for past and future medical care, reimbursement of lost

income, compensation for lost earning capacity, and other financial losses that can be attributed to the defendant's malpractice.

Wisconsin – Like many states, Wisconsin has a statute on the books that places a limit or "cap" on the amount of compensation a plaintiff can receive in a medical malpractice case. The controversial impact of laws like this is that, even where a plaintiff establishes the defendant's liability for malpractice, there is a limit on the actual amount of damages the jury can award, regardless of the plaintiff's specific losses. Wisconsin lawmakers have put a **$750,000** per-occurrence cap on non-economic damages in medical malpractice cases. For the details, check out Wisconsin Stat. section 893.55. So, what are "non-economic damages"? In any injury case, non-economic damages include compensation for things like pain and suffering, emotional distress, and loss of enjoyment of life. Non-economic damages are said to be more "subjective" from plaintiff to plaintiff, and they're not so easy to capture with a dollar amount. Remember that Wisconsin does not cap economic damages in medical malpractice cases. Economic (sometimes called "special") damages typically consist of payment for past and future medical care, reimbursement of lost income, compensation for lost earning capacity, and other financial losses that can be attributed to the defendant's malpractice. It's worth noting that an earlier Wisconsin law that capped non-economic damages in medical malpractice cases was overturned as unconstitutional. And there are a few challenges to the current version of the law making their way through Wisconsin's court system, so stay tuned.

All other states have no statutory cap.