

WISCONSIN STATE  
LEGISLATURE  
COMMITTEE HEARING  
RECORDS

**2005-06**

(session year)

**Assembly**

(Assembly, Senate or Joint)

**Committee on  
Insurance  
(AC-In)**

(Form Updated: 11/20/2008)

**COMMITTEE NOTICES ...**

➤ Committee Reports ... CR  
\*\*

➤ Executive Sessions ... ES  
\*\*

➤ Public Hearings ... PH  
\*\*

➤ Record of Comm. Proceedings ... RCP  
\*\*

**INFORMATION COLLECTED BY COMMITTEE  
FOR AND AGAINST PROPOSAL ...**

➤ Appointments ... Appt  
\*\*

Name:

➤ Clearinghouse Rules ... CRule  
\*\*

➤ Hearing Records ... HR (bills and resolutions)  
\*\*

➤ Miscellaneous ... Misc

**05hr\_AC-In\_Misc\_pt58c**

**(2005 documents)**



---

Press the print button on your browser.  
[Click here to return to the previous page.](#)

## Nevada

[Nevada Backgrounder](#)

[Current State Law](#)

[Contacts](#)

---

### America's Medical Liability Crisis Backgrounder

#### Nevada

Trial lawyers filed cases at record speed since Oct. 1, 2002—the date Nevada's untested medical liability reforms went into effect. The number of lawsuits filed against health care providers in Clark County has risen from 372 in 2001 to 1,116 in 2003. (Clark County Medical Society, March 2004)

The state's unpredictable legal system is the reason why Ob-gyns in the Las Vegas area pay as much as \$141,000 per year in liability insurance premiums, while an Ob-gyn in Los Angeles can expect to pay about \$60,000. (*Medical Liability Monitor*, Oct. 2003 edition)

Las Vegas' only trauma center, which treated more than 11,000 patients in 2001, and is the only Level I center within 400 miles of Las Vegas, closed for 10 days in July 2002 because it did not have enough surgeons to staff the center. Lawsuit abuse continues in Las Vegas as orthopedic surgeons and Ob-gyns have more closed claims against them than any other specialty. (Medical Dental Screening Panel data 1986-2002)

Mary Rasar's father died in Las Vegas after the only Level 1 trauma center was forced to close due to skyrocketing medical liability costs. Jim Lawson was injured July 4 in a traffic accident and rather than being rushed to the Level 1 trauma center at nearby University Medical Center, which had been forced to close, Lawson was taken to a hospital that did not have the resources necessary to save his life. He died while physicians tried to stabilize him for airlift to Salt Lake City. (*PR Newswire*, April 21, 2003)

The people of Nevada overwhelmingly support comprehensive medical liability reforms. A May 2003 poll conducted by the "Keep Our Doctors in Nevada" initiative found that more than 80 percent of Republicans and Democrats said they would support candidates who supported reforms, including a limit on non-economic damages and trial-lawyer contingency fees. (*BestWire*, Sept. 15, 2003).

In the American College of Obstetricians and Gynecologists practice change survey, 86 percent of responding Nevada ob-gyns indicated that they have changed their practices, with 28 percent dropping obstetrics. (ACOG Dept. of Professional Liability/Risk Management survey, 2002)

Physicians at the Nevada School of Medicine say that for the first time, the majority of obstetrical residents haven't remained in Las Vegas because of the skyrocketing liability premiums. "We've always had three out of the three residents stay in Las Vegas the past 20 years," said Dr. Joe Rojas Sr., who has been training Nevada obstetricians for more than 30 years. "Now only one of the residents finishing this year might stay here to practice. People used to call me looking for jobs in private practice all the time. Now, nobody ever calls me anymore." (*Las Vegas Review-Journal*, January 10, 2003)

The ongoing crisis has caused one of the few remaining liability insurers, American Physicians Assurance, to pull out of Nevada, a move that will leave about 125 doctors looking for new coverage to continue their practices. Dr. Fred Redfern, president of the Nevada Orthopedic Society, said the withdrawal of another insurance carrier should alarm Nevadans. He said APA is his third insurance carrier to decide to leave Nevada because of the high cost of fighting medical malpractice claims. 'This is not a good place to practice medicine. That's the message doctors are getting,' he said. (*Las Vegas Review-Journal*, January 29, 2004)

Pregnant women continue to lose access to care as skyrocketing insurance premiums are forcing Ob-gyns to stop delivering babies. Frieda Fleischer, MD, gave up obstetrics because her premiums rose from \$30,000 annually to \$80,000. "So far, I've had about 40 pregnant patients to refer elsewhere and it's been tough." Carolyn Faris, with the help of her former obstetrician, called more than 60 area doctors to find someone to deliver her baby. It wasn't until after experiencing pregnancy complications that Faris found a specialist to care for her. And Ruth Valentine, who was six months pregnant at the time, said she called more than 50 doctors and still could not find a local physician to deliver her baby, so she went to see an obstetrician in St. George, Utah. (*Las Vegas Review-Journal*, January 10, 2003)

"I left Nevada because the litigation climate had driven medical liability premiums to astronomical heights," Ob-gyn Shelby Wilbourn, MD, testified before a Congressional subcommittee. Dr. Wilbourn, whose premiums increased to \$108,000, moved to Maine this year and still receives calls from some of the 8,000 patients he saw during his 12 years in Nevada. "Liability isn't about fault or bad practice-it's about hitting a jackpot. Even the best Ob-gyns have been sued, many more than once." (*The Associated Press*, Feb. 12, 2003)

Updated March 11, 2004  
American Medical Association

Printable version:  
[Nevada Medical Liability Crisis State Backgrounder](#)  
(PDF, 33KB, requires [Adobe® Reader®](#))

---

#### Current State Law - Nevada

Damage Caps - \$350,000 cap on noneconomic damages.

Joint Liability Reform - Yes. Defendants only severally liable for economic or non-economic damages in medical liability cases.

Collateral Source Reform - Yes. The judge must reduce the verdict by the amount of any collateral benefits, except where a right of subrogation exists.

Attorney Fees Limited - Yes. 40 percent of the first \$50,000 recovered; 33 1/3 percent of the next \$50,000; 25 percent of the next \$500,000 recovered; and 15 percent of the amount of recovery that exceeds \$600,000.

Periodic Payments Permitted - Yes. When an award equals or exceeds \$50,000 in future damages, the court must allow the same to be paid in periodic payments instead of a lump sum, if requested by either party.

---

#### Contacts

For further information contact:

Kimberly Horvath, JD, Senior Legislative Attorney  
Phone: (312) 464-5033  
E-mail: [kimberly.horvath@ama-assn.org](mailto:kimberly.horvath@ama-assn.org)

Darren Streff, Field Representative

Phone: (312) 464-4248  
E-mail: [darren.streff@ama-assn.org](mailto:darren.streff@ama-assn.org)

**Nevada State Medical Association**  
Larry Matheis, Executive Director  
Phone: (775) 825-6788  
E-mail: [lmatheis@nsmadocs.org](mailto:lmatheis@nsmadocs.org)  
Web site: [www.nsmadocs.org](http://www.nsmadocs.org)

Last updated: Sep 13, 2005  
Content provided by: Media Relations

---

[Privacy Statement](#) | [Advertise with us](#)  
Copyright 1995-2005 American Medical Association. All rights reserved.



---

Press the print button on your browser.  
[Click here to return to the previous page.](#)

## New Jersey

[New Jersey Backgrounder](#)

[Current State Law](#)

[Contacts](#)

---

### America's Medical Liability Crisis Backgrounder

#### New Jersey

The ongoing crisis has caused medical liability insurers to leave the market and existing insurers to drastically increase rates. Across all specialties, increases from Princeton, a major carrier in New Jersey, from 2001-2003 were at least 57% - 87% for physicians with clean claims. Add one open claim and the rate jumped from 141% - 188%. (Medical Society of New Jersey testimony before the New Jersey Board of Medical Examiners, Feb. 19, 2004).

Numerous obstetricians and other physicians from several New Jersey counties have been forced to restrict their practices, consider early retirement or leave the state altogether, due to unaffordable premiums. Affected counties include: Atlantic, Bergen, Burlington, Camden, Cumberland, Essex, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Sussex, Union and Warren. (Medical Society of New Jersey Alliance)

A New Jersey Hospital Association survey shows that 100% of New Jersey hospitals saw an increase in liability insurance premiums in 2002, with the average hospital experiencing a 50% increase. Liability insurance has increased 203% from 1999. (New Jersey Hospital Association, Jan. 29, 2003)

80% of New Jersey residents are "concerned" or "very concerned" that the medical liability crisis may prevent them from seeing the physician of their choice. 73% believe the current personal injury system is broken and needs to be reformed. (Research 2000, May 2003)

Nearly 45% of medical practices have adjusted their operations in ways that may negatively affect the quality of patient care — change in patient hours, ceasing to provide certain services, deferring the purchase of medically necessary equipment. (Medical Society of New Jersey survey, Nov. 14, 2002)

One out of every four hospitals—nearly 27 percent—has been forced to increase payments to find physicians willing to cover the Emergency Department. Physicians are increasingly reluctant to take on such assignments because of the greater liability exposure. (New Jersey Hospital Association, Jan. 28, 2003)

Anecdotal reports documenting the actions of physicians have been extensive. Examples include:

- Dr. Stephen Smith says that part of the reason costs are going up is the doctors are now forced to practice defensive medicine. "What bothers me so much is that element of — of fear and doubt that is created by this system we're in. What we're doing now is we practice [cover your ass] medicine. His father, also a physician, is worried that the legal

climate could cause a future shortage of high-risk specialists: "the best students are not going into high-risk fields, they're not going into OB, they're not going to neurosurgery." (60 Minutes, March 9, 2003)

- An eight-physician ophthalmology practice, which treats premature babies born with retinopathy-a condition that can lead to blindness-will no longer offer the procedure due to the high-risk and liability exposure. (Medical Society of New Jersey)

- In Middlesex County, a second-generation, 50-year surgical practice is closing in the wake of insurance premiums increasing from \$34,000 per physician to \$96,000 per physician. (Medical Society of New Jersey)

- "My policy expires at the end of the month and I can't find new coverage I can afford," said Dr. Eva Jones, a Hamilton obstetrician and gynecologist. "I may go bare and just see patients in my office, but hospitals won't let me deliver babies or do surgery if I don't have insurance." (*The Times*, May 19, 2003)

Multimillion dollar jury awards in New Jersey continue to demonstrate the need for a reasonable limit on damages to help stabilize the market. Recent verdicts in 2003 include those for \$22 million and \$20 million. (Verdict Search: <http://www.verdictsearch.com/news/top/100/>, last accessed June 8, 2004)

Updated June 11, 2004  
American Medical Association

Printable version:  
[New Jersey Medical Liability Crisis State Background](#)  
(PDF, 34KB, requires [Adobe® Reader®](#))

---

#### **Current State Law - New Jersey**

Damage Caps - Punitive damages limited to the greater of \$350,000 or five times compensatory damages.

Joint Liability Reform - Yes. Defendants are responsible only for their proportionate share of negligence if they are found to be less than 60% at fault. Defendants found to be 60% at fault are subject to a modified rule.

Collateral Source Reform - Yes. Collateral source payments must be disclosed and deducted from claimant's damages

Attorney Fees Limited - Yes. Fees may not exceed the following: 33 1/3% of the first \$500,000; 30% of the next \$500,000; 25% of the next \$500,000; 20% of the next \$500,000; and an amount the court deems reasonable for fees over \$2 million.

Periodic Payments Permitted - No

---

#### **Contacts**

For further information contact:

Kimberly Horvath, JD, Senior Legislative Attorney  
Phone: (312) 464-5033  
E-mail: [kimberly.horvath@ama-assn.org](mailto:kimberly.horvath@ama-assn.org)

Darren Streff, Field Representative  
Phone: (312) 464-4248  
E-mail: [darren.streff@ama-assn.org](mailto:darren.streff@ama-assn.org)

**Medical Society of New Jersey**  
John Shaffer, Senior Manager Public Affairs  
Phone: (609) 896-1766, ext. 264

E-mail: [jshaffer@msnj.org](mailto:jshaffer@msnj.org)  
Web site: [www.msnj.org](http://www.msnj.org)

Last updated: Sep 13, 2005  
Content provided by: Media Relations

---

[Privacy Statement](#) | [Advertise with us](#)  
Copyright 1995-2005 American Medical Association. All rights reserved.



---

Press the print button on your browser.  
[Click here to return to the previous page.](#)

## New York

[New York Backgrounder](#)

[Current State Law](#)

[Contacts](#)

---

### America's Medical Liability Crisis Backgrounder

#### New York

New York's unrestrained legal climate has caused millions of dollars to be taken from the health care system:

- The average jury award has increased from \$1.7 million in 1994 to \$6 million in 1999—an increase of 350 percent.
- The average cost of closing all cases (not only jury verdicts) has increased from \$337,000 in 1997 to \$420,000 in 2001.
- In 2002, 7 of the top 10 jury verdicts in medical negligence cases were from New York courts.

(Medical Society of the State of New York)

Numerous attempts to enact meaningful medical liability reforms have been stymied by partisan politics. New York does not have a reasonable limit on non-economic damages, which is a prime reason why physicians fear lawsuits in the tens of millions of dollars.

(Medical Society of the State of New York)

Of the 13 largest medical negligence lawsuits in the United States in 2002, seven were in New York state, according to the National Law Journal, including a \$94 million verdict from a Brooklyn jury. (*Albany Business Review*, March 21, 2003)

Awards greater than \$1 million are three times more frequent in New York than in California, a state that has had reforms since 1975, according to the Insurance Information Institute. (*Poughkeepsie Journal*, April 1, 2003)

New York is considered a "Red Alert" state by the American College of Obstetricians and Gynecologists, which found that 67 percent of Ob-gyns have been forced to restrict their practice (including no longer deliver babies or perform major gynecological surgery), retire or relocate to another state. (ACOG Dept. of Professional Liability/Risk Management survey, 2002)

New York physicians pay among the highest medical liability premiums in the country. Ob-gyns in Nassau and Suffolk counties pay more than \$123,000 per year. (Medical Liability Monitor, Oct. 2003)

Forty-five percent of Ob-gyn residents who graduated in New York in 2002 left the state. (*Long Island Business News*, March 28, 2003)

Many young doctors won't specialize in obstetrics. They fear the threat of lawsuits and wince at liability insurance costs, which can be as much as \$200,000 per year. Last summer, Manhattan's Elizabeth Seton Childbearing Center, which practiced natural childbirth, had to close when its medical liability insurance premiums rocketed to \$2

million. (*New York Daily News*, February 12, 2004)

Obstetricians insured by New York's largest insurer (MLMIC) make up only 6 percent of MLMIC's population, but account for 25 percent of the insurer's losses. Low-risk specialties (including pathology, pediatrics, psychiatry and others) make up 24 percent of MLMIC's population but account for only 6 percent of losses. And in the previous five years, 70 percent of MLMIC's neurosurgeons and 60 percent of the obstetricians, orthopedic and general surgeons have been sued. (MLMIC fact sheet 2003)

The Niagara Falls area now has only seven obstetricians, down from 13 in 1981 in a decline that far outpaces the area's population decrease. One of the remaining obstetricians, Dr. David Zornek, cites the liability premium and constant threat of economically-disastrous lawsuits as precipitating factors. "I could lose everything I've worked for," he worries. (*Buffalo News*, April 27, 2003)

Six of the 19 obstetricians in the East End stopped delivering babies or left the practice because of their inability to afford the premiums, according to Dr. David Kirshy, a radiologist and treasurer of the Suffolk County Medical Society. (*Newsday* (Nassau and Suffolk Edition), May 21, 2003)

Dr. John Cafaro, 45, an Ob-gyn in Garden City, said some doctors are paying \$130,000 for only \$1 million worth of protection. "But we are getting sued for \$85 and \$90 million at a time," he said. "You do the math. Every time I walk into an operating room I put my family's life savings on the line." (*The New York Times*, May 25, 2003)

Updated April 9, 2004  
American Medical Association

Printable version:  
[New York Medical Liability Crisis State Backgrounder](#)  
(PDF, 33KB, requires [Adobe® Reader®](#))

---

#### Current State Law - New York

Damage Caps - None

Joint Liability Reform - Yes for non-economic damages. Defendants are responsible only for their proportionate share of negligence if they are found to be 50% or less liable. Defendants can be held jointly and severally liable for economic damages.

Collateral Source Reform - Yes. Collateral sources of payment are admissible as evidence and must reduce the award by the amount recovered. Such reduction shall be offset by premiums paid by the claimant for the benefit for two years preceeding the action and projected future costs of maintaining benefits.

Attorney Fees Limited - Yes. Fees are capped as follows: 30% of the first \$250,000; 25% of the next \$250,000; 20% of the next \$500,000; 15% of the next \$250,000; and 10% of fees of \$1.25 million or more.

Periodic Payments Permitted - Yes. Future damages over \$250,000 must be paid periodically.

---

#### Contacts

For further information contact:

Kimberly Horvath, JD, Senior Legislative Attorney  
Phone: (312) 464-5033  
E-mail: [kimberly.horvath@ama-assn.org](mailto:kimberly.horvath@ama-assn.org)

Darren Streff, Field Representative  
Phone: (312) 464-4248

E-mail: [darren.streff@ama-assn.org](mailto:darren.streff@ama-assn.org)

**Medical Society of State of New York**  
Thomas Donoghue, Director of Communications  
Phone: (516) 488-6100, ext 350  
E-mail: [tdonoghue@mssny.org](mailto:tdonoghue@mssny.org)  
Web site: [www.mssny.org](http://www.mssny.org)

Last updated: Sep 13, 2005  
Content provided by: Media Relations

---

[Privacy Statement](#) | [Advertise with us](#)  
Copyright 1995-2005 American Medical Association. All rights reserved.



---

Press the print button on your browser.  
[Click here to return to the previous page.](#)

## North Carolina

[North Carolina Backgrounder](#)

[Current State Law](#)

[Contacts](#)

---

### America's Medical Liability Crisis Backgrounder

#### North Carolina

The annual number of settlements greater than \$1 million for medical liability cases has more than tripled between 1993 and 2002 from 6 to 19. (*N.C. Lawyer's Weekly*)

N.C. Lawyers Weekly reports that the largest medical liability verdicts and settlements have increased significantly over the last decade. The average large medical liability recovery has increased 74% from \$1,990,000 in 1992 to \$3,480,000 in 2002. (North Carolina Medical Society)

Hospitals in North Carolina have had insurance premiums go up 400 percent to 500 percent in the past three years, the North Carolina Medical Society says. Small, rural hospitals were hit hardest. (*Winston-Salem Journal*, March 9, 2004)

Liability insurance premiums for North Carolina neurosurgeons increased by 50 percent between 2000 and 2002, according to the American Association of Neurological Surgeons. (*Winston-Salem Journal*, March 9, 2004)

Obstetricians and trauma surgeons in Western North Carolina are seeing increases in their professional liability insurance rates as high as 50-100 percent, according to Dr. Hal Lawrence, director of the Mountain Area Health Education Center's Women's Health Center. (*Ashville Citizen-Times*, Feb. 8, 2003)

"If we remain in North Carolina we will likely be forced to make the decision to limit procedures which carry high risks (but also are often life-saving)," said K. Stuart Lee, M.D. of Eastern Neurosurgical and Spine Associates Inc. Dr. Lee's practice saw their medical liability premiums increase 116 percent last year. (*The News and Observer*, Jan. 26, 2003)

Women's Care, P.A., the largest independent Ob-gyn physician group in North Carolina, saw its medical liability insurance premiums increase 30 percent in 2003 for almost three times less coverage. One of its obstetricians will soon stop delivering babies, and others are considering following his example, according to the group's corporate director. Limiting non-economic damages in North Carolina could reduce overall health care costs by 5-9% through reductions in defensive medicine. A 5% reduction in N.C. Medicaid expenditures would save \$270 million per year. (North Carolina Medical Society)

Dr. David Pagnanelli, a neurosurgeon, said he moved to Hendersonville, North Carolina in 2002 because liability costs were too high in Pennsylvania. But they shot up here too – to nearly \$190,000 a year – even though there've been no successful claims against him, he said. Following his insurance carrier's advice, Pagnanelli stopped seeing trauma cases. But neurosurgeons are in short supply in Hendersonville, so his decision means patients

with life-threatening head injuries have been shipped to other hospitals. (*Charlotte Observer*, February 11, 2004)

Updated March 15, 2004  
American Medical Association

Printable version:  
[North Carolina Medical Liability Crisis State Backgrounder](#)  
(PDF, 28KB, requires [Adobe® Reader®](#))

---

#### Current State Law - North Carolina

Damage Caps - None

Joint Liability Reform - No. Each defendant is jointly and severally liable.

Collateral Source Reform - No

Attorney Fees Limited - No

Periodic Payments Permitted - No

---

#### Contacts

For further information contact:

Kimberly Horvath, JD, Senior Legislative Attorney  
Phone: (312) 464-5033  
E-mail: [kimberly.horvath@ama-assn.org](mailto:kimberly.horvath@ama-assn.org)

Darren Streff, Field Representative  
Phone: (312) 464-4248  
E-mail: [darren.streff@ama-assn.org](mailto:darren.streff@ama-assn.org)

**North Carolina Medical Society**  
Mike Edwards, Director, Media Relations & Advocacy  
Phone: (919) 719-4175  
E-mail: [MEdwards@ncmedsoc.org](mailto:MEdwards@ncmedsoc.org)  
Web site: [www.ncmedsoc.org](http://www.ncmedsoc.org)

Last updated: Sep 13, 2005  
Content provided by: Media Relations

---

[Privacy Statement](#) | [Advertise with us](#)  
Copyright 1995-2005 American Medical Association. All rights reserved.



---

Press the print button on your browser.  
[Click here to return to the previous page.](#)

## Ohio

[Ohio Backgrounder](#)

[Current State Law](#)

[Contacts](#)

---

### America's Medical Liability Crisis Backgrounder

#### Ohio

Dr. William Hurd, chairman of the department of obstetrics and gynecology at the Wright State University School of Medicine, said the liability crisis already is driving young doctors out of the Dayton area. "In the last two years, not a single one of our (Ob-gyn) residents has set up a practice in Dayton, or even Ohio," Hurd said. (*Dayton Daily News*, Aug. 28, 2002)

"My wife and I are both physicians and just arrived in Wausau [Wisconsin] in March. We fled the crisis in Ohio after spending our whole careers in that state," said Christopher J. Magiera, a gastroenterologist. Magiera and his wife, Pamela G. Galloway, a general surgeon, gave up their 15-year-old practice when their medical liability premiums that were projected to reach \$100,000 apiece. In Wisconsin, they pay a fraction of that. (*Journal Sentinel*, April 20, 2003)

From 2001-02, Ohio physicians faced medical liability insurance increases ranging from 28 to 60 percent. Ohio ranked among the top five states for premium increases in 2002. General surgeons pay as much as \$74,554, and Ob-gyns pay as much as \$152,496. Comparatively, Indiana general surgeons pay between \$14,000-\$30,000; and Ob-gyns pay between \$20,000-\$40,000. (*Medical Liability Monitor*, Oct. 2002)

The state Department of Insurance expects premiums to increase 10 percent to 40 percent this year. A year ago, they rose by an average of 30 percent. Many doctors with specialty practices in, say, obstetrics, saw their premiums rise by 100 percent or more. (*Akron Beacon Journal*, February 18, 2004)

Ohio trial lawyers have promised to challenge Ohio's newly enacted medical liability reforms. A previous law, which would have headed off the current liability crisis, was struck down by the Ohio Supreme Court in 1991. (AMA analysis)

Dr. Rebecca Glaser, a popular breast cancer specialist, will retire from surgery on April 1 because of high liability insurance premiums. "I think it's horrifying when we lose a physician who has literally a one-of-a-kind practice," said Donna Buchheit, one of Glaser's breast cancer patients. She continues, "It is literally a life and death issue. The legislature needs to understand that. It is not melodramatic to say that there will be women who die this year because of this. I certainly hope I won't become one of them." (*Dayton Daily News*, February 28, 2004)

Insurance premiums got so high for Dr. Brian Bachelder of Mount Gilead that he stopped delivering babies in 2003. Because he was the only obstetrician in Morrow County, women there now travel at least a half-hour to Marion. (*Columbus Dispatch*, February 16, 2004)

Dr. Daniel Guyton, chief of surgery at Akron General Medical Center, said the anecdotal evidence is overwhelming on how many doctors are being forced out of business or out of state by the cost of insurance. "It's getting to the point you can't recruit people [to Ohio]." (*Akron Beacon Journal*, March 14, 2004)

Dr. Albert E. Payne, 51-year-old obstetrician-gynecologist, is facing a premium increase from \$26,500 in 2001 to \$120,000. "My medical office will probably have to close this year. I have been in solo private practice in Akron for the past 20 years. I never had a malpractice lawsuit judgment against me. I love what I do. Two dozen Ob-gyns in my area have closed their practices in the past two years. If my sad prediction is correct, after next year, there will be none left." (*Columbus Dispatch*, January 5, 2004)

Fremont physician Dr. Jonathon Diller, 49, a family practice physician, has delivered more than 1,000 babies in the past 21 years. He said he will soon stop. "It will be a sad day when I deliver my last baby," he said. He paid \$15,000 for liability insurance in 2001; \$27,000 in 2002, and \$43,000 in 2003. (*The News-Messenger*, March 5, 2003)

Dr. Frank Komorowski, 58, of Bellevue, stopped delivering babies after 20 years when he found out Dec. 26, 2002, that his liability insurance was tripling to more than \$180,000. Komorowski-the only obstetrician in Bellevue-figured it would end up costing him nearly 11 months of his salary to pay the premium increase in addition to taxes and other expenses. (*The News-Messenger*, March 5, 2003)

Updated April 21, 2004  
American Medical Association

Printable version:  
[Ohio Medical Liability Crisis State Backgrounder](#)  
(PDF, 32KB, requires [Adobe® Reader®](#))

---

#### Current State Law - Ohio

**Damage Caps** - Noneconomic damages are limited to the greater of \$250,000 or three times economic damages up to a maximum of \$350,000 per plaintiff or 500,000 if there are multiple plaintiffs. For catastrophic injuries the maximum may increase to \$500,000 per plaintiff or \$1 million for multiple plaintiffs. (2002)

**Joint Liability Reform** - Yes. Defendants are responsible for their proportionate share of negligence for noneconomic damages. For economic damages, defendants who are 50% or less at fault are responsible for their proportionate share of negligence, but defendants who are held more than 50% at fault are jointly and severally liable.

**Collateral Source Reform** - Yes. Defendants may introduce evidence of collateral sources of payments made to plaintiffs. The plaintiff may submit evidence of any amount the plaintiff has paid or contributed to secure the benefits.

**Attorney Fees Limited** - No, but their fees are subject to approval by the probate court if their fees exceed the non-economic damages awarded.

**Periodic Payments Permitted** - Yes. Court may award periodic payment of damages for awards that exceed \$50,000 if the plaintiff or defendant files a motion with the court.

---

#### Contacts

For further information contact:

Kimberly Horvath, JD, Senior Legislative Attorney  
Phone: (312) 464-5033  
E-mail: [kimberly.horvath@ama-assn.org](mailto:kimberly.horvath@ama-assn.org)

Terri Marchiori, Director State and County Relations

Phone: (312) 464-5271  
E-mail: [teresa.marchiori@ama-assn.org](mailto:teresa.marchiori@ama-assn.org)

**Ohio State Medical Association**  
Tim Maglione, Senior Director of Government Relations  
Phone: (614) 527-6762  
E-mail: [maglione@osma.org](mailto:maglione@osma.org)  
Web site: [www.osma.org](http://www.osma.org)

Last updated: Sep 13, 2005  
Content provided by: Media Relations

---

[Privacy Statement](#) | [Advertise with us](#)  
Copyright 1995-2005 American Medical Association. All rights reserved.



---

Press the print button on your browser.  
[Click here to return to the previous page.](#)

## Oregon

### Oregon

- Oregon physicians' medical liability insurance premiums have increased dramatically as a result of sharp increases in the severity of claims. Since the state supreme court overturned Oregon's \$500,000 limit on non-economic damages in 1999, the average medical liability payment has increased 90 percent: from \$247,000 to \$470,000. (*ECONorthwest*, July 2004)
- The severity of claims in Oregon is growing rapidly. Twenty years ago, payments of \$1 million or more constituted only 2 percent of paid claims, and 23 percent of the total dollars paid. In 2003, payments of \$1 million or more rose to 11 percent of paid claims and 52 percent of total dollars paid—a 225 percent increase. In the first quarter of 2004, payments of \$1 million or more rose to 46 percent of paid claims and more than 85 percent of total dollars paid. (*ECONorthwest*, July 2004)
- An Oregon Health & Science University survey of Oregon's qualified professionals who deliver babies showed that 125 providers stopped delivering babies during the past four years — 22 percent of all those delivering babies in Oregon. The survey also showed that one in three professionals who deliver babies now plan to quit doing so in the next five years. (Oregon Medical Association, April 2004)
- 43.4% of Oregon neurosurgeons, 27.1% of orthopedic surgeons, and 23.5% of Ob-gyns reported they have already stopped providing certain services or would do so. Among all physicians, those in NW Oregon (9.7%), SW Oregon (10.6%) and E Oregon (13.2%) have stopped providing direct patient care or will do so. (Oregon Medical Association, April 2003)
- In the past 18 months, more neurosurgeons are leaving the state or retiring than are entering the state. According to a recent survey, at least seven neurosurgeons have left the state, and another six have recently retired. Only two new neurosurgeons have come to Oregon. Fifty-five percent of the remaining neurosurgeons said they are contemplating leaving the state. (Oregon Neurological Society, Oct. 9, 2004)
- Since the State Supreme Court in 1999 overturned statutory limits on non-economic damages set by the legislature in 1987:
- Multi-million dollar jury verdicts have occurred in Roseburg, Medford, Klamath Falls, Salem, Pendleton and Portland. (*The Hillsboro Argus*, April 24, 2003 and Oregon Medical Association)
- The average cost of defending a physician professional liability claim has risen 121percent, and at least eight liability insurance carriers have withdrawn from the Oregon market. (Oregon Medical Association)
- There have been 34 verdicts or settlements of \$1 million or more in the state. (Oregon Medical Association)
- 27 percent of the respondents under 40 years old said they would consider—or already have or are planning to—relocate their practice because of insurance rates. 59 percent of obstetricians and 56 percent of neurosurgeons said they already have, will or are considering dropping certain services. (Oregon Medical Association)

Association 2003)

- Salem general surgeon Peter Bernardo, MD, points out that since 1999, there have been 34 awards of more than \$1 million. From 1987 to 1999, there were just two. Rising premiums and the threat of a career-ending lawsuit have cost Oregon 30 percent of its obstetrics care and 20 percent of its neurosurgeons. (*Statesman Journal*, Jan. 22, 2004)
- Northwest Physicians Mutual Insurance Company, which insures more than 2,000 physicians, reported that family practice physicians who also deliver babies were paying \$8,550 in 1999 and are paying \$36,896 in 2004. From 1999 through 2003, the insurer collected \$4,135,855 from family practice physicians delivering babies and paid out \$10,976,196 in losses and loss adjustment expenses. Obstetricians and neurosurgeons were paying \$21,895 and \$23,563 respectively in 1999 and now pay \$72,112 and \$70,386. From 1999 through 2003, NPM collected \$10,598,430 from obstetricians and paid out \$20,204,690 in losses and loss adjustment expenses. (Oregon Medical Association, July 2004)
- Rural patients in Oregon are being particularly hard hit. Roseburg Women's Healthcare, which delivered 80% of the babies for the area, closed its doors in May 2002 because its liability insurance was canceled after a single, \$8.5 million lawsuit. The closest other providers are 60-90 minutes away. "We consider this a medical crisis for the community," Mercy Medical CEO Vic Fresolone told the Associated Press. (Jun. 26, 2002.)
- Rural families in John Day, Hermiston, Reedsport and Roseburg have either lost obstetric care or have seen services drastically reduced. "We delivered more than 200 babies with no claims, then our local surgeon, who was backup for C-sections, relocated," said Reedsport's Dr. Robbie Law. "We were unable to recruit another surgeon because of the high premiums and fear of increasing risk of litigation. Now our patients have to travel 30-40 minutes to get care." (*The Business Journal of Portland*, Jan. 10, 2003 and Oregon Medical Association)
- Rural doctors are closing their doors. Physicians in Eastern Oregon (12 percent) and Southwest Oregon (10.9 percent) are most likely to report they have already sold or closed their practices or that they will definitely do so. Nearly one-third of the physicians in Eastern Oregon are considering relocating their practice. (Oregon Medical Association)
- Dr. Katherine Merrill delivered as many as 40 babies a year in Astoria, a job she loved. In August 2003, Merrill stopped delivering babies — a decision prompted by the steeply rising costs of medical liability insurance. Merrill said something needs to be done to keep physicians from leaving the state or quitting high-risk specialties. "Otherwise there will be no doctors in your town to deliver babies or to do brain surgery when you've been in a car accident," she said. (*The Associated Press*, January 24, 2004)
- Fear of being sued is cited as a factor behind increasing C-section rates. In 1997, Oregon's C-section rate was 17 percent, but by 2003, it had risen to 25 percent. Dr. Alfred Ono, an Ob-gyn who practices at Legacy Good Samaritan Hospital and Medical Center, explained, "If you should do one and you don't do one — and something bad happens — you get sued." Dr. Ono says the possibility of lawsuits forces doctors to practice defensive medicine — delivering babies surgically at the slightest hint of trouble. He cites the risk of litigation as why his annual insurance premiums have risen from \$25,000 to \$70,000 in the past three years. (*The Oregonian*, Jan. 2, 2005)

#### Current State Law - Oregon

Damage Caps – None. Constitution prohibits caps on noneconomic damages.

Joint Liability Reform – Yes. Defendants are responsible only for their proportionate share of negligence, but if within one year after the final judgment the court determines that all or part of a defendant's proportionate share is uncollectible, it shall reallocate the uncollectible noneconomic damages among other defendants according to their percentages of negligence.

Collateral Source Reform – Yes, but no deduction can be made for life insurance, benefits for which the claimant has paid, retirement/disability, social security, or insurance benefits for which the person injured or deceased paid premiums.

Attorney Fees Limited - Partially. Attorney fees recovered from an award for punitive damages are limited to 20% of the 40% paid to the prevailing party. No limit on attorney fees for economic or noneconomic damages.

Periodic Payments Permitted – No.

Last updated: Sep 08, 2005  
Content provided by: Media Relations

---

[Privacy Statement](#) | [Advertise with us](#)  
Copyright 1995-2005 American Medical Association. All rights reserved.



---

Press the print button on your browser.  
[Click here to return to the previous page.](#)

## Pennsylvania

[Pennsylvania Backgrounder](#)

[Current State Law](#)

[Contacts](#)

---

### America's Medical Liability Crisis Backgrounder

#### Pennsylvania

Patients in Pennsylvania are losing access to care because of the state's medical liability crisis:

- General surgeon drop: 1,600 to just over 1,000 (1997-2002)
  - Orthopedic surgeon drop: 890 to 745 (1997-2002)
  - Neurosurgeon drop: 215 to 180 (1995-2002)
  - Philadelphia alone lost approximately 450 physicians (1997-2002)
- (Pennsylvania Medical Society)

Pennsylvania's out-of-control legal climate has caused physicians' liability insurance premiums to skyrocket:

- In Philadelphia, premiums range \$115,000 to \$155,000 for a typical obstetrician-gynecologist, from \$100,000 to \$140,000 for a typical orthopedic surgeon, and from \$135,000 to \$190,000 for a typical neurosurgeon.
  - Premiums for primary coverage are increasing at an exponential rate. For example, PMSLIC, the largest carrier in the state, implemented premium increases of 40 percent in 2002 and 54 percent in 2003.
  - From 2000 to 2003, the premiums for a typical obstetrician-gynecologist more than doubled in Allegheny County, more than tripled in Lackawanna County, and almost doubled in Philadelphia County.
- (Pennsylvania Medical Society)

More than two out of three medical residents in six medical specialties chose to leave Pennsylvania after completing their training, according to the *Philadelphia Daily News*, which examined data from the city's major teaching hospitals between 1998-2002. "The resident brain drain is greatest among doctors going into high-risk specialties: ob-gyns, orthopedic surgeons and neurosurgeons. These doctors, not surprisingly, are most likely to be sued for malpractice — and pay some of the highest malpractice insurance premiums." (*Philadelphia Daily News*, May 28, 2003)

Mercy and Methodist hospitals in Philadelphia closed their obstetric wards in 2002, Brandywine's only trauma center was forced to close, and trauma centers and obstetric wards in other parts of the state are in jeopardy of closing due to a shortage of high-risk specialists and the incredible difficulty of recruiting qualified surgeons to Pennsylvania. (Pennsylvania Medical Society)

A good example of Pennsylvania's lawsuit culture came in early 2004 when juries returned \$15 million and \$20 million verdicts on the same day. (*The Associated Press* Feb. 4, 2004)

During two days of debate by the Pennsylvania General Assembly-when it appeared

some medical liability reforms might be passed-414 medical negligence lawsuits were filed in Philadelphia County in February 2002 - five times the average number filed during the month over the previous decade. (*Philadelphia Inquirer*, March 2002)

In 2000, Philadelphia accounted for 82 percent of the \$415 million in medical-malpractice awards in Pennsylvania, and 14 of the 19 awards that exceeded \$5 million, according to the Pennsylvania Trial Lawyers Association. (*The Wall Street Journal*, Jan. 28, 2003.)

According to Grand View Hospital President Stuart Fine, the medical liability crisis is a main reason why patient access problems are occurring throughout the state and "has caused experienced doctors to leave the area, especially neurosurgeons, orthopedic and general surgeons, obstetricians and cardiologists. Few young doctors are coming in to take their place, and the result is a shortage of doctors." (*Morning Call* (Allentown, PA), January 23, 2004)

Young Ob-gyn Dr. Christine Larson decided to move her family to Minnesota and start over because of Pennsylvania's worsening medical liability crisis. Dr. Daniel Kegel, president of OB-GYN of Lancaster - Dr. Larson's former group — said "most (young doctors) are going to make the same decision (to leave Pennsylvania)." Dr. Kegel emphasized that losing a young doctor "exacerbates the difficulty we have with a limited number of appointment slots and an increasing demand for them. It is difficult to accommodate everyone who wants and needs us." (*Lancaster Sunday News*, September 14, 2003)

Updated June 8, 2004  
American Medical Association

Printable version:  
[Pennsylvania Medical Liability Crisis State Backgrounder](#)  
(PDF, 37KB, requires [Adobe® Reader®](#))

---

#### Current State Law - Pennsylvania

Damage Caps - Constitution prohibits caps on non-economic damages. Punitive damages are capped at 2 times actual damages.

Joint Liability Reform - Yes. Liability for each defendant shall be several only and not joint. If the defendant's percentage of liability is 60% or greater, the defendant can be held jointly and severally liable.

Collateral Source Reform - Yes. Awards are reduced by the amount paid to the claimant from other sources.

Attorney Fees Limited - No

Periodic Payments Permitted - Yes for future economic damages that exceed \$100,000, unless the claimant objects.

---

#### Contacts

For further information contact:

Kimberly Horvath, JD, Senior Legislative Attorney  
Phone: (312) 464-5033  
E-mail: [kimberly.horvath@ama-assn.org](mailto:kimberly.horvath@ama-assn.org)

Darren Streff, Field Representative  
Phone: (312) 464-4248  
E-mail: [darren.streff@ama-assn.org](mailto:darren.streff@ama-assn.org)

Pennsylvania Medical Society  
Chuck Moran, Director of Communications

Phone: (717) 558-7820  
E-mail: [cmoran@pamedsoc.org](mailto:cmoran@pamedsoc.org)  
Web site: [www.pamedsoc.org](http://www.pamedsoc.org)

Last updated: Sep 13, 2005  
Content provided by: Media Relations

---

[Privacy Statement](#) | [Advertise with us](#)  
Copyright 1995-2005 American Medical Association. All rights reserved.



---

Press the print button on your browser.  
[Click here to return to the previous page.](#)

## Rhode Island

[Rhode Island Backgrounder](#)

[Current State Law](#)

[Contacts](#)

---

### America's Medical Liability Crisis Backgrounder

#### Rhode Island

- "Our state is a haven for frivolous and junk lawsuits that drive up medical costs and keep businesses and jobs away." (Editorial, *The Providence Journal*, May 2, 2005)
- 49 percent of Rhode Island physicians say that increasing medical professional liability costs have caused them to discontinue or consider discontinuing certain services. 48 percent of the physicians responding to the same survey said liability costs forced them to consider leaving Rhode Island or clinical practice. (Rhode Island Medical Society survey, February 2004)
- Rhode Island will see a 26 to 66 percent undersupply of physicians in medical subspecialties and a 10 to 50 percent undersupply of physicians in surgical specialties by the year 2020. The high cost of medical liability insurance is a principle factor in this projected gap. (Rhode Island Statewide Healthcare Assessment Planning and Evaluation (SHAPE) Foundation, December 2004)
- Rhode Island doctors in high-risk specialties - such as obstetricians and neurosurgeons - a decade ago, paid some \$35,000. This year, their coverage costs about \$92,000. It's estimated to be \$109,600 next year. (*The Associated Press*, September 23, 2004)
- Rhode Island internists are paying more than 3 times as much in medical liability premiums in 2005 as they were in 2001. (Rhode Island Medical Society)
- Dr. Kate Cassin, an ob-gyn stopped practicing obstetrics after her annual premium went from \$28,000 in 2000 to \$90,000 in 2004 - even though she had never been sued. (*The Providence Journal*, June 8, 2004)
- Dr. R. Scott Hanson, a Narragansett internist said he is one of three South County primary-care doctors who are leaving their practices. Hanson is leaving because his wife got a new job, but he also says there was little incentive for him to continue practicing in Rhode Island. "It's a lot of stress for us," Dr. Landy P.

Paoella, an interventional radiologist at Kent Hospital said. "You've got this guillotine hanging over your head every day." (*The Providence Journal*, June 8, 2004)

- Minoj Garg, DO, stopped delivering babies in July 2004 at his Pawtucket practice due to the high costs of liability insurance associated with obstetrical care. He was the last family physician in private practice to deliver babies in Rhode Island. (Rhode Island Medical Society)
- To keep obstetricians/gynecologists on staff at South County Hospital, the hospital had to implement a program to subsidize the physicians' income and expenses. (Rhode Island Medical Society)
- David Barrall, MD, is one of only 15 plastic and reconstructive surgeons in the state. Due to the sharp increase in liability exposure, Dr. Barrall and some of his colleagues no longer perform certain high-risk services, including breast reconstruction after mastectomy. (Rhode Island Medical Society)
- Availability of affordable medical liability insurance is becoming a growing concern in Rhode Island. Six years ago, the state was served by at least 12 medical liability insurers. Today only two insurance companies remain in the medical liability market: NORCAL and ProSelect. Rhode Island also has a joint underwriting association or insurer of last resort. (Rhode Island Medical Society)
- Sen. Joseph M. Polisen, D-Johnston, a sponsor of one of the several bills involving medical malpractice before the House Judiciary Committee, and a committee member, said that doctors are leaving the state because of high malpractice premiums. "If we continue to ignore the problem . . . physicians will continue to leave the state and we won't have enough doctors," Polisen said. Jeffrey Grybowski, Governor Carcieri's policy director, added that the size of malpractice settlements and judgments had doubled over the last seven or eight years. (*The Providence Journal*, May 21, 2004)
- Rhode Island Governor Carcieri, who acknowledges that "We are in crisis mode now with our physicians," also said his state's physicians have seen their medical liability insurance premiums "skyrocket." As a result, he said many doctors have stopped performing certain procedures because insuring them is so expensive. Lawsuits alleging medical negligence in Rhode Island take an average of more than six years to resolve, while the national average is less than five years, he said. Carcieri, doctors, and hospital administrators they fear that if Rhode Island's medical malpractice laws are not fixed, physicians will leave the state, creating a shortfall of adequate healthcare. (*Physician Law Weekly*, April 28, 2004 and *The Providence Journal*, June 17, 2004)

Rhode Island does not have a cap on non-economic damages, or limits on attorney fees. In addition, defendants in Rhode Island can be held joint and severally liable for damages regardless of their degree of fault. (AMA Analysis)

Printable version:

[Rhode Island Medical Liability Crisis State Backgrounder](#)  
(PDF, 25KB, requires Adobe® Reader®)

---

Current State Law - Rhode Island

---

Contacts

For further information contact:

Kimberly Horvath, JD, Senior Legislative Attorney  
Phone: (312) 464-5033  
E-mail: [kimberly.horvath@ama-assn.org](mailto:kimberly.horvath@ama-assn.org)

Terri Marchiori, Director State and County Relations  
Phone: (312) 464-5271  
E-mail: [teresa.marchiori@ama-assn.org](mailto:teresa.marchiori@ama-assn.org)

Last updated: Sep 13, 2005  
Content provided by: Media Relations

---

[Privacy Statement](#) | [Advertise with us](#)  
Copyright 1995-2005 American Medical Association. All rights reserved.



---

Press the print button on your browser.  
[Click here to return to the previous page.](#)

## Texas

[Texas Backgrounder](#)

[Current State Law](#)

[Contacts](#)

---

### America's Medical Liability Crisis Backgrounder

#### Texas

- In 2003, the Texas legislature enacted H.B. 4, legislation containing sweeping medical liability reforms, including reasonable limits on non-economic damages. Texas voters took another important step when they approved Proposition 12 amending the state constitution to specifically allow the legislature to enact caps on non-economic damages in health care cases. (AMA Analysis)
- Shortly after passage of H.B. 4 and Proposition 12, Texas Medical Liability Trust (TMLT), the largest medical liability insurer in Texas, reduced premiums 12 percent. In Sept. 2004, TMLT reduced premiums an additional five percent. The total rate reduction of 17 percent represents a \$34 million savings to physicians and patients in Texas. Since then, the next four largest insurers in the Texas medical liability market have also reduced rates providing Texans with an additional \$16 million in relief. (Texas Alliance For Patient Access)
- In addition to the meaningful cap on non-economic damages, many of the insurers in Texas identified the constitutional amendment as the key factor that provided the level of certainty to the market necessary to allow them to reduce premiums. Medical Protective President & Chief Executive Officer Tim Kenesey commented: "Of the several tort reform measures passed in various states over the last 24 months, we firmly believe that the Texas reforms will be the most effective — in large part due to the greater constitutional certainty provided by Prop 12." (GE Insurance Solutions, April 7, 2005)
- Now, for the first time in years, Texas physicians can competitively shop for medical liability policies. In 1999, seventeen companies were writing new medical malpractice policies in Texas. That number slid to four in 2002, according to the Texas Department of Insurance. As a result of H.B. 4 and Proposition 12, fifteen new insurance companies have started selling malpractice insurance in Texas or will do so soon. Texas Insurance Commissioner Jose Montemayor says flatly, "Competition is very much restored." *Beaumont Enterprise*, February 22, 2005)
- More doctors are providing high-risk services since reforms passed. In April 2003, more than half the doctors surveyed in Texas said they had stopped providing high-risk services to patients. Nearly a year after the passage of sweeping medical liability reform, the percentage of physicians with restrictions on high-risk cases

had dropped to just 13 percent. (Texas Medical Association, August 23, 2004)

- Dr. David Cantu, a family practice physician from Fredericksburg, said he and his partner had to quit practicing obstetrics because of the cost of insurance. "Our overhead was hitting 100 percent," Cantu said. "I had a three-month stretch of no pay." As soon as they stopped delivering babies, the practice saw an immediate decrease in insurance costs, but at the same time, their patients from Fredericksburg, Mason, Boerne, Rockspring and Johnson City had to go elsewhere to deliver babies. But with Proposition 12, Cantu and his partner now are able to deliver babies. "It did cause an immediate effect for my patients," he said. (*San Antonio Express-News*, August 27, 2004)
- Texas has had greater success in recruiting and keeping doctors since voters passed Proposition 12. Texas is gaining doctors in often-sued specialties such as obstetrics, anesthesiology and neurosurgery after seeing little growth in those specialties for years. (*The Dallas Morning News*, September 26, 2004)
- Proposition 12 passing has had immediate impact. According to Texas Alliance For Patient Access Chairman Dr. Howard Marcus, "there are now two more doctors delivering babies in Fredericksburg. Four anesthesiologists are establishing practice in Beaumont and the only two neurosurgeons in Bryan-College Station will keep their doors open. Four nonprofit nursing homes in Austin and San Antonio won't close and 610 elderly patients won't be put out on the streets." (*Austin American Statesman*, February 3, 2004)
- Corpus Christi was at the epicenter of the state's health care crisis. Thanks to the passage of medical liability reforms, the city has emerged as perhaps the most reinvigorated medical community in Texas. One year after reforms were passed Corpus Christi added 47 new physicians. That is a stark contrast to the 40 physicians that were lost in the five years prior to reforms. (*Corpus Christi Caller-Times*, October 12, 2004)
- After four years of searching for a neurosurgeon, the Corpus Christi medical community was able to recruit Dr. Mathew Alexander from a Wisconsin residency program. Alexander said if Proposition 12 hadn't passed he would not have come to Texas. "I'm here to take care of patients, not worry about the legal ramifications of my practice," he said. "Practicing defensive medicine is expensive and doesn't provide good care. I know a lot of doctors are really bitter about it." (*Corpus Christi Caller-Times*, August 29, 2004)
- John Thomas, general counsel at Baylor Health Care System, said recruiting physicians in high-risk specialties was difficult prior to Proposition 12. "We couldn't get neurosurgeons to practice at downtown Baylor because of the risk of providing the trauma services," he said. Thomas credits medical liability reform for improvements in physician recruitment. In the first year since reforms were enacted, Baylor network added to its staff three neurosurgeons and a physician who treats women with high-risk pregnancies. (*Fort Worth Star-Telegram*, September 12, 2004)
- In the 18 months prior to the passage of lawsuit reform, the Beaumont medical community saw a net loss of 12 doctors. Since the passage of reforms the community has gained 21 physicians including five anesthesiologists and 15 emergency medicine physicians. (Texas Alliance For Patient Access)
- The historically underserved Rio Grande Valley has added 103 physicians since the passage of Texas' historic medical liability reforms. This includes 11 pediatricians, 10 family physicians, eight gastroenterologists and seven internists

in Hidalgo County. Neighboring Cameron County has picked up 16 family physicians, six pediatricians, five ob/gyns and five internists. (Texas Alliance For Patient Access)

- Since the passage of Proposition 12, Webb County, situated along the Texas/Mexico border, now has an endocrinologist and a hematologist. Additionally, they've added seven family physicians and their sole radiologist has been joined by five new radiologists. (Texas Alliance For Patient Access)
- One year after Texas established medical liability reform, the rate of malpractice filings had decreased at least 80 percent in most major Texas counties. (*The Dallas Morning News*, September 26, 2004)
- Texas hospitals saw medical liability premiums fall an average eight percent for fiscal 2004 and 17 percent for fiscal 2005. (Texas Hospital Association)
- Christus Health System reported it would likely save \$21 million on liability insurance in 2004 among the 48 Texas hospitals and facilities it owns or manages. "The primary factor in that is tort reform," said Randy Finley, Christus' director of risk management. "It's not the only factor, but it's the primary factor." (*The Dallas Morning News*, August 23, 2004)

In 2004, Baylor Health Care System saw medical liability insurance premiums for the network's 350 physician employees drop 20 percent. (*Fort Worth Star-Telegram*, September 12, 2004)

Printable version:

[Texas Medical Liability Crisis State Backgrounder](#)  
(PDF, 25KB, requires Adobe® Reader®)

---

#### Current State Law - Texas

Damage Caps - \$250,000 cap on noneconomic damages for judgments against physicians and health care providers; additional \$250,000 cap on noneconomic damages for judgment against one health care institution. A judgment against two or more health care institutions shall not exceed \$500,000 with each institution not liable for more than \$250,000. (2003)

Joint Liability Reform - Yes. Named defendants are held responsible only for the portion of fault attributable to them

Collateral Source Reform - No

Attorney Fees Limited - No

Periodic Payments Permitted - Yes. Court must order payment of periodic damages if the present value of damages in case equals or exceeds \$100k.

---

#### Contacts

For further information contact:

Kimberly Horvath, JD, Senior Legislative Attorney  
Phone: (312) 464-5033  
E-mail: [kimberly\\_horvath@ama-assn.org](mailto:kimberly_horvath@ama-assn.org)

Terri Marchiori, Director State and County Relations  
Phone: (312) 464-5271  
E-mail: [teresa.marchiori@ama-assn.org](mailto:teresa.marchiori@ama-assn.org)

**Texas Medical Association**

Steve Levine, Director, Communications Division  
Phone: (512) 370-1380  
E-mail: [steve.levine@texmed.org](mailto:steve.levine@texmed.org)

For media only  
Pamela Baggett, Director of Media and Public Relations  
Phone: (512) 370-1378  
E-mail: [pam.baggett@texmed.org](mailto:pam.baggett@texmed.org)  
Web site: [www.texmed.org](http://www.texmed.org)

Last updated: Sep 13, 2005  
Content provided by: Media Relations

---

[Privacy Statement](#) | [Advertise with us](#)  
Copyright 1995-2005 American Medical Association. All rights reserved.



---

Press the print button on your browser.  
[Click here to return to the previous page.](#)

## Washington

[Washington Backgrounder](#)

[Current State Law](#)

[Contacts](#)

---

### America's Medical Liability Crisis Backgrounder

#### Washington

Washington's Supreme Court overturned the cap on non-economic damages portion of the state's tort reform law in 1988. More recently, omnibus tort reform proposals passed by the State Senate were derailed by partisan bickering in the House of Representatives for the second straight year. (Washington State Medical Association)

Key numbers for Washington state liability settlements or jury verdicts reported for calendar years 2000 - 2002, and the first six months of 2003:

- 47 - number of cases
- \$80.1 million - total value of these cases
- \$61.1 million - total value of the non-economic damages components of these cases
- 76.3% — the percentage of the total value represented by non-economic damages
- \$53.5 million - the savings that would have been realized if a \$250,000 cap on non-economic damages were applied to the 47 cases

(Washington State Medical Association and Jury Verdicts Northwest)

The number of settlements and/or verdicts in Washington State of \$1 million or more are growing: 1993 had 10, 1998 increased to 27 and 2002 had 39. (Washington State Medical Association and The Doctors Company, Farmers Insurance, Group Health Cooperative, Physicians Insurance, Providence Health Systems, Washington Casualty Company)

Physicians Insurance Co. covers nearly 65 percent of the doctors in the state, but the physician-owned company has experienced significant losses and resultant increases in premiums, according to Gary Morse, chief counsel. Morse says premiums have increased 15 percent to 25 percent per year for several years. In 2000, the company paid out a number of "unprecedented high" jury awards, he said. Although 95 percent of cases are settled out of court, he said, jury verdicts also drive settlements. "Settlements are what drive this business," Morse said, "And the severity of awards is increasing." Statistics show the average closed claims expense (including indemnity payments) in Washington in 2003 was almost \$400,000, up by about one-third from less than \$300,000 in 2001. (*The Olympian*, February 15, 2004)

72% of Washington voters support limits on the amount of money juries can award for non-economic damages, and 78% of voters feel that without limits on non-economic damages, the price of health care will increase significantly. (Liability Reform Coalition (LRC) commissioned study of Washington voters)

Delivering babies finally got too expensive for Mount Vernon doctor Bob Pringle. Like many physicians throughout Washington, he has abandoned obstetrics. "Patients who find themselves in high-risk pregnancies are going to have a problem," he said of the trend. Pringle, who recently cut his practice to part-time gynecology, said delivering babies would

cost him \$79,000 a year in liability insurance, nearly twice what it did a few years ago. (*Seattle Post-Intelligencer*, March 3, 2004)

When rural doctors decide to drop obstetrics insurance coverage and stop delivering babies because of liability insurance premiums — as they have in Odessa, Republic and Davenport — they're also prohibited by their insurance companies from offering prenatal care. That means more pregnant women who've never had a prenatal check-up are showing up at Spokane hospitals to deliver babies. "That is Third-World medicine," said Tom Corley, president of Holy Family Hospital. "That's what you'd expect in the middle of Africa." Other rural women are making long drives into Spokane for prenatal care. (*The Spokesman-Review*, March 2, 2004)

Facing escalating liability insurance rates, Valley Women's Healthcare, one of the larger obstetric and gynecology clinics in south King County, is reducing services. Swedish Physicians, which operates out of 11 clinics including Pine Lake and Factoria, has cut the number of family physicians delivering babies from 21 to 7. (*King County Journal*, January 25, 2004)

Effective New Year's Day 2004, 55 year-old obstetrician John Lenihan restricted his Tacoma, Washington practice to gynecology. He was driven out of obstetrics, he says, by liability insurance premiums that have recently become prohibitively expensive. Ten years ago, Lenihan said, he was paying about \$30,000 a year for a professional liability policy that covered obstetrics. By 2002, the price had gone up to \$51,000. Last year, it shot up to \$63,000. When he got his renewal notice for 2004, the price had gone up yet again, to \$74,000. By Lenihan's count, 31 independent obstetricians were practicing in the Tacoma-Lakewood area in 2001. That number shrank to 21 in 2002, then to 15 in 2003. (*Tacoma News-Tribune*, January 12, 2004)

At least 30 skilled nursing home facilities are "going bare" - the industry's term for operating without insurance, because of soaring insurance premiums, said Jim Roe, president of the Washington Health Care Association, which represents most of the state's 270 nursing homes. Roe, who owns two nursing homes, saw his insurance costs rise from \$12,000 in 2001 to \$78,000 this year. (*The Associated Press*, March 31, 2003)

Updated April 9, 2004  
American Medical Association

Printable version:  
[Washington Medical Liability Crisis State Backgrounder](#)  
(PDF, 33KB, requires [Adobe® Reader®](#))

---

### Current State Law - Washington

#### Damage Caps - None

Joint Liability Reform - If the claimant is at fault, defendants are responsible only for their proportionate share of negligence, except where parties act in concert or where a person was acting as an agent or servant of the party. If the claimant is not at fault, defendants are jointly and severally liable.

Collateral Source Reform - Yes. Evidence may be presented, except that evidence of payments from insurance policies purchased with personal or family assets or by an employer on behalf of an employee may not be introduced.

Attorney Fees Limited - Court shall determine the reasonableness of each party's attorneys' fees.

Periodic Payments Permitted - Yes. Any party may request periodic payments, and the court must order such payments if future economic damages exceed \$100,000.

---

### Contacts

For further information contact:

Kimberly Horvath, JD, Senior Legislative Attorney  
Phone: (312) 464-5033  
E-mail: [kimberly.horvath@ama-assn.org](mailto:kimberly.horvath@ama-assn.org)

Darren Streff, Field Representative  
Phone: (312) 464-4248  
E-mail: [darren.streff@ama-assn.org](mailto:darren.streff@ama-assn.org)

**Washington State Medical Association**  
Jennifer Lawrence Hanscom, Communications  
Phone: (206) 441-9762  
E-mail: [jgl@wsma.org](mailto:jgl@wsma.org)  
Web site: [www.wsma.org](http://www.wsma.org)

Last updated: Sep 13, 2005  
Content provided by: Media Relations

---

[Privacy Statement](#) | [Advertise with us](#)  
Copyright 1995-2005 American Medical Association. All rights reserved.



---

Press the print button on your browser.  
[Click here to return to the previous page.](#)

## West Virginia

[West Virginia Backgrounder](#)

[Current State Law](#)

[Contacts](#)

---

### America's Medical Liability Crisis Backgrounder

#### West Virginia

A recent survey found that 94 percent of West Virginia doctors have changed the way they practice medicine because of litigation concerns. The survey also found that 97 percent of state doctors believe medical malpractice lawsuits drive up the cost of patient care. (American Tort Reform Association, March 2004)

Comprehensive medical liability reforms were enacted March 2003, including a \$250,000 non-economic damages cap per claim and a \$500,000 total cap on emergency care rendered in trauma units. Plaintiff attorneys have filed numerous challenges since the reforms have taken effect with the Supreme Court of Appeals of WV. Two petitions were presented for appeal but the court refused to accept the cases. (There is no mandatory right to appeal in West Virginia.) Other cases are pending. No substantive decisions related to the substance of the reform is anticipated prior to the Democratic primary in early May. This is because one of the Justices seats is up for re-election and a major political battle that has ensued surrounding the medical liability crisis. (West Virginia State Medical Association)

Ashton Medical said it no longer will accept walk-in patients at the clinic in Ashton Place shopping center. Because the amount the doctors pay for medical liability insurance through the state Board of Risk and Insurance Management has increased significantly, they had to lay off five employees and cut hours. (*Charleston Daily Mail*, April 2, 2004)

Nearly 1,300 doctors in West Virginia who pay the state for malpractice insurance will see their Board of Risk and Insurance Management (BRIM) premiums rise by 8.4% for the first 6 months of 2004. BRIM director Chuck Jones said that the only other large provider of medical malpractice coverage in the state, Medical Assurance, was granted a 13% increase by the state Insurance Commission in October 2003. Evan Jenkins, executive director of the state Medical Association, said the state's rate boost will displease doctors. "It may cause those physicians who were at the breaking point to decide they simply can't afford to provide medical care in West Virginia," he said. (*Health & Medicine Week*, Dec. 15, 2003)

About 150 doctors have retired early or moved out of the state within the previous two years, according to the West Virginia State Medical Association.

A recent West Virginia Medical Institute survey of 32 of the state's medium and large hospitals shows that 26 hospitals lost physicians between 2001 and 2002, including surgeons, orthopedic surgeons and ear, nose and throat specialists. (*Charleston Daily Mail*, Aug. 24, 2002.)

A January 2003 American College of Obstetricians & Gynecologists survey found:

- 80% of doctors responding knew that women were having trouble obtaining Ob-gyn services;
- 83% were aware that West Virginia hospitals were having trouble recruiting Ob-gyns; and
- 47% knew Ob-gyns who changed their specialty or practice because of liability concerns.

After thoracic surgeon, Saad Mossallati was sued in a wrongful death case involving a patient he'd never seen, he spent four years defending the lawsuit that was ultimately dropped. The surgeon's defense cost \$81,000, and his premium was raised as a result. Then Mossallati countersued and won an undisclosed, but "very substantial" settlement against the Wheeling, WV, attorney who'd brought the suit. (*Medical Economics*, April 11, 2003)

In August 2002, the Charleston Area Medical Center (CAMC) trauma center was downgraded from a Level I to a Level III facility, with the closest Level I trauma center more than 150 miles away. CAMC's trauma center has since been reinstated to Level I. The one part-time and three full-time surgeons were paying \$800,000 in liability premiums before receiving help from the state and hospital. Trauma centers in Wheeling and southern West Virginia also are dangerously short-staffed. (*Charleston Gazette*, Apr. 25, 2002 and *Charleston Daily Mail*, Aug. 24, 2002.)

Fourth-year medical school student Jennifer Knight wasn't sure she wanted to stay in West Virginia. The Charleston Area Medical Center says fewer medical students are applying to its residency programs, and fewer students are applying to Marshall University's medical school. "I think the problem is, we have too many frivolous lawsuits," said Ms. Knight. (*Sunday Gazette-Mail*, Nov. 24, 2002)

Updated April 21, 2004  
American Medical Association

Printable version:  
[West Virginia Medical Liability Crisis State Backgrounder](#)  
(PDF, 36KB, requires [Adobe® Reader®](#))

---

#### Current State Law - West Virginia

Damage Caps - \$250,000 cap on noneconomic damages per occurrence. \$500,000 cap on noneconomic damages for cases involving (1) wrongful death, (2) permanent and substantial physical deformity, loss of use of limb or loss of a bodily organ system, or (3) permanent physical or mental functional injury that permanently prevents the injured person from being able to independently care for himself or herself and perform life sustaining activities. Adjusted annually for inflation, but the \$250,000 cap shall not exceed \$375,000 and the \$500,000 cap shall not exceed \$750,000. (2003)

Joint Liability Reform - Yes. Defendants are responsible only for their proportionate share of negligence.

Collateral Source Reform - Yes. The defendant may introduce evidence of collateral sources of payment into evidence and the plaintiff may introduce evidence of payments made to secure such benefits. The court must reduce the award by the amount the plaintiff recovered from collateral sources offset by any payments or contributions made to secure such benefits. Collateral source reform does not apply if the collateral source has a right of subrogation.

Attorney Fees Limited - No

Periodic Payments Permitted - No

---

#### Contacts

For further information contact:

Kimberly Horvath, JD, Senior Legislative Attorney

Phone: (312) 464-5033  
E-mail: [kimberly.horvath@ama-assn.org](mailto:kimberly.horvath@ama-assn.org)

Darren Streff, Field Representative  
Phone: (312) 464-4248  
E-mail: [darren.streff@ama-assn.org](mailto:darren.streff@ama-assn.org)

**West Virginia State Medical Association**  
Amy Tolliver, Government Relations Specialist  
Phone: (304) 925-0342  
E-mail: [amy@wvsma.com](mailto:amy@wvsma.com)  
Web site: [www.wvsma.com](http://www.wvsma.com)

Last updated: Sep 13, 2005  
Content provided by: Media Relations

---

[Privacy Statement](#) | [Advertise with us](#)  
Copyright 1995-2005 American Medical Association. All rights reserved.



---

Press the print button on your browser.  
[Click here to return to the previous page.](#)

## Wyoming

[Wyoming Backgrounder](#)

[Current State Law](#)

[Contacts](#)

---

### America's Medical Liability Crisis Backgrounder

#### Wyoming

Wyoming's lack of medical liability reforms, including a cap on non-economic damages, has spurred sharp increases in physicians' liability insurance premiums. Wyoming Ob-gyns, family physicians who deliver babies, neurosurgeons, orthopedic surgeons pay at least \$20,000 to \$30,000 more than their counterparts in Colorado, which has a \$250,000 cap on non-economic damages. (The Doctor's Company)

The Wyoming State Constitution currently prevents a cap on non-economic damages—perhaps the most important legislative reform to restoring common-sense to the jackpot-justice legal climate in Wyoming. Recruiting physicians to Wyoming remains difficult since the state has the least amount of medical liability reforms than any of its Rocky Mountain neighbors. (AMA analysis)

In 2004, Wyoming's legislature failed to enact a constitutional amendment that would have allowed the legislature to enact a cap on non-economic damages. The legislature's failure to act means voters will not have a chance to voice their opinion on the issue when they cast their ballot in November. (AMA analysis)

Wyoming's physician/population ratio ranks 47th out of 50 states, which makes every physician incredibly valuable—yet between 1999 and 2002, the number of Ob-gyns and neurosurgeons remained stagnant, and the number of general surgeons increased by only one. (AMA Masterfile)

The loss of even one physician can have dire consequences for Wyoming patients, yet the liability crisis has forced the loss of obstetricians in Wheatland, Cheyenne and Newcastle. Surgeons have disappeared from Casper and Gillette, and more may leave Jackson. And all remaining Fremont County anesthesiologists have left their practice. (Wyoming Medical Society)

Emergency and trauma care also is in jeopardy in Jackson Hole and Gillette. Without trauma services in the popular ski town, patients' lives will be compromised by the long distance to the next open center-travel that can take several hours in good weather. (*Jackson Hole News&Guide*, June 11, 2003 and *Buffalo Bulletin*, May 15, 2003)

Some Wyoming physicians are moving to Colorado or will soon do so. Colorado is a state with strong reforms and has a stable liability insurance market. Two examples:  
- Jim Derrisaw, MD, a Riverton anesthesiologist, moved his young family to Ft. Collins, Colorado to practice. Dr. Derrisaw grew up in Cheyenne, graduated from the University of Wyoming, married a native of Encampment, and returned to Wyoming to raise his family and "practice medicine in the state I love." Student loan debt for medical school of more than \$100,000, coupled with insurance premiums that had escalated to \$52,000 per year,

created a burden that his deep Wyoming roots could not overcome. His insurance coverage in Colorado, a state with caps on non-economic damages and other key liability reform measures, has been quoted at a cost of \$8,200.

- Cheyenne urologist Stacy Childs, MD will end his practice in Wyoming on May 31, 2004 and move to Colorado, where his liability insurance premiums will be considerably less. Dr. Childs was an advocate for patients and physicians and served as Chairman of the WMS Liability Reform Task Force in 2003. He also served the people of the state during his tenure on the Wyoming Health Care Commission. (Wyoming Medical Society)

As of April 1, 2004, Aaron Jagelski, MD of Worland is no longer able to deliver babies because of the high cost of his malpractice insurance. The young family practice physician provided prenatal and obstetrical care in his community for three years and had delivered 33 babies. Dr. Jagelski will continue to provide primary health care services, but will no longer be able to share obstetrical call with the two other physicians in the community. (Wyoming Medical Society)

On March 4, 2004, OHIC Insurance Company announced that it will stop renewing Wyoming policies effective October 1, 2004. OHIC maintains that its decision has nothing to do with the Wyoming Legislature's defeat of medical liability reforms in February 2004, and that the decision is solely business-driven. OHIC insures 381 Wyoming physicians, seven hospitals, community mental health centers, and a number of other facilities. (Wyoming Medical Society)

Updated June 1, 2004  
American Medical Association

Printable version:  
[Wyoming Medical Liability Crisis State Backgrounder](#)  
(PDF, 37KB, requires [Adobe® Reader®](#))

---

#### **Current State Law - Wyoming**

Damage Caps - None - Constitution prohibits caps.

Joint Liability Reform - Yes. Defendants are responsible only for their proportionate share of negligence.

Collateral Source Reform - No

Attorney Fees Limited - No.

Periodic Payments Permitted - Not mandated

---

#### **Contacts**

For further information contact:

Kimberly Horvath, JD, Senior Legislative Attorney  
Phone: (312) 464-5033  
E-mail: [kimberly.horvath@ama-assn.org](mailto:kimberly.horvath@ama-assn.org)

Darren Streff, Field Representative  
Phone: (312) 464-4248  
E-mail: [darren.streff@ama-assn.org](mailto:darren.streff@ama-assn.org)

**Wyoming Medical Society**  
Wendy Curran, Executive Director  
Phone: (307) 635-2424  
E-mail: [wcurran@wyomed.org](mailto:wcurran@wyomed.org)  
Web site: [www.wyomed.org](http://www.wyomed.org)

Last updated: Sep 13, 2005  
Content provided by: Media Relations

---

[Privacy Statement](#) | [Advertise with us](#)  
Copyright 1995-2005 American Medical Association. All rights reserved.