

Medical Malpractice

Compiled by Arden Rice, Updated September 2005

<http://www.legis.state.wi.us/lrb/pubs/tapthepower.htm>

The Wisconsin Supreme Court recently struck down the constitutionality of Wisconsin's cap on noneconomic damages. This bibliography focuses on nationwide reforms and research findings on medical liability published since the December 2003 *Tap the Power* bibliography was released.

Addressing the New Health Care Crisis: Reforming the Medical Litigation System to Improve the Quality of Health Care / U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, March 3, 2003. (614.230/X4) Examines the impact of increasing premiums on physicians' ability to practice medicine and explores various mechanisms for medical personnel to report errors without fear of litigation. <http://aspe.hhs.gov/daltcp/reports-a.shtml#DALTCP31>

An Audit, Injured Patients and Families Compensation Fund, Office of the Commissioner of Insurance / Wisconsin Legislative Audit Bureau, 2004. (614.230/W7b1) This mandated report investigates the financial solvency of the fund. Previous audits from 2001 and 1998 are available under the former name "Patients Compensation Fund."

www.legis.state.wi.us/lab/reports/04-12Highlights.htm

Confronting the New Health Care Crisis: Improving Health Care Quality and Lowering Costs By Fixing Our Medical Liability System / U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, July 25, 2002. (614.230/X3) Argues that medical malpractice insurance rates threaten access to care in many areas of the country and that inflated health costs are a result of "defensive medicine" practices by physicians intimidated by the threat of malpractice suits. <http://aspe.hhs.gov/daltcp/reports-c.shtml#DALTCP25>

Containing Medical Malpractice Costs: Recent State Actions / National Governors' Association Center for Best Practices, 2005. (614.230/N21a) Updates a 2002 NGA brief on tactics used by states to mitigate the effects of rising malpractice insurance rates.

www.nga.org/Files/pdf/0507MALPRACTICECOSTS.PDF

Ferdon v. Wisconsin Patients Compensation Fund (Medical Malpractice Liability Cap) / Wisconsin Legislative Council, July 2005. (Information Memorandum 05-1). (LegisCI/2005-2007/i/05-1) (noncirculating) Summarizes the recent Wisconsin Supreme Court case challenging the noneconomic damage caps imposed by the fund.

www.legis.state.wi.us/lc/2_PUBLICATIONS/Other%20Publications/Reports%20By%20Subject/Health/IM05_01.pdf

Final Report on the Feasibility of an Ohio Patient Compensation Fund / Pinnacle Actuarial Resources, Inc., May 2003. (614.230/Oh3) Compares and contrasts the administrative and fiscal organization of PCFs in a dozen states including Wisconsin. www.ohioinsurance.gov/Documents/05-01-03FinalReport.pdf

Justice Capped: Tilting the Scales of Justice Against Injured Patients and Their Families: A 10-Year Review of Wisconsin's Cap On Pain and Suffering / Wisconsin Citizen Action & Wisconsin Academy of Trial Lawyers, 2005. (614.230/W751a) Argues that the cap discriminates against those gravely harmed by medical malpractice and does not reduce health care costs or affect the number physicians practicing in Wisconsin. www.watl.org/watl__main_frame.htm

"Medical Liability: Beyond Caps" / *Health Affairs*, July/August 2004. (614.23/P94/2004/v.23/no.4) Contains six feature articles on medical malpractice, including "Are Damages Caps Regressive? A Study of Malpractice Jury Verdicts in California".

Medical Liability Reform – Now! A Compendium of Facts Supporting Medical Liability Reform and Debunking Arguments Against Reform / American Medical Association, 2005. (614.230/Am3b) Detailed report demonstrating the impact of medical malpractice lawsuits on health care delivery. www.ama-assn.org/ama1/pub/upload/mm/-1/mlrnowjune142005.pdf

"Medical Malpractice" / Arden Rice, Wisconsin Legislative Reference Bureau, *Tap the Power*, December 2003. (LRB/t) (noncirculating) A previous edition of this bibliography containing additional print and electronic resources. www.legis.state.wi.us/lrb/pubs/tp/ttp-12-2003.html

"Medical Malpractice 'Crisis': Recent Trends and the Impact of State Tort Reforms" / *Health Affairs (Web Exclusives)*, 2004. (614.23/P94a/2004/Jan-June) Investigates the extent to which rising premiums are associated with increases in claims and considers whether tort reform is more than a stop-gap solution to a flawed medical liability insurance system. www.healthaffairs.org/WebExclusives.php

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Medical Malpractice: Implications of Rising Premiums on Access to Health Care / U.S. General Accounting Office, August 2003. (614.230/X7/pt.1) Investigates whether “defensive medical practices” are inflating the cost of health care and how tort reform in certain states has impacted insurance premiums.
www.gao.gov/new.items/d03836.pdf

Medical Malpractice Insurance Report: A Study of Market Conditions and Potential Solutions to the Recent Crisis / National Association of Insurance Commissioners, 2004. (614.230/N213)
www.naic.org/models_papers/papers/MMP-OP-04-EL.pdf

Medical Malpractice Liability Reform: Legal Issues and Fifty-State Survey of Caps on Punitive Damages and Noneconomic Damages / Congressional Research Service, updated April 11, 2005. (CRS Reports). (614.230/X8) Outlines pro and con arguments for the provisions included in 2003 H.R. 5 and H.R. 4280 relating to caps on damages, the collateral source rule, joint liability, and lawyer’s contingency fees. The report also contains a table showing the caps on punitive and noneconomic damages for all fifty states.
http://digital.library.unt.edu/govdocs/crs//data/2005/upl-meta-crs-6285/RL31692_2005Apr11.pdf

Public Medical Malpractice Insurance / Frank A. Sloan, Pew Project on Medical Liability in Pennsylvania, 2004. (614.230/P46) Examines the pros and cons of implementing various government interventions adopted to alleviate the malpractice insurance crisis.
<http://medliabilitypa.org/research/files/sloan0304.pdf>

Report on the Impact of Act 10 / Wisconsin Office of the Commissioner of Insurance, 1997-2005. (614.230/W7c4) This biennial report examines the number of health care providers practicing in Wisconsin, the fees that health care providers pay under s. 655.27 (3), and the premiums that health care providers pay for health care liability insurance.

Resolving the Medical Malpractice Crisis: Fairness Considerations / Maxwell J. Mehlman, Pew Project on Medical Liability in Pennsylvania, 2003. (614.230/P94b) Considers the desired outcome of malpractice trials and insurance programs in terms of fair and consistent treatment of victims, medical professionals, and the public’s overall access to health care.
<http://medliabilitypa.org/research/mehlman0603/MehlmanReport.pdf>

Related Web Sites:

www.abanews.org/issues/medmal.html – American Bar Association

www.ama-assn.org/ama/pub/category/7861.html – American Medical Association – Medical Liability Reform

www.hcla.org – Health Coalition on Liability and Access

www.ncsl.org/standcomm/sclaw/medmaloverview.htm – NCSL’s Medical Malpractice Tort Reform Committee

www.rwjf.org/reports/npreports/impacs.htm – Robert Wood Johnson Foundation: Improving Malpractice Prevention and Compensation Programs

<http://medliabilitypa.org/> – Project on Medical Liability in Pennsylvania funded by the Pew Charitable Trusts

State Patients Compensation Funds:

www.in.gov/idoi/medmal – Indiana

www.hcsf.org – Kansas Health Care Stabilization Fund

www.lapcf.state.la.us – Louisiana

www.doi.ne.gov/medmal/index.htm – Nebraska

Reform Efforts and Studies From Other States:

www.cga.ct.gov/olr/medicalmalpracticeER.asp – Connecticut – Lists over 50 reports on medical malpractice written by the Office of Legislative Research since 2002.

www.unf.edu/thefloridacenter/Files/Medical%20Malpractice%20Update.pdf – Florida

<http://insurance.mo.gov/aboutMDI/issues/medmal> – Missouri

www.leg.state.nv.us/lcb/research/library/BackBurner.cfm – Nevada

www.state.nj.us/dobi/drcorner.htm – New Jersey

<http://jsg.legis.state.pa.us/Med%20Mal.HTML> – Pennsylvania – Report of the Advisory Committee on Medical Professional Liability

Clippings: (Noncirculating; available for use in the library; clippings prior to 1981 are on microfiche)

- Physicians (malpractice): 614.230/M29Z