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Limits on Medical Liability Damage Awards
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STATE	CITATION	LIMITS ON DAMAGE AWARDS
Alabama	No provision	<p>The amount of recovery for non-economic losses, including punitive damages, either to the injured plaintiff, the plaintiff's spouse, or other lawful dependents or any of them together, cannot exceed the sum of \$400,000. Any verdict returned which includes an award for non-economic losses in an amount greater than that permitted will be reduced by the trial court to an amount which will include an award of non-economic losses no greater than that permitted or to such lesser sums as the trial court deems appropriate in accordance with prevailing standards for reducing excessive verdicts. Ala Code §6-5-544 held unconstitutional by <i>Mobile Infirmary Medical Center v. Hodgen</i>, 884 So.2d (Ala. Oct., 31, 2003)</p>
Alaska	Alaska Stat. §09.55.549	<p>(a) Notwithstanding AS 09.17.010, noneconomic damages for personal injury or death based on the provision of services by a health care provider may only be awarded as provided in this section. (b) In an action to recover damages for personal injury or wrongful death based on the provision of services by a health care provider, damages may include both economic and noneconomic damages. (c) Damage claims for noneconomic losses shall be limited to compensation for pain, suffering, inconvenience, physical impairment, disfigurement, loss of enjoyment of life, loss of consortium, and other nonpecuniary damage, but may not include hedonic damages. (d) Except as provided in (e) of this section, the damages awarded by a court or a jury under (c) of this section for all claims including a loss of consortium claim or other derivative claim</p>

		<p>arising out of a single injury may not exceed \$250,000 regardless of the number of health care providers against whom the claim is asserted or the number of separate claims or causes of action brought with respect to the injury.</p> <p>(e) The damages awarded by a court or jury under (c) of this section for all claims including a loss of consortium claim or other derivative claim arising out of a single injury or death may not exceed \$400,000 regardless of the number of health care providers against whom the claim is asserted or the number of separate claims or causes of action brought with respect to the injury or death when damages are awarded for wrongful death or severe permanent physical impairment that is more than 70 percent disabling.</p> <p>(f) The limitation on noneconomic damages in this section does not apply if the damages resulted from an act or omission that constitutes reckless or intentional misconduct.</p> <p>(g) Multiple injuries sustained by one person as a result of a single course of treatment shall be treated as a single injury for purposes of this section.</p> <p>(h) In this section, (1) "economic damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for, or failure to provide, use, or pay for health care services or medical products, and includes past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, burial expenses, loss of use of property, cost of replacement or repair, loss of employment, and loss of business or employment opportunities; (2) "health care provider" has the meaning given in AS 09.55.560 and includes a state agency or municipality the health care services of which are the subject of an action that is subject to this section; (3) "hedonic damages" means damages that attempt to compensate for the pleasure of being alive.</p>
Alaska Stat. §09.17.020		<p>(f) Except as provided in (g) and (h) of this section, an award of punitive damages may not exceed the greater of (1) three times the amount of compensatory damages awarded to the plaintiff in the action; or (2) the sum of \$500,000.</p> <p>(g) Except as provided in (h) of this section, if the fact finder determines that the conduct proven under (b) of this section was motivated by financial gain and the adverse consequences of the conduct were actually known by the defendant or the person responsible for making policy decisions on behalf of the defendant, it may award an amount of punitive damages not to exceed the greatest of (1) four times the amount of compensatory damages awarded to the plaintiff in the action; (2) four times the aggregate amount of financial gain that the defendant received as a result of the defendant's misconduct; or (3) the sum of \$7,000,000.</p>
Arizona	No applicable	Arizona Constitution Article 2, § 31: No law shall be enacted in this state limiting the amount of

	statute	damages to be recovered for causing the death or injury of any person.
Arkansas	No limitation on noneconomic damages Ark. Stat. Ann. §16-55-208	<p>(a) Except as provided in subsection (b) of this section, a punitive damages award for each plaintiff shall not be more than the greater of the following: (1) \$250,000; or (2) Three times the amount of compensatory damages awarded in the action, not to exceed \$1,000,000.</p> <p>(b) Subsection (a) of this section shall not apply when the finder of fact: (1) Determines by clear and convincing evidence that, at the time of the injury, the defendant intentionally pursued a course of conduct for the purpose of causing injury or damage; and (2) Determines that the defendant's conduct did, in fact, harm the plaintiff.</p> <p>(c) As to the punitive damages limitations established in subsection (a) of this section, the fixed sums of \$250,000 set forth in subdivision (a)(1) of this section and \$1,000,000 set forth in subdivision (a)(2) of this section shall be adjusted as of January 1, 2006, and at three-year intervals thereafter, in accordance with the Consumer Price Index rate for the previous year as determined by the Administrative Office of the Courts.</p>
California	Cal. Civil Code §3333.2	<p>(a) In any action for injury against a health care provider based on professional negligence, the injured plaintiff shall be entitled to recover noneconomic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement and other nonpecuniary damage.</p> <p>(b) In no action shall the amount of damages for noneconomic losses exceed \$250,000.</p> <p>(c) For the purposes of this section: (1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with §500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with §1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with §1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider; (2) "Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.</p>
Colorado	Colo. Rev. Stat. §13-64-302	<p>(1) (a) As used in this section: (I) "Derivative noneconomic loss or injury" means noneconomic loss or injury to persons other than the person suffering the direct or primary loss or injury. "Derivative noneconomic loss or injury" does not include punitive or exemplary damages. (II) (A) "Direct noneconomic loss or injury" means nonpecuniary harm for which damages are recoverable by the person suffering the direct or primary loss or injury, including pain and</p>

		<p>suffering, inconvenience, emotional stress, physical impairment or disfigurement, and impairment of the quality of life. "Direct noneconomic loss or injury" does not include punitive or exemplary damages. (B) Nothing in this section shall be construed to prohibit a recovery for economic damages, whether past or future, resulting from physical impairment or disfigurement.</p> <p>(b) The total amount recoverable for all damages for a course of care for all defendants in any civil action for damages in tort brought against a health care professional or a health care institution, as defined in §13-64-202, or as a result of binding arbitration, whether past damages, future damages, or a combination of both, shall not exceed \$1,000,000, present value per patient, including any claim for derivative noneconomic loss or injury, of which not more than \$250,000, present value per patient, including any derivative claim, shall be attributable to direct or derivative noneconomic loss or injury; except that, if, upon good cause shown, the court determines that the present value of past and future economic damages would exceed such limitation and that the application of such limitation would be unfair, the court may award in excess of the limitation the present value of additional past and future economic damages only. The limitations of this section are not applicable to a health care professional who is a public employee under the "Colorado Governmental Immunity Act" and are not applicable to a certified health care institution which is a public entity under the "Colorado Governmental Immunity Act". For purposes of this section, "present value" has the same meaning as that set forth in §13-64-202(7). The existence of the limitations and exceptions thereto provided in this section shall not be disclosed to a jury.</p> <p>(c) Effective July 1, 2003, the damages limitation of \$250,000 described in paragraph (b) of this subsection (1) shall be increased to \$300,000, which increased amount shall apply to acts or omissions occurring on or after said date. It is the intent of the General Assembly that the increase reflect an adjustment for inflation to the damages limitation.</p> <p>(2) In any civil action described in subsection (1) of this section, prejudgment interest awarded pursuant to §13-21-101 that accrues during the time period beginning on the date the action accrued and ending on the date of filing of the civil action is deemed to be a part of the damages awarded in the action for the purposes of this section and is included within each of the limitations on liability that are established pursuant to subsection (1) of this section.</p>
<p>Connecticut</p>	<p>Conn. Gen. Stat. §52-228c</p>	<p>Whenever in a civil action to recover damages resulting from personal injury or wrongful death, whether in tort or in contract, in which it is alleged that such injury or death resulted from the negligence of a health care provider, the jury renders a verdict specifying noneconomic damages, as defined in §52-572h, in an amount exceeding \$1,000,000, the court shall review the</p>

		<p>evidence presented to the jury to determine if the amount of noneconomic damages specified in the verdict is excessive as a matter of law in that it so shocks the sense of justice as to compel the conclusion that the jury was influenced by partiality, prejudice, mistake or corruption. If the court so concludes, it shall order a remittitur and, upon failure of the party so ordered to remit the amount ordered by the court, it shall set aside the verdict and order a new trial. For the purposes of this section, "health care provider" means a provider, as defined in subsection (b) of §20-7b, or an institution, as defined in §19a-490.</p>
<p>Delaware</p>	<p>No limitation on noneconomic damages Del. Code Ann. tit. 18, §6855</p>	<p>In any action for medical negligence, punitive damages may be awarded only if it is found that the injury complained of was maliciously intended or was the result of wilful or wanton misconduct by the health care provider, and may be awarded only if separately awarded by the trier of fact in a separate finding from any finding of compensatory damages which separate finding shall also state the amounts being awarded for each such category of damages. Injuries shall not be considered maliciously intended in instances in which unforeseen damage or injury results from intended medication, manipulation, surgery, treatment or the intended omission thereof, administered or omitted without actual malice or if the intended treatment is applied or omitted by mistake to or for the wrong patient or wrong organ.</p>
<p>District of Columbia</p>	<p>No applicable statute</p>	
<p>Florida</p>	<p>Fla. Stat. §766.118</p>	<p>(2) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF PRACTITIONERS (a) With respect to a cause of action for personal injury or wrongful death arising from medical negligence of practitioners, regardless of the number of such practitioner defendants, noneconomic damages shall not exceed \$500,000 per claimant. No practitioner shall be liable for more than \$500,000 in noneconomic damages, regardless of the number of claimants. (b) Notwithstanding paragraph (a), if the negligence resulted in a permanent vegetative state or death, the total noneconomic damages recoverable from all practitioners, regardless of the number of claimants, under this paragraph shall not exceed \$1 million. In cases that do not involve death or permanent vegetative state, the patient injured by medical negligence may recover noneconomic damages not to exceed \$1 million if: 1. The trial court determines that a manifest injustice would occur unless increased noneconomic damages are awarded, based on a finding that because of the special circumstances of the case, the noneconomic harm sustained by the injured patient was particularly severe; and 2. The trier of fact determines that the defendant's negligence caused a catastrophic injury to the patient.</p>

<p>(c) The total noneconomic damages recoverable by all claimants from all practitioner defendants under this subsection shall not exceed \$1 million in the aggregate.</p> <p>(4) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF PRACTITIONERS PROVIDING EMERGENCY SERVICES AND CARE.--Notwithstanding subsections (2) and (3), with respect to a cause of action for personal injury or wrongful death arising from medical negligence of practitioners providing emergency services and care, as defined in §395.002(9), or providing services as provided in §401.265, or providing services pursuant to obligations imposed by 42 U.S.C. s. 1395dd to persons with whom the practitioner does not have a then-existing health care patient-practitioner relationship for that medical condition:</p> <p>(a) Regardless of the number of such practitioner defendants, noneconomic damages shall not exceed \$150,000 per claimant. (b) Notwithstanding paragraph (a), the total noneconomic damages recoverable by all claimants from all such practitioners shall not exceed \$300,000. The limitation provided by this subsection applies only to noneconomic damages awarded as a result of any act or omission of providing medical care or treatment, including diagnosis that occurs prior to the time the patient is stabilized and is capable of receiving medical treatment as a nonemergency patient, unless surgery is required as a result of the emergency within a reasonable time after the patient is stabilized, in which case the limitation provided by this subsection applies to any act or omission of providing medical care or treatment which occurs prior to the stabilization of the patient following the surgery.</p>		
<p>An entity licensed or certified under chapter 624, chapter 636, or chapter 641 shall not be liable for the medical negligence of a health care provider with whom the licensed or certified entity has entered into a contract in any amount greater than the amount of damages that may be imposed by law directly upon the health care provider, and any suits against such entity shall be subject to all provisions and requirements of evidence in this chapter and other requirements imposed by law in connection with suits against health care providers for medical negligence.</p>	<p>Fla. Stat. §766.2021</p>	
<p>(7) Arbitration pursuant to this section shall preclude recourse to any other remedy by the claimant against any participating defendant, and shall be undertaken with the understanding that damages shall be awarded as provided by general law, including the Wrongful Death Act, subject to the following limitations: (a) Net economic damages shall be awardable, including, but not limited to, past and future medical expenses and 80 percent of wage loss and loss of earning capacity, offset by any collateral source payments. (b) Noneconomic damages shall be limited to a maximum of \$250,000 per incident, and shall be calculated on a percentage basis</p>	<p>Fla. Stat. §766.207</p>	

		<p>with respect to capacity to enjoy life, so that a finding that the claimant's injuries resulted in a 50-percent reduction in his or her capacity to enjoy life would warrant an award of not more than \$125,000 noneconomic damages. (c) Damages for future economic losses shall be awarded to be paid by periodic payments pursuant to §766.202(9) and shall be offset by future collateral source payments.</p>
<p>Fla. Stat. §766.209</p>		<p>(4) If the claimant rejects a defendant's offer to enter voluntary binding arbitration: (a) The damages awardable at trial shall be limited to net economic damages, plus noneconomic damages not to exceed \$350,000 per incident. The Legislature expressly finds that such conditional limit on noneconomic damages is warranted by the claimant's refusal to accept arbitration, and represents an appropriate balance between the interests of all patients who ultimately pay for medical negligence losses and the interests of those patients who are injured as a result of medical negligence. (b) Net economic damages reduced to present value shall be awardable, including, but not limited to, past and future medical expenses and 80 percent of wage loss and loss of earning capacity, offset by any collateral source payments. (c) Damages for future economic losses shall be awarded to be paid by periodic payments pursuant to §766.202(9), and shall be offset by future collateral source payments.</p>
<p>Fla. Stat. §768.73</p>		<p>(1)(a) Except as provided in paragraphs (b) and (c), an award of punitive damages may not exceed the greater of: 1. Three times the amount of compensatory damages awarded to each claimant entitled thereto, consistent with the remaining provisions of this section; or 2. The sum of \$500,000. (b) Where the fact finder determines that the wrongful conduct proven under this section was motivated solely by unreasonable financial gain and determines that the unreasonably dangerous nature of the conduct, together with the high likelihood of injury resulting from the conduct, was actually known by the managing agent, director, officer, or other person responsible for making policy decisions on behalf of the defendant, it may award an amount of punitive damages not to exceed the greater of: 1. Four times the amount of compensatory damages awarded to each claimant entitled thereto, consistent with the remaining provisions of this section; or 2. The sum of \$2 million. (c) Where the fact finder determines that at the time of injury the defendant had a specific intent to harm the claimant and determines that the defendant's conduct did in fact harm the claimant, there shall be no cap on punitive damages.</p>
<p>Georgia</p>	<p>Ga. Code §51-13-1</p>	<p>(4) "Noneconomic damages" means damages for physical and emotional pain, discomfort, anxiety, hardship, distress, suffering, inconvenience, physical impairment, mental anguish,</p>

		<p>disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, injury to reputation, and all other nonpecuniary losses of any kind or nature. This term does not include past or future: (A) Medical expenses, including rehabilitation and therapy; (B) Wages or earnings capacity; (C) Income; (D) Funeral and burial expenses; (E) The value of services performed by the injured in the absence of the injury or death including those domestic and other necessary services performed without compensation; or (F) Other monetary expenses.</p> <p>(b) In any verdict returned or judgment entered in a medical malpractice action, including an action for wrongful death, against one or more health care providers, the total amount recoverable by a claimant for noneconomic damages in such action shall be limited to an amount not to exceed \$350,000, regardless of the number of defendant health care providers against whom the claim is asserted or the number of separate causes of action on which the claim is based.</p> <p>(c) In any verdict returned or judgment entered in a medical malpractice action, including an action for wrongful death, against a single medical facility, inclusive of all persons and entities for which vicarious liability theories may apply, the total amount recoverable by a claimant for noneconomic damages in such action shall be limited to an amount not to exceed \$350,000, regardless of the number of separate causes of action on which the claim is based.</p> <p>(d) In any verdict returned or judgment entered in a medical malpractice action, including an action for wrongful death, against more than one medical facility, inclusive of all persons and entities for which vicarious liability theories may apply, the total amount recoverable by a claimant for noneconomic damages in such action shall be limited to an amount not to exceed \$350,000 from any single medical facility and \$700,000 from all medical facilities, regardless of the number of defendant medical facilities against whom the claim is asserted or the number of separate causes of action on which the claim is based.</p> <p>(e) In applying subsections (b), (c), and (d) of this Code section, the aggregate amount of noneconomic damages recoverable under such subsections shall in no event exceed \$1,050,000.</p> <p>(f) In any medical malpractice action, if an award of future damages equaling or exceeding \$350,000 is made against any party in the action, the trial court shall, upon the request of any party, issue an order providing that such damages be paid by periodic payments. Such periodic payments shall be funded through an annuity policy with the premium for such annuity equal to the amount of the award for future damages.</p>
Hawaii	Hawaii Rev. Stat. §663-8.7	Damages recoverable for pain and suffering as defined in section 663-8.5 shall be limited to a maximum award of \$375,000; provided that this limitation shall not apply to tort actions

<p>Idaho</p>	<p>Idaho Code §6-1603</p>	<p>enumerated in section 663-10.9(2).</p> <p>(1) In no action seeking damages for personal injury, including death, shall a judgment for noneconomic damages be entered for a claimant exceeding the maximum amount of \$250,000; provided, however, that beginning on July 1, 2004, and each July 1 thereafter, the cap on noneconomic damages established in this section shall increase or decrease in accordance with the percentage amount of increase or decrease by which the Idaho industrial commission adjusts the average annual wage as computed pursuant to §72-409(2), Idaho Code.</p> <p>(2) The limitation contained in this section applies to the sum of: (a) noneconomic damages sustained by a claimant who incurred personal injury or who is asserting a wrongful death; (b) noneconomic damages sustained by a claimant, regardless of the number of persons responsible for the damages or the number of actions filed.</p> <p>(1) In any action seeking recovery of punitive damages, the claimant must prove, by clear and convincing evidence, oppressive, fraudulent, malicious or outrageous conduct by the party against whom the claim for punitive damages is asserted.</p> <p>(3) No judgment for punitive damages shall exceed the greater of \$250,000 or an amount which is three times the compensatory damages contained in such judgment. If a case is tried to a jury, the jury shall not be informed of this limitation. The limitations on noneconomic damages contained in §6-1603, Idaho Code, are not applicable to punitive damages.</p>
<p>Illinois</p>	<p>Ill. Rev. Stat. ch. 735, §5/2-1115</p> <p>Ill. Rev. Stat. ch. 735, §5/2-1706.5</p>	<p>Punitive damages not recoverable in healing art and legal malpractice cases. In all cases, whether in tort, contract or otherwise, in which the plaintiff seeks damages by reason of legal, medical, hospital, or other healing art malpractice, no punitive, exemplary, vindictive or aggravated damages shall be allowed.</p> <p>(a) In any medical malpractice action or wrongful death action based on medical malpractice in which economic and non-economic damages may be awarded, the following standards shall apply: (1) In a case of an award against a hospital and its personnel or hospital affiliates, as defined in §10.8 of the Hospital Licensing Act, the total amount of non-economic damages shall not exceed \$1,000,000 awarded to all plaintiffs in any civil action arising out of the care. (2) In a case of an award against a physician and the physician's business or corporate entity and personnel or health care professional, the total amount of non-economic damages shall not exceed \$500,000 awarded to all plaintiffs in any civil action arising out of the care. (3) In awarding damages in a medical malpractice case, the finder of fact shall render verdicts with a specific award of damages for economic loss, if any, and a specific award of damages for non-economic loss, if any. The trier of fact shall not be informed of the provisions of items (1) and</p>

		<p>(2) of this subsection (a). (b) In any medical malpractice action where an individual plaintiff earns less than the annual average weekly wage, as determined by the Illinois Workers' Compensation Commission, at the time the action is filed, any award may include an amount equal to the wage the individual plaintiff earns or the annual average weekly wage.</p>
<p>Indiana</p>	<p>Ind. Code §34-18-14-3</p>	<p>(a) The total amount recoverable for an injury or death of a patient may not exceed the following: (1) \$500,000 for an act of malpractice that occurs before January 1, 1990. (2) \$750,000 for an act of malpractice that occurs: (A) after December 31, 1989; and (B) before July 1, 1999. (3) \$1,250,000 for an act of malpractice that occurs after June 30, 1999. (b) A health care provider qualified under this article (or IC 27-12 before its repeal) is not liable for an amount in excess of \$250,000 for an occurrence of malpractice. (c) Any amount due from a judgment or settlement that is in excess of the total liability of all liable health care providers, subject to subsections (a), (b), and (d), shall be paid from the patient's compensation fund under IC 34-18-15. (d) If a health care provider qualified under this article (or IC 27-12 before its repeal) admits liability or is adjudicated liable solely by reason of the conduct of another health care provider who is an officer, agent, or employee of the health care provider acting in the course and scope of employment and qualified under this article (or IC 27-12 before its repeal), the total amount that shall be paid to the claimant on behalf of the officer, agent, or employee and the health care provider by the health care provider or its insurer is \$250,000. The balance of an adjudicated amount to which the claimant is entitled shall be paid by other liable health care providers or the patient's compensation fund, or both.</p>
<p>Iowa</p>	<p>No limitation on noneconomic damages Iowa Code §147.136</p>	<p>In an action for damages for personal injury against a physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor, or nurse licensed to practice that profession in this state, or against a hospital licensed for operation in this state, based on the alleged negligence of the practitioner in the practice of the profession or occupation, or upon the alleged negligence of the hospital in patient care, in which liability is admitted or established, the damages awarded shall not include actual economic losses incurred or to be incurred in the future by the claimant by reason of the personal injury, including but not limited to, the cost of reasonable and necessary medical care, rehabilitation services, and custodial care, and the loss of services and loss of earned income, to the extent that those losses are replaced or are indemnified by insurance, or by governmental, employment, or service benefit programs or from any other source except the assets of the</p>

Kansas		claimant or of the members of the claimant's immediate family.
Kan. Stat. Ann. §60-19a02		<p>(a) As used in this section "personal injury action" means any action seeking damages for personal injury or death.</p> <p>(b) In any personal injury action, the total amount recoverable by each party from all defendants for all claims for noneconomic loss shall not exceed a sum total of \$250,000.</p> <p>(c) In every personal injury action, the verdict shall be itemized by the trier of fact to reflect the amount awarded for noneconomic loss.</p> <p>(d) If a personal injury action is tried to a jury, the court shall not instruct the jury on the limitations of this section. If the verdict results in an award for noneconomic loss which exceeds the limit of this section, the court shall enter judgment for \$250,000 for all the party's claims for noneconomic loss. Such entry of judgment by the court shall occur after consideration of comparative negligence principles in K.S.A. 60-258a and amendments thereto.</p> <p>(e) The provisions of this section shall not be construed to repeal or modify the limitation provided by K.S.A. 60-1903 and amendments thereto in wrongful death actions.</p>
Kan. Stat. Ann. §60-1903		<p>(a) In any wrongful death action, the court or jury may award such damages as are found to be fair and just under all the facts and circumstances, but the damages, other than pecuniary loss sustained by an heir at law, cannot exceed in the aggregate the sum of \$250,000 and costs.</p> <p>(b) If a wrongful death action is to a jury, the court shall not instruct the jury on the monetary limitation imposed by subsection (a) upon recovery of damages for nonpecuniary loss. If the jury verdict results in an award of damages for nonpecuniary loss which, after deduction of any amounts pursuant to K.S.A. 60-258a and amendments thereto, exceeds the limitation of subsection (a), the court shall enter judgment for damages of \$250,000 for nonpecuniary loss.</p> <p>(c) In any wrongful death action, the verdict shall be itemized by the trier of fact to reflect the amounts, if any, awarded for: (1) Nonpecuniary damages; (2) expenses for the care of the deceased caused by the injury; and (3) pecuniary damages other than those itemized under subsection (c)(2).</p> <p>(d) Where applicable, the amounts required to be itemized pursuant to subsections (c)(1) and (c)(3) shall be further itemized by the trier of fact to reflect those amounts awarded for injuries and losses sustained to date and those awarded for injuries and losses reasonably expected to be sustained in the future.</p> <p>(e) In any wrongful death action, the trial court shall instruct the jury only on those items of damage upon which there is some evidence to base an award.</p>
Kan. Stat. Ann.		(a) In any civil action in which exemplary or punitive damages are recoverable, the trier of fact

	§60-3702	<p>shall determine, concurrent with all other issues presented, whether such damages shall be allowed. If such damages are allowed, a separate proceeding shall be conducted by the court to determine the amount of such damages to be awarded.</p> <p>(e) Except as provided by subsection (f), no award of exemplary or punitive damages pursuant to this section shall exceed the lesser of: (1) The annual gross income earned by the defendant, as determined by the court based upon the defendant's highest gross annual income earned for any one of the five years immediately before the act for which such damages are awarded, unless the court determines such amount is clearly inadequate to penalize the defendant, then the court may award up to 50 percent of the net worth of the defendant, as determined by the court; or (2) \$5 million.</p> <p>(f) In lieu of the limitation provided by subsection (e), if the court finds that the profitability of the defendant's misconduct exceeds or is expected to exceed the limitation of subsection (e), the limitation on the amount of exemplary or punitive damages which the court may award shall be an amount equal to 1 1/2 times the amount of profit which the defendant gained or is expected to gain as a result of the defendant's misconduct.</p>
Kentucky	No applicable statute	Kentucky Constitution §54: The General Assembly shall have no power to limit the amount to be recovered for injuries resulting in death, or for injuries to person or property.
Louisiana	No provision	<p>B.(1) The total amount recoverable for all malpractice claims for injuries to or death of a patient, exclusive of future medical care and related benefits as provided in R.S. 40:1299.43, shall not exceed \$500,000 plus interest and cost.</p> <p>(2) A health care provider qualified under this Part is not liable for an amount in excess of one hundred thousand dollars plus interest thereon accruing after April 1, 1991, for all malpractice claims because of injuries to or death of any one patient.</p> <p>(3)(a) Any amount due from a judgment or settlement or from a final award in an arbitration proceeding which is in excess of the total liability of all liable health care providers, as provided in Paragraph (2) of this Subsection, shall be paid from the patient's compensation fund pursuant to the provisions of R.S. 40:1299.44(C). (b) The total amounts paid in accordance with Paragraphs (2) and (3) of this Subsection shall not exceed the limitation as provided in Paragraph (1) of this Subsection.</p>
Maine	No applicable statute	L.a. Rev. Stat. Ann. §40:1299.42 ruled unconstitutional by <i>Arrington v. ER Physicians Group, APMC</i> , 940 So.2d 777 (La. App. 3 Cir., Sept. 27, 2006)

<p>Maryland</p>	<p>Md. Courts and Judicial Proceedings Code Ann. §3-2A-09</p>	<p>(1) (i) Except as provided in paragraph (2)(ii) of this subsection, an award or verdict under this subtitle for noneconomic damages for a cause of action arising between January 1, 2005, and December 31, 2008, inclusive, may not exceed \$650,000. (ii) The limitation on noneconomic damages provided under subparagraph (i) of this paragraph shall increase by \$15,000 on January 1 of each year beginning January 1, 2009. The increased amount shall apply to causes of action arising between January 1 and December 31 of that year, inclusive. (2) (i) Except as provided in subparagraph (ii) of this paragraph, the limitation under paragraph (1) of this subsection shall apply in the aggregate to all claims for personal injury and wrongful death arising from the same medical injury, regardless of the number of claims, claimants, plaintiffs, beneficiaries, or defendants. (ii) If there is a wrongful death action in which there are two or more claimants or beneficiaries, whether or not there is a personal injury action arising from the same medical injury, the total amount awarded for noneconomic damages for all actions may not exceed 125 percent of the limitation established under paragraph (1) of this subsection, regardless of the number of claims, claimants, plaintiffs, beneficiaries, or defendants.</p>
<p>Massachusetts</p>	<p>Mass. Gen. Laws. Ann. ch. 231, §60H</p>	<p>In any action for malpractice, negligence, error, omission, mistake or the unauthorized rendering of professional services, other than actions brought under §2 of Chapter 229, against a provider of health care, the court shall instruct the jury that in the event they find the defendant liable, they shall not award the plaintiff more than \$500,000 for pain and suffering, loss of companionship, embarrassment and other items of general damages unless the jury determines that there is a substantial or permanent loss or impairment of a bodily function or substantial disfigurement, or other special circumstances in the case which warrant a finding that imposition of such a limitation would deprive the plaintiff of just compensation for the injuries sustained. In any such action which is tried without a jury, the court shall not award the plaintiff more than \$500,000 for pain and suffering, loss of companionship, embarrassment and other items of general damages unless the aforesaid findings are made specially by the court and stated separately in the judgment entered by the court. Except in those cases where the aforesaid findings are made, if two or more plaintiffs have received verdicts or findings of such damages in a total amount, for all plaintiffs claiming damages from a single occurrence, transaction, act of malpractice, or injury which exceeds \$500,000, the amount of such damages recoverable by each plaintiff will be reduced to a percentage of \$500,000 proportionate to that plaintiff's share of the total amount of such damages for all plaintiffs. Such limit shall apply, except in those cases where the aforesaid findings are made, regardless of the number of persons liable jointly or severally for the said damages.</p>

Michigan	Mich. Comp. Laws §600.1483	<p>(1) In an action for damages alleging medical malpractice by or against a person or party, the total amount of damages for noneconomic loss recoverable by all plaintiffs, resulting from the negligence of all defendants, shall not exceed \$280,000 unless, as the result of the negligence of one or more of the defendants, one or more of the following exceptions apply as determined by the court pursuant to §6304, in which case damages for noneconomic loss shall not exceed \$500,000: (a) The plaintiff is hemiplegic, paraplegic, or quadriplegic resulting in a total permanent functional loss of one or more limbs caused by one or more of the following: (i) Injury to the brain. (ii) Injury to the spinal cord. (b) The plaintiff has permanently impaired cognitive capacity rendering him or her incapable of making independent, responsible life decisions and permanently incapable of independently performing the activities of normal, daily living. (c) There has been permanent loss of or damage to a reproductive organ resulting in the inability to procreate.</p> <p>(2) In awarding damages in an action alleging medical malpractice, the trier of fact shall itemize damages into damages for economic loss and damages for noneconomic loss.</p> <p>(3) As used in this section, "noneconomic loss" means damages or loss due to pain, suffering, inconvenience, physical impairment, physical disfigurement, or other noneconomic loss.</p> <p>(4) The state treasurer shall adjust the limitation on damages for noneconomic loss set forth in subsection (1) by an amount determined by the state treasurer at the end of each calendar year to reflect the cumulative annual percentage change in the consumer price index. As used in this subsection, "consumer price index" means the most comprehensive index of consumer prices available for this state from the bureau of labor statistics of the United States department of labor.</p>
	Mich. Comp. Laws §600.6098	<p>A judge presiding over an action alleging medical malpractice shall review each verdict to determine if the limitation on noneconomic damages provided for in §1483 applies. If the limitation applies, the court shall set aside any amount of noneconomic damages in excess of the amount specified in §1483.</p>
Minnesota	No limitation on noneconomic damages Minn. Stat. §§549.20	<p>Punitive damages shall be allowed in civil actions only upon clear and convincing evidence that the acts of the defendant show deliberate disregard for the rights or safety of others.</p> <p>The court shall specifically review the punitive damages award in light of the factors set forth in subdivision 3 and shall make specific findings with respect to them. The appellate court, if any, also shall review the award in light of the factors set forth in that subdivision. Nothing in this section may be construed to restrict either court's authority to limit punitive damages.</p>
Mississippi	Miss. Code Ann.	<p>(a) "Noneconomic damages" means subjective, nonpecuniary damages arising from death, pain,</p>

	§11-1-60	<p>suffering, inconvenience, mental anguish, worry, emotional distress, loss of society and companionship, loss of consortium, bystander injury, physical impairment, disfigurement, injury to reputation, humiliation, embarrassment, loss of the enjoyment of life, hedonic damages, other nonpecuniary damages, and any other theory of damages such as fear of loss, illness or injury. The term "noneconomic damages" shall not include punitive or exemplary damages.</p> <p>(2)(a) In any cause of action filed on or after September 1, 2004, for injury based on malpractice or breach of standard of care against a provider of health care, including institutions for the aged or infirm, in the event the trier of fact finds the defendant liable, they shall not award the plaintiff more than \$500,000 for noneconomic damages.</p> <p>(1) In any action in which punitive damages are sought: (a) Punitive damages may not be awarded if the claimant does not prove by clear and convincing evidence that the defendant against whom punitive damages are sought acted with actual malice, gross negligence which evidences a willful, wanton or reckless disregard for the safety of others, or committed actual fraud.</p> <p>(3)(a) In any civil action where an entitlement to punitive damages shall have been established under applicable laws, no award of punitive damages shall exceed the following: (i) 20 million dollars for a defendant with a net worth of more than one billion dollars; (ii) 15 million dollars for a defendant with a net worth of more than 750 million dollars but not more than one billion dollars; (iii) Five million dollars for a defendant with a net worth of more than 500 million dollars but not more than 750 million dollars; (iv) \$3,750,000 for a defendant with a net worth of more than 100 million dollars but not more than 500 million dollars; v) \$2,500,000 for a defendant with a net worth of more than 50 million dollars but not more than 100 million dollars; or (vi) Two percent of the defendant's net worth for a defendant with a net worth of 50 million dollars or less.</p>
Missouri	Mo. Rev. Stat. §538.210 Mo. Rev. Stat. §510.265	<p>1. In any action against a health care provider for damages for personal injury or death arising out of the rendering of or the failure to render health care services, no plaintiff shall recover more than \$350,000 for noneconomic damages irrespective of the number of defendants.</p> <p>1. No award of punitive damages against any defendant shall exceed the greater of: (1) \$500,000; or (2) Five times the net amount of the judgment awarded to the plaintiff against the defendant. Such limitations shall not apply if the state of Missouri is the plaintiff requesting the award of punitive damages, or the defendant pleads guilty to or is convicted of a felony arising out of the acts or omissions pled by the plaintiff.</p>
Montana	Mont. Code Ann.	<p>(1) (a) In a malpractice claim or claims against one or more health care providers based on a</p>

	§25-9-411	<p>single incident of malpractice, an award for past and future damages for noneconomic loss may not exceed \$250,000. All claims for noneconomic loss deriving from injuries to a patient are subject to an award not to exceed \$250,000. This limitation applies whether: (i) based on the same act or a series of acts that allegedly caused the injury, injuries, death, or deaths on which the action or actions are based; or (ii) the act or series of acts were by one or more health care providers. (b) If a single incident of malpractice injures multiple, unrelated patients, the limitation on awards contained in subsection (1)(a) applies to each patient and all claims deriving from injuries to that patient.</p>
	Mont. Code Ann. §27-1-221	<p>(1) Except as otherwise expressly provided by statute and subject to subsection (3), a judge or jury may award, in addition to compensatory damages, punitive damages for the sake of example and for the purpose of punishing a defendant.</p> <p>(3) An award for punitive damages may not exceed \$10 million or 3% of a defendant's net worth, whichever is less. This subsection does not limit punitive damages that may be awarded in class action lawsuits</p>
Nebraska	Neb. Rev. Stat. §44-285	<p>(1) The total amount recoverable under the Nebraska Hospital-Medical Liability Act from any and all health care providers and the Excess Liability Fund for any occurrence resulting in any injury or death of a patient may not exceed (a) \$500,000 for any occurrence on or before December 31, 1984, (b) \$1,000,000 for any occurrence after December 31, 1984, and on or before December 31, 1992, (c) \$1,250,000 for any occurrence after December 31, 1992, and on or before December 31, 2003, and (d) \$1,750,000 for any occurrence after December 31, 2003.</p> <p>(2) A health care provider qualified under the act shall not be liable to any patient or his or her representative who is covered by the act for an amount in excess of \$500,000 for all claims or causes of action arising from any occurrence during the period that the act is effective with reference to such patient.</p> <p>(3) Subject to the overall limits from all sources as provided in subsection (1) of this section, any amount due from a judgment or settlement which is in excess of the total liability of all liable health care providers shall be paid from the Excess Liability Fund pursuant to §§44-2831 to 44-2833.</p>
Nevada	Nev. Rev. Stat. §41A.035	<p>In an action for injury or death against a provider of health care based upon professional negligence, the injured plaintiff may recover noneconomic damages, but the amount of noneconomic damages awarded in such an action must not exceed \$350,000.</p>
	Nev. Rev. Stat. §42.005	<p>In an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud or malice,</p>

		express or implied, the plaintiff, in addition to the compensatory damages, may recover damages for the sake of example and by way of punishing the defendant. Except as otherwise provided in this section or by specific statute, an award of exemplary or punitive damages made pursuant to this section may not exceed: (a) Three times the amount of compensatory damages awarded to the plaintiff if the amount of compensatory damages is \$100,000 or more; or (b) \$300,000 if the amount of compensatory damages awarded to the plaintiff is less than \$100,000.
New Hampshire	No provision	§ 507-C:7, which limited non-economic loss to \$250,000, has been held unconstitutional in <i>Carson v. Maurer</i> , 120 N.H. 925, 424 A.2d 825 (1980) and <i>Branigan v. Usitalo</i> , 134 N.H. 50, 587 A.2d 1232 (1991).
New Jersey	N.J. Rev. Stat. §2A:15-5.14	6. a. Before entering judgment for an award of punitive damages, the trial judge shall ascertain that the award is reasonable in its amount and justified in the circumstances of the case, in light of the purpose to punish the defendant and to deter that defendant from repeating such conduct. If necessary to satisfy the requirements of this section, the judge may reduce the amount of or eliminate the award of punitive damages. b. No defendant shall be liable for punitive damages in any action in an amount in excess of five times the liability of that defendant for compensatory damages or \$350,000, whichever is greater.
New Mexico	N.M. Stat. Ann. §41-5-6	A. Except for punitive damages and medical care and related benefits, the aggregate dollar amount recoverable by all persons for or arising from any injury or death to a patient as a result of malpractice shall not exceed \$600,000 per occurrence. In jury cases, the jury shall not be given any instructions dealing with this limitation. B. The value of accrued medical care and related benefits shall not be subject to the \$600,000 limitation. C. Monetary damages shall not be awarded for future medical expenses in malpractice claims. D. A health care provider's personal liability is limited to \$200,000 for monetary damages and medical care and related benefits as provided in §41-5-7 NMSA 1978. Any amount due from a judgment or settlement in excess of \$200,000 shall be paid from the patient's compensation fund, as provided in §41-5-25 NMSA 1978.
New York	N.M. Stat. Ann. §41-5-7 No applicable statute	Awards of future medical care and related benefits shall not be subject to the \$600,000 limitation imposed in §41-5-6 NMSA 1978.
North Carolina	No limitation on noneconomic	(a) In all actions seeking an award of punitive damages, the trier of fact shall determine the amount of punitive damages separately from the amount of compensation for all other damages.

	damages N.C. Gen. Stat. §1D-25	(b) Punitive damages awarded against a defendant shall not exceed three times the amount of compensatory damages or \$250,000, whichever is greater. If a trier of fact returns a verdict for punitive damages in excess of the maximum amount specified under this subsection, the trial court shall reduce the award and enter judgment for punitive damages in the maximum amount. With respect to a health care malpractice action or claim, the total amount of compensation that may be awarded to a claimant or members of the claimant's family for noneconomic damage resulting from an injury alleged under the action or claim may not exceed \$500,000, regardless of the number of health care providers and other defendants against whom the action or claim is brought or the number of actions or claims brought with respect to the injury. With respect to actions heard by a jury, the jury may not be informed of the limitation contained in this section. If necessary, the court shall reduce the damages awarded by a jury to comply with the limitation in this section.
North Dakota	N.D. Cent. Code §32-42-02	
Ohio	Ohio Rev. Code Ann. §2315.21	(D)(1) In a tort action, the trier of fact shall determine the liability of any defendant for punitive or exemplary damages and the amount of those damages. (2) Except as provided in division (D)(6) of this section, all of the following apply regarding any award of punitive or exemplary damages in a tort action: (a) The court shall not enter judgment for punitive or exemplary damages in excess of two times the amount of the compensatory damages awarded to the plaintiff from that defendant, as determined pursuant to division (B)(2) or (3) of this section. (b) If the defendant is a small employer or individual, the court shall not enter judgment for punitive or exemplary damages in excess of the lesser of two times the amount of the compensatory damages awarded to the plaintiff from the defendant or ten percent of the employer's or individual's net worth when the tort was committed up to a maximum of \$350,000, as determined pursuant to division (B)(2) or (3) of this section.
	Ohio Rev. Code Ann. §2323.43	(A) In a civil action upon a medical, dental, optometric, or chiropractic claim to recover damages for injury, death, or loss to person or property, all of the following apply: (1) There shall not be any limitation on compensatory damages that represent the economic loss of the person who is awarded the damages in the civil action. (2) Except as otherwise provided in division (A)(3) of this section, the amount of compensatory damages that represents damages for noneconomic loss that is recoverable in a civil action under this section to recover damages for injury, death, or loss to person or property shall not exceed the greater of \$250,000 or an amount that is equal to three times the plaintiff's economic loss, as determined by the trier of fact, to a maximum of \$350,000 for each plaintiff or a maximum of \$500,000 for each occurrence.

		<p>(3) The amount recoverable for noneconomic loss in a civil action under this section may exceed the amount described in division (A)(2) of this section but shall not exceed \$500,000 for each plaintiff or \$1,000,000 for each occurrence if the noneconomic losses of the plaintiff are for either of the following: (a) Permanent and substantial physical deformity, loss of use of a limb, or loss of a bodily organ system; (b) Permanent physical functional injury that permanently prevents the injured person from being able to independently care for self and perform life sustaining activities.</p> <p>(B) If a trial is conducted in a civil action upon a medical, dental, optometric, or chiropractic claim to recover damages for injury, death, or loss to person or property and a plaintiff prevails with respect to that claim, the court in a nonjury trial shall make findings of fact, and the jury in a jury trial shall return a general verdict accompanied by answers to interrogatories, that shall specify all of the following: (1) The total compensatory damages recoverable by the plaintiff; (2) The portion of the total compensatory damages that represents damages for economic loss; (3) The portion of the total compensatory damages that represents damages for noneconomic loss.</p>
<p>Oklahoma</p>	<p>Okla. Stat. tit. 63, §1-1708.1F-1</p>	<p>A. Except as provided in subsection B or D of this section, in any medical liability action not provided for in §1-1708.1F of Title 63 of the Oklahoma Statutes, the amount of noneconomic damages awarded shall not exceed the hard cap amount of \$300,000, regardless of the number of actions brought with respect to the personal injury, provided: 1. The defendant has made an offer of judgment pursuant to §1101.1 of Title 12 of the Oklahoma Statutes; and 2. The amount of the verdict awarded to the plaintiff is less than 1 1/2 times the amount of the final offer of judgment.</p> <p>B. The dollar amount prescribed by subsection A of this section shall be adjusted annually based upon any positive increase in the Consumer Price Index that measures the average changes in prices of goods and services purchased by urban wage earners and clerical workers' families and single workers living alone (CPI-W) for the preceding calendar year. No adjustment to the dollar amount prescribed by this section shall be made for any year in which there is a decline in the Consumer Price Index.</p> <p>C. As used in this section, "noneconomic damages" means only mental pain and suffering, inconvenience, mental anguish, emotional distress, loss of society and companionship, loss of consortium, injury to reputation and humiliation; provided, however, noneconomic damages do not include exemplary damages, as provided for in §9.1 of Title 23 of the Oklahoma Statutes.</p> <p>D. If nine or more members of the jury find by clear and convincing evidence that the defendant committed negligence or if nine or more members of the jury find by a preponderance of the evidence that the conduct of the defendant was willful or wanton, the limits on noneconomic</p>

		<p>damages provided for in subsection A of this section shall not apply; provided, however, the judge must, before submitting such determination to the jury, make a threshold determination that there is evidence from which the jury could reasonably make the findings set forth in the case.</p> <p>E. If the jury returns a verdict that is greater than \$300,000 and is less than 1 1/2 times the amount of the final offer of judgment, the court shall submit to the jury an additional form of verdict.</p> <p>F. Nothing in this section shall apply to an action brought for wrongful death.</p>
	Okla. Stat. tit. 63, §1-1708.1F	<p>A. Except as provided in subsection B of this section, in any medical liability action in which the health care services at issue were provided for: 1. Pregnancy or labor and delivery, including the immediate post-partum period; or 2. Emergency care in the emergency room of a hospital or as follow-up to the emergency care services provided in the emergency room; the amount of noneconomic damages awarded shall not exceed \$300,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the personal injury.</p> <p>B. Where the judge finds by clear and convincing evidence that the defendant committed negligence in one of the types of cases enumerated in subsection A of this section, the court shall articulate its findings into the record out of the presence of the jury and shall lift the noneconomic damage cap.</p> <p>C. Nothing in this section shall apply to any nursing facility or nursing home licensed pursuant to §1-1903 of this title or the owners, operators, officers, agents or employees of such entities.</p> <p>D. Nothing in this section shall apply to a medical liability action brought for wrongful death.</p>
	Okla. Stat. tit. 23, §9.1	<p>A. In an action for the breach of an obligation not arising from contract, the jury, in addition to actual damages, may, subject to the provisions and limitations in subsections B, C and D of this section, award punitive damages for the sake of example and by way of punishing the defendant based upon the following factors: 1. The seriousness of the hazard to the public arising from the defendant's misconduct; 2. The profitability of the misconduct to the defendant; 3. The duration of the misconduct and any concealment of it; 4. The degree of the defendant's awareness of the hazard and of its excessiveness; 5. The attitude and conduct of the defendant upon discovery of the misconduct or hazard; 6. In the case of a defendant which is a corporation or other entity, the number and level of employees involved in causing or concealing the misconduct; and 7. The financial condition of the defendant.</p> <p>B. Category I. Where the jury finds by clear and convincing evidence that: 1. The defendant has</p>

		<p>been guilty of reckless disregard for the rights of others; or 2. An insurer has recklessly disregarded its duty to deal fairly and act in good faith with its insured; the jury, in a separate proceeding conducted after the jury has made such finding and awarded actual damages, may award punitive damages in an amount not to exceed the greater of: a. \$100,000, or b. the amount of the actual damages awarded. Any award of punitive damages under this subsection awarded in any manner other than as required in this subsection shall be void and reversible error.</p> <p>C. Category II. Where the jury finds by clear and convincing evidence that: 1. The defendant has acted intentionally and with malice towards others; or 2. An insurer has intentionally and with malice breached its duty to deal fairly and act in good faith with its insured; the jury, in a separate proceeding conducted after the jury has made such finding and awarded actual damages, may award punitive damages in an amount not to exceed the greatest of: a. \$500,000, b. twice the amount of actual damages awarded, or c. the increased financial benefit derived by the defendant or insurer as a direct result of the conduct causing the injury to the plaintiff and other persons or entities. The trial court shall reduce any award for punitive damages awarded pursuant to the provisions of subparagraph c of this paragraph by the amount it finds the defendant or insurer has previously paid as a result of all punitive damage verdicts entered in any court of this state for the same conduct by the defendant or insurer. Any award of punitive damages under this subsection awarded in any manner other than as required in this subsection shall be void and reversible error.</p> <p>D. Category III. Where the jury finds by clear and convincing evidence that: 1. The defendant has acted intentionally and with malice towards others; or 2. An insurer has intentionally and with malice breached its duty to deal fairly and act in good faith with its insured; and the court finds, on the record and out of the presence of the jury, that there is evidence beyond a reasonable doubt that the defendant or insurer acted intentionally and with malice and engaged in conduct life-threatening to humans, the jury, in a separate proceeding conducted after the jury has made such finding and awarded actual damages, may award punitive damages in any amount the jury deems appropriate, without regard to the limitations set forth in subsections B and C of this section. Any award of punitive damages under this subsection awarded in any manner other than as required in this subsection shall be void and reversible error.</p>
Oregon	No provision	<p>§ 31.710, which placed a \$500,000 cap on non-economic damages arising out of bodily injury, including emotional injury or distress, death, or property damage of any one person, including claims for loss of care, comfort, companionship, and society, and loss of consortium, was found to be unconstitutional, violating Article I, § 17 of the Oregon State Constitution in</p>

<p>Pennsylvania</p>	<p>No limitation</p>	<p><i>Lakin v. Senco Products, Inc.</i>, 329 Or. 62, 987 P.2d 463 (Or. 1999). Pennsylvania Constitution Article 3, §18: The General Assembly may enact laws requiring the payment by employers, or employers and employees jointly, of reasonable compensation for injuries to employees arising in the course of their employment, and for occupational diseases of employees, whether or not such injuries or diseases result in death, and regardless of fault of employer or employee, and fixing the basis of ascertainment of such compensation and the maximum and minimum limits thereof, and providing special or general remedies for the collection thereof; but in no other cases shall the General Assembly limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property, and in case of death from such injuries, the right of action shall survive, and the General Assembly shall prescribe for whose benefit such actions shall be prosecuted. No act shall prescribe any limitations of time within which suits may be brought against corporations for injuries to persons or property, or for other causes different from those fixed by general laws regulating actions against natural persons, and such acts now existing are avoided.</p>
<p>Rhode Island</p>	<p>No applicable statute</p>	
<p>South Carolina</p>	<p>S.C. Code Ann. §15-32-220</p>	<p>(A) In an action on a medical malpractice claim when final judgment is rendered against a single health care provider, the limit of civil liability for noneconomic damages of the health care provider is limited to an amount not to exceed \$350,000 for each claimant, regardless of the number of separate causes of action on which the claim is based, except as provided in subsection (E). (B) In an action on a medical malpractice claim when final judgment is rendered against a single health care institution, the limit of civil liability for noneconomic damages is limited to an amount not to exceed \$350,000 for each claimant, regardless of the number of separate causes of action on which the claim is based, except as provided in subsection (E). (C) In an action on a medical malpractice claim when final judgment is rendered against more than one health care institution, or more than one health care provider, or any combination thereof, the limit of civil liability for noneconomic damages for each health care institution and each health care provider is limited to an amount not to exceed \$350,000 for each claimant, and the limit of civil liability for noneconomic damages for all health care institutions and health care providers is limited to an amount not to exceed \$1,050,000 for each claimant, except as provided in subsection (E). (D)(1) The provisions of this section do not limit the amount of compensation for economic</p>

		<p>damages suffered by each claimant in a medical malpractice claim. (2) The provisions of this section do not limit the amount of punitive damages in cases where the plaintiff is able to prove an entitlement to an award of punitive damages as required by law.</p> <p>(E) The limitations for noneconomic damages rendered against any health care provider or health care institution do not apply if the jury or court determines that the defendant was grossly negligent, willful, wanton, or reckless, and such conduct was the proximate cause of the claimant's noneconomic damages, or if the defendant has engaged in fraud or misrepresentation related to the claim, or if the defendant altered or destroyed medical records with the purpose of avoiding a claim or liability to the claimant.</p> <p>(F) At the end of each calendar year, the State Budget and Control Board, Board of Economic Advisors must determine the increase or decrease in the ratio of the Consumer Price Index to the index as of December 31 of the previous year, and the limitation on compensation for noneconomic damages pursuant to subsection (A), (B), or (C) must be increased or decreased accordingly.</p>
South Dakota	S.D. Codified Laws Ann. §21-3-11	<p>In any action for damages for personal injury or death alleging malpractice against any physician licensed pursuant to chapter 36-4, chiropractor, optometrist, podiatrist, dentist, dental hygienist, dental assistant, hospital, critical access hospital, registered nurse, licensed practical nurse, certified registered nurse anesthetist, clinical nurse specialist, nurse practitioner, nurse midwife, or physician's assistant, or against the practitioner's corporate, limited liability partnership, or limited liability company employer based upon the acts or omissions of the practitioner, under the laws of this state, whether taken through the court system or by binding arbitration, the total general damages which may be awarded may not exceed the sum of \$500,000. There is no limitation on the amount of special damages which may be awarded.</p>
Tennessee	No applicable statute	
Texas	Tex. Civil Practice & Remedies Code Ann. §74.301	<p>(a) In an action on a health care liability claim where final judgment is rendered against a physician or health care provider other than a health care institution, the limit of civil liability for noneconomic damages of the physician or health care provider other than a health care institution, inclusive of all persons and entities for which vicarious liability theories may apply, shall be limited to an amount not to exceed \$250,000 for each claimant, regardless of the number of defendant physicians or health care providers other than a health care institution against whom the claim is asserted or the number of separate causes of action on which the claim is based.</p>

		<p>(b) In an action on a health care liability claim where final judgment is rendered against a single health care institution, the limit of civil liability for noneconomic damages inclusive of all persons and entities for which vicarious liability theories may apply, shall be limited to an amount not to exceed \$250,000 for each claimant.</p> <p>(c) In an action on a health care liability claim where final judgment is rendered against more than one health care institution, the limit of civil liability for noneconomic damages for each health care institution, inclusive of all persons and entities for which vicarious liability theories may apply, shall be limited to an amount not to exceed \$250,000 for each claimant and the limit of civil liability for noneconomic damages for all health care institutions, inclusive of all persons and entities for which vicarious liability theories may apply, shall be limited to an amount not to exceed \$500,000 for each claimant.</p>
<p>Tex. Civil Practice & Remedies Code Ann. §74.302</p>		<p>Alternative limitations on noneconomic damages in the event that §74.301 is stricken from this subchapter or is otherwise to any extent invalidated by a method other than through legislative means</p>
<p>Tex. Civil Practice & Remedies Code Ann. §74.303</p>		<p>(a) In a wrongful death or survival action on a health care liability claim where final judgment is rendered against a physician or health care provider, the limit of civil liability for all damages, including exemplary damages, shall be limited to an amount not to exceed \$500,000 for each claimant, regardless of the number of defendant physicians or health care providers against whom the claim is asserted or the number of separate causes of action on which the claim is based.</p> <p>(b) When there is an increase or decrease in the consumer price index with respect to the amount of that index on August 29, 1977, the liability limit prescribed in Subsection (a) shall be increased or decreased, as applicable, by a sum equal to the amount of such limit multiplied by the percentage increase or decrease in the consumer price index, as published by the Bureau of Labor Statistics of the United States Department of Labor, that measures the average changes in prices of goods and services purchased by urban wage earners and clerical workers' families and single workers living alone (CPI-W: Seasonally Adjusted U.S. City Average--All Items), between August 29, 1977, and the time at which damages subject to such limits are awarded by final judgment or settlement.</p> <p>(c) Subsection (a) does not apply to the amount of damages awarded on a health care liability claim for the expenses of necessary medical, hospital, and custodial care received before judgment or required in the future for treatment of the injury.</p>

		<p>(d) The liability of any insurer under the common law theory of recovery commonly known in Texas as the "Stowers Doctrine" shall not exceed the liability of the insured.</p>
<p>Utah</p>	<p>Utah Code Ann. §78-14-7.1</p>	<p>(1) In a malpractice action against a health care provider, an injured plaintiff may recover noneconomic losses to compensate for pain, suffering, and inconvenience. The amount of damages awarded for noneconomic loss may not exceed: (a) for a cause of action arising before July 1, 2001, \$250,000; (b) for a cause of action arising on or after July 1, 2001 and before July 1, 2002, the limitation is adjusted for inflation to \$400,000; and (c) for a cause of action arising on or after July 1, 2002, the \$400,000 limitation described in Subsection (1)(b) shall be adjusted for inflation as provided in Subsection (2).</p> <p>(2)(a) Beginning July 1, 2002 and each July 1 thereafter, the limit for damages under Subsection (1)(c) shall be adjusted for inflation by the state treasurer. (b) By July 15 of each year, the state treasurer shall: (i) certify the inflation-adjusted limit calculated under this Subsection (2); and (ii) inform the Administrative Office of the Courts of the certified limit. (c) The amount resulting from Subsection (2)(a) shall: (i) be rounded to the nearest \$10,000; and (ii) apply to a cause of action arising on or after the date the annual adjustment is made.</p> <p>(3) As used in this section, "inflation" means the seasonally adjusted consumer price index for all urban consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.</p> <p>(4) The limit under Subsection (1) does not apply to awards of punitive damages.</p>
<p>Vermont</p>	<p>No applicable statute</p>	
<p>Virginia</p>	<p>Va. Code §8.01-581.15</p>	<p>In any verdict returned against a health care provider in an action for malpractice where the act or acts of malpractice occurred on or after August 1, 1999, which is tried by a jury or in any judgment entered against a health care provider in such an action which is tried without a jury, the total amount recoverable for any injury to, or death of, a patient shall not exceed \$1.5 million. The maximum recovery limit of \$1.5 million shall increase on July 1, 2000, and each July 1 thereafter by \$50,000 per year; however, the annual increase on July 1, 2007, and the annual increase on July 1, 2008, shall be \$75,000 per year. Each annual increase shall apply to the act or acts of malpractice occurring on or after the effective date of the increase. The July 1, 2008, increase shall be the final annual increase.</p> <p>Where the act or acts of malpractice occurred prior to August 1, 1999, the total amount recoverable for any injury to, or death of, a patient shall not exceed the limitation on recovery set forth in this statute as it was in effect when the act or acts of malpractice occurred.</p>

<p>Virgin Islands</p>	<p>27 V.I.C. §166b</p>	<p>(a) The total amount recoverable for any injury of a patient may not exceed \$250,000 per occurrence.</p> <p>(b) The only damages which may be awarded in an action under this subchapter are the following: (1) economic damages; and (2) noneconomic damages.</p> <p>(c) The total amount awarded for noneconomic damages for any injury to a patient as a result of a single occurrence in an action under this subchapter may not exceed \$75,000.</p> <p>(d) No punitive damages may be awarded in an action filed under this subchapter.</p> <p>(e) The maximum amounts specified in this section are inclusive of: (1) actual expenses up to the time of trial paid or payable or reimbursed or reimbursable from any other source for reasonable and necessary: (A) medical care; (B) custodial care; and (C) rehabilitation services;</p> <p>(2) estimated future expenses reimbursable or payable from any other sources for reasonable and necessary: (A) medical care; (B) custodial care; and (C) rehabilitation services; and (3) lost earnings paid and payable from any other source.</p> <p>(f) The recovery in an action for wrongful death of a patient shall be provided in Title 5, §76, Virgin Islands Code, and shall be subject to the same limitations on recovery as are provided for in this section.</p>
<p>Washington</p>	<p>No limitation on noneconomic damages</p>	<p>Wash. Rev. Code §4.56.250 ruled unconstitutional in <i>Sofie v. Fireboard Corp.</i>, 112 Wash. 2d 636, 771 P.2d 711 (1989)</p>
<p>West Virginia</p>	<p>W. Va. Code §55-7B-8</p>	<p>(a) In any professional liability action brought against a health care provider pursuant to this article, the maximum amount recoverable as compensatory damages for noneconomic loss shall not exceed \$250,000 per occurrence, regardless of the number of plaintiffs or the number of defendants or, in the case of wrongful death, regardless of the number of distributees, except as provided in subsection (b) of this section.</p> <p>(b) The plaintiff may recover compensatory damages for noneconomic loss in excess of the limitation described in subsection (a) of this section, but not in excess of \$500,000 for each occurrence, regardless of the number of plaintiffs or the number of defendants or, in the case of wrongful death, regardless of the number of distributees, where the damages for noneconomic losses suffered by the plaintiff were for: (1) Wrongful death; (2) permanent and substantial physical deformity, loss of use of a 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.</p> <p>(c) On the first of January, 2004, and in each year thereafter, the limitation for compensatory</p>

		<p>damages contained in subsections (a) and (b) of this section shall increase to account for inflation by an amount equal to the consumer price index published by the United States department of labor, up to fifty percent of the amounts specified in subsections (b) and (c) as a limitation of compensatory noneconomic damages.</p> <p>(d) The limitations on noneconomic damages contained in subsections (a), (b), (c) and (e) of this section are not available to any defendant in an action pursuant to this article which does not have medical professional liability insurance in the amount of at least \$1 million per occurrence covering the medical injury which is the subject of the action.</p> <p>(e) If subsection (a) or (b) of this section, as enacted during the regular session of the Legislature, 2003, or the application thereof to any person or circumstance, is found by a court of law to be unconstitutional or otherwise invalid, the maximum amount recoverable as damages for noneconomic loss in a professional liability action brought against a health care provider under this article shall thereafter not exceed \$1 million.</p>
Wisconsin	No provision	<p>A \$350,000 cap on non-economic damages from all health care providers under §893.55 was found to be unconstitutional in <i>Ferdon ex rel. Petrucelli v. Wisconsin Patients Compensation Fund</i>, 701 N.W.2d 440 (2005).</p>
Wyoming	No applicable statute	<p>Wyoming Constitution Article 10, § 4: (a) No law shall be enacted limiting the amount of damages to be recovered for causing the injury or death of any person.</p> <p>(b) Any section of this constitution to the contrary notwithstanding, for any civil action where a person alleges that a health care provider's act or omission in the provision of health care resulted in death or injury, the legislature may by general law: (i) Mandate alternative dispute resolution or review by a medical review panel before the filing of a civil action against the health care provider.</p>