



Medical Malpractice Tort Reform

Law and Criminal Justice Standing Committee



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STATE MEDICAL MALPRACTICE TORT LAWS

States	Statutes of Limitation	Limits on Damage Awards	Pre-trial Screening and Arbitration	Joint and Several Liability	Expert Witnesses	Attorney Fees
Alabama	§6.5.482. 2 years from date of injury or 6 months from discovery. No suit may be brought 4 years after date of injury. Minors under 4 by age 8 if statute would have otherwise expired by that time.	None. Limits declared unconstitutional by State Supreme Court.	§6.5.485. Voluntary arbitration, agreed to in writing.	No separation of joint and several liability.	§6.5.548. Expert witness must be licensed in same specialty as defendant and must have practiced within previous year.	No limitations.
Alaska	§09.10.070. 2 years from discovery of injury.	§09.17.010. Noneconomic damages limited to \$400,000 or plaintiff's life expectancy calculation. Severe injury, \$1 million or life expectancy calculation. §9.17.020. Punitive damages limited to \$500,000 or 3 times compensatory damages.	§09.55.535. Voluntary arbitration, cannot be a prerequisite to receiving care or treatment. §09.55.536. Expert advisory panel used after lawsuit is filed. Must issue report within 30 days of selection on the facts of the case. Report is admissible	§09.17.080. Defendants are proportionally liable for damages awarded according to percentage of fault.	§09.20.185. Expert witness must be trained and licensed in defendant's discipline and certified by a board recognized by state.	No limitations.

			evidence in trial.			
Arizona	§12-542. 2 years after cause of action, and not afterward for personal injury and wrongful death.	None. Limits constitutionally prohibited.	§12-583. Good cause hearing determines if a basis exists to go to trial.	§12-2506. Defendants are proportionally liable for damages awarded according to percentage of fault, unless defendant acted in concert with another person.	No provisions.	§12-568. Not limited, but court reviews reasonableness of fees upon request of either party.
Arkansas	§16-114-203. 2 years from date of injury. Foreign objects: 1 year from discovery. Minors: before age 9, until age 11.	§16-55-205 - 209. Punitive damages limited to \$250,000 per plaintiff or 3 times amount of economic damages. Not to exceed \$1 million. Limits adjusted for inflation at 3-year intervals beginning in 2006. Contingent on proof of recklessness or intentional malice.	§16-108-102. Voluntary arbitration and dispute resolution. §16-7-101. Permits courts to set mediation and/or arbitration to encourage their use to promote settlement of cases.	§16-55-201. Defendants are proportionally liable for damages awarded according to percentage of fault.	§16-114-206. Expert witness must be medical care provider of same type of specialty as defendant.	No limitations.
California	Civil Procedure §340.5. 3 years after injury or 1 year after discovery, whichever is first. No more than 3 years after injury unless caused by fraud, concealment, or foreign object. Minor under age 6: 3 years or	Civil Code §3333.2. \$250,000 limit for noneconomic damages.	Civil Procedure §1295. Voluntary arbitration contract. Entering contract removes option for trial and is binding.	Civil Code §1431.2. Defendants are proportionally liable for noneconomic damages according to percentage of fault, but jointly and severally liable	Business and Professions §2220.08. Expert witnesses to have pertinent education and training to evaluate specifics to claim and case.	Business and Professions §6146. Sliding scale, not to exceed 40% of first \$50,000, 33 1/3% of next \$50,000, 25% of next \$500,000, and 15% of damages exceeding \$600,000.

	before age 8, whichever is longer. Civil Procedure §364. Physician must have 90 days notice of action to commence.			for economic damages.		
Colorado	§13-80-102.5. 2 years from date of injury, no more than 3 years from act. Foreign objects: 2 years from discovery. Minors under age 6: before age 8.	§13-64-302. \$1 million total limit on all damages; \$300,000 noneconomic limitation.	§13-22-311. Court may refer case to mediation. §13-22-201 – 223. Voluntary arbitration.	§13-21-111 (5). Defendants are proportionally liable for damages awarded according to percentage of fault, unless act proved deliberate.	§13-64-401. Expert witness must be licensed physician and substantially familiar with standard of care on date of injury.	No limitations.
Connecticut	§52-584. 2 years from date of injury, but no later than 3 years of the act or omission.	None.	§38a-32 and 33. Medical Screening Panel selected when all parties agree. Proceedings confidential.	§52-572h. Defendants are proportionally liable according to percentage of fault for damages awarded.	§52-184c. Expert witness must be similar health care provider or have sufficient training and experience in related field of medicine.	§52-251c. Sliding scale, not to exceed 1/3 of first \$300,000; 25% of next \$300,000; 20% of next \$300,000; 15% of next \$300,000; and 10% of damages exceeding \$1.2 million.
Delaware	§18.6856. 2 years from injury; 3 years from discovery if latent injury. Minor: age 6 or same as adult.	§18.6855. Punitive damages may be awarded only on finding of malicious intent to injure or willful or wanton misconduct. No mandated limit.	§18.6803-6812. Medical negligence review panel part of court review; panel's findings admissible as evidence at trial.	No separation of joint and several liability.	§18.6853-6854. Expert witness required to establish deviation from applicable standard of care unless panel found negligence to have caused injury; expert's knowledge of similar field to testify.	§18.6865. Sliding scale, not to exceed 35% of first \$100,000; 25% of next \$100,000; and 10% of all damages exceeding \$200,000.
Florida	§95.11. 2 years	§766.118.	§766.106. Pre-	§768.81.	§766.102.	Florida Ballot, §

	<p>from injury or discovery, no more than 4 years from injury. Minors: age 8. If fraud, concealment of injury or intentional misrepresentation prevented discovery within 4-year period, 2 year limit from discovery, not to exceed 7 years after the act.</p>	<p>Noneconomic damages limited to \$500,000 per claimant. Death or permanent vegetative state, noneconomic damages not to exceed \$1 million.</p> <p>§768.73. Punitive damages limited to the greater of 3 times amount of economic damages or \$500,000. If deliberate intent to harm, no limit on punitive damages.</p>	<p>suit investigation and informal discovery conducted by defendant's insurer prior to submission to courts.</p> <p>§766.107. Court may require submission of claim to arbitration, non-binding, limits on what is admissible at trial</p> <p>§766.108. Mandatory mediation and mandatory settlement conference held prior to trial if no binding arbitration agreed to.</p>	<p>Defendants are proportionally liable according to percentage of fault for damages awarded, monetary limits in liability according to percentage as level of fault increases.</p>	<p>Expert testimony by licensed physician in same practice or practicing for 5 years before claim filed.</p>	<p>2004 Election. Constitutional amendment adopted, effective immediately. Limits attorney fees in malpractice lawsuits to 30% of first \$250,000; 10% of any award over \$250,000.</p>
Georgia	<p>§9.3.71-73. 2 years from injury or death; in no event longer than 5 years from act or death. Foreign object: 1 year from discovery. Minors: 2 years from age 5 if action arose before 5th birthday.</p>	<p>§51.12.5.1. \$250,000 limit on punitive damages, unless demonstrated intent to harm.</p>	<p>§9.9.61-63. Voluntary arbitration subject to court review; binding if prior agreement to make it so.</p>	<p>§51.12.33. Defendants are proportionally liable according to percentage of fault for damages awarded.</p>	<p>§9.11.9.1. Complaint must contain affidavit of expert stating that facts justify a claim of negligence.</p>	<p>No limitations.</p>
Hawaii	<p>§657.7.3. 2 years from discovery, not to exceed 6 years from act. Minors: age 10 or within 6 years, whichever is longer.</p>	<p>§663.8.5, 8.7. \$375,000 limit for pain and suffering damages.</p>	<p>§601.20. Mandatory nonbonding arbitration for all cases involving \$150,000 or less.</p>	<p>§663.10.9. When negligence is less than 25%, noneconomic damages awarded in proportion</p>	<p>No provisions.</p>	<p>§607.15.5. Attorney fees must be approved by court.</p>

	§671.18. Arbitration tolls statute until 60 days after panel's decision is delivered.		§671.11-20. (1976) mandatory submission to medical claim conciliation panel; results not admissible at trial.	according to degree of fault.		
Idaho	§5.219. 2 years from injury. Foreign object: 1 year from reasonable discovery or 2 years from injury, whichever is later.	§6.1603-4. \$250,000 limit on noneconomic damages, adjusted annually according to the state's adjustment of the average annual wage. Punitive damages limited to \$250,000 or amount 3 times of compensatory damages.	§6.1001-1011. Mandatory submission of claim to hearing panel; results non-binding and not admissible at trial.	§6.803. Defendants are proportionally liable according to percentage of fault for damages awarded, except in cases of intentional act.	§6.1013. Expert witness must have professional expertise, practical knowledge of community standards.	No limitations.
Illinois	§735 5/13-212. 2 years from discovery but not more than 4 years from act. Minors: 8 years after act but not after age 22. §740 180/2. Wrongful death: 2 years if limitation on personal injury still valid at time of death.	§735 5/2-1115. Punitive damages not recoverable in medical malpractice cases. All other limits held unconstitutional.	§735 5/2-1001A. Arbitration may be court ordered for cases totaling less than \$50,000.	§735 5/2-1117. No separation of joint and several liability.	§735 5/8-2501. Expert witness licensed and certified in same medical specialties as defendant, for at least 10 years preceding devoted 75% of time to practice, teaching or research relating to treatment at issue.	§735 5/2-1114. Sliding scale, not to exceed 1/3 of first \$150,000; 25% of next \$850,000; 20% of damages over \$1 million.
Indiana	§34-18-7-1. 2 years from act, omission, or neglect. Minors: under age 6 until age 8.	§34-18-4-3. \$1,250,000 total limit. Liability limited to \$250,000 per health care provider. Any award beyond limits covered by Patient	§34-18-10. Optional Medical Review Panel at request of either party; 2 panelists must be of same specialty as defendant. Panel findings	No separation of joint and several liability.	§34-18-10-22. Medical Review Panel findings and testimony qualify as expert testimony.	§34-18-18-1. Plaintiff's attorney fees may not exceed 15% of any award made from Patient Compensation Fund.

		Compensation Fund.	are admissible at trial.			
Iowa	§614.1. 2 years from reasonable discovery but not more than 6 years from injury unless foreign object. Minors under age 8: until age 10 or same as adults, whichever is later. Mentally ill: extends to 1 year from removal of disability.	None.	§679A.1. Written arbitration agreement not mandatory, but binding once entered into.	§668.4. Defendants are proportionally liable according to percentage of fault. Several liability not granted for economic damages when defendant is found more than 50% at fault.	§147.139. Qualifications of expert must relate directly to medical problem or type of treatment at issue.	§147.138. Court to review plaintiff attorney fees in any personal injury or wrongful death action against specified health care providers or hospitals.
Kansas	§60.513. 2 years from act or reasonable discovery, but can be up to 10 years after reasonable discovery.	§60.19a02. \$250,000 limit on noneconomic damages recoverable by each party from all defendants. §60.3702. Punitive damages limited to lesser of defendant's highest gross income for prior 5 years or \$5 million. If profitability of misconduct exceeds limit, court may award 1.5 times profit instead, Judge determines punitive damage.	§65.4901, §60.3502. Voluntary submission to medical screening panel upon request of party; panelists must include medical professional of same specialty as defendant.	No separation of joint and several liability.	§60.3412. 50% of the expert's professional time over preceding 2 years must have been devoted to clinical practice.	§7.121b. Attorney fees must be approved by court.
Kentucky	§413.140. 1 year from act or reasonable discovery, but not more than 5 years after act.	None.	§417.050. Written arbitration agreements voluntary, once entered are considered	§411.182. When court apportions percentage of fault, defendant is only liable for	No provisions.	No limitations.

			enforceable and irrevocable. §454.011. Courts encouraged to make referrals to mediation prior to trials.	comparable share of damages.		
Louisiana	RS §9.5628. 1 year from act or date of discovery, but no later than 3 years from date of injury. CC §2315.2. Wrongful death: 1 year from death.	RS §40:1299.42. \$500,000 limit for total recovery. Health care provider liability limited to \$100,000. Any award in excess of all liable providers paid from Patient's Compensation Fund.	RS §9.4231. Voluntary arbitration, considered binding and enforceable once entered.	CC §2324. Defendants are liable only for percentage of fault unless conspiracy to commit intentional or willful act.	RS §9.2794. Expert witness must be licensed physician trained in specialty at question, practicing when claim arose, possess knowledge of accepted standards of care and treatment.	No limitations.
Maine	§24.2902. 3 years from cause of action. Minors: 6 years after accrual or within 3 years of minority, whichever is first. Foreign objects: accrue from reasonable discovery.	§18A.2.804. Damage limits granted only in wrongful death cases. Noneconomic damages limited to \$400,000, punitive damages limited to \$75,000.	§24.2851-59. Mandatory pre-litigation screening and mediation panel, findings confidential except under certain provisions.	No separation of joint and several liability.	No provisions.	§24.2961. Sliding scale, not to exceed 1/3 of first \$100,000; 25% of next \$100,000; and 20% of damages exceeding \$200,000.
Maryland	§5-109. 5 years from act or 3 years from discovery.	§3-2A-09(A). Noneconomic damages limited to \$650,000 from 2005 to 2008, thereafter increasing by \$15,000 per year beginning on January 1 of the applicable year.	§3-2A-06-C. Mandatory ADR or mediation within 30 days of filing defendant's answer or defendant's certificate of qualified expert, whichever is later. No mandatory mediation if court finds it	No separation of joint and several liability.	§3-2A-02. Expert witness must have clinical experience, provided consultation relating to clinical practice, or taught in defendant's specialty or a related field within 5 years of act or omission. Can't spend more	No limitations.

			unproductive and if all parties file agreement not to participate.		than 20% of time testifying in personal injury cases.	
Massachusetts	<p>§260.4. 3 years from injury and no more than 7 years, unless foreign object discovered.</p> <p>§231.60D. Minors: before age 6 until age 9, no longer than 7 years from injury.</p>	<p>§231.60H. \$500,000 limit for noneconomic damages, some exceptions released from limitations.</p>	<p>§231.60B. Mandatory submission of claims to medical malpractice court tribunal, decision admissible at trial.</p>	No separation of joint and several liability.	No provisions.	<p>§231.601. Sliding scale, not to exceed 40% of first \$150,000; 33.33% of next \$150,000; 30% of next \$200,000 and 25% of award over \$500,000.</p>
Michigan	<p>§600.5805. 2 years from injury.</p> <p>§600.5838a. 6 months from reasonable discovery. No more than 6 years from injury.</p> <p>§600.5851. Minors under age 8: 6 years or age 10, whichever is later. Reproductive injuries until age 13.</p>	<p>§600.1483. \$280,000 limit on noneconomic damages; \$500,000 limit on noneconomic damages applies to certain other circumstance. Limit adjusted annually by state treasurer according to consumer price index.</p>	<p>§600.4903 - 4919. Mandatory review by mediation panel, findings not admissible at trial.</p> <p>§600.2912g. Voluntary arbitration binding if total damages claimed less than \$75,000.</p>	<p>§600.2925a. Defendants are proportionally liable according to percentage of fault for damages awarded, except when uncollectible shares are reallocated among solvent defendants.</p>	<p>§600.2169. Expert must be licensed and board certified health professional in practice of similar specialty, in active practice or education during year preceding action.</p>	<p>Court Rules 8.121(b). Maximum contingency fee for personal injury action is third of amount recovered.</p>
Minnesota	<p>§541.076. 4 years from injury or termination of treatment.</p> <p>§541.15. Disability extends limitation to 7 years.</p>	<p>§549.20. No limitation for punitive damages but are only allowed if defendant proven to have deliberate disregard to safety. Award subject to judicial review.</p>	<p>§484.76 Alternative dispute resolution program.</p> <p>§145.682. Plaintiff must consult with expert prior to trial to determine validity of claims asserted.</p>	<p>§604.02. Defendants are proportionally liable according to percentage of fault for damages awarded, except when defendant is assessed greater than 50% of fault, or proven to</p>	<p>§145.682. Claimant must file affidavit stating that expert has been consulted.</p>	No limitations.

				have intentional malice.		
Mississippi	§15.1.36. 2 years from act or reasonable discovery, no more than 7 years.	§11.1.60. \$500,000 limit on noneconomic damages. §11.1.65. Punitive damages only awarded if willful malice or gross negligence proved. Court determines if award granted and amount. Damages limited based on defendant's net worth.	§11.15.1. Voluntary arbitration must be agreed to in writing. §11.1.58. Malpractice complaint filed must be accompanied by certificate stating that plaintiff's attorney consulted with at least 1 medical expert qualified to render testimony on standard of care.	§85.5.7. Defendants are proportionally liable according to percentage of fault for damages awarded, except when defendant is proven to have intentional malice.	§11.1.61. Expert witness must be licensed physician.	No limitations.
Missouri	§516.105. 2 years from act. Foreign object: 2 years from discovery. Minor under 8: until age 20, or 10 years from 20 th birthday. In no event longer than 10 years from injury.	§538.210. Limit on noneconomic damages adjusted annually for inflation; set at \$565,000 in 2004.	No provisions.	§538.230. Defendants are proportionally liable according to percentage of fault for damages awarded.	§538.225. Affidavit of expert consultation must be filed within 90 days of beginning action.	No limitations.
Montana	§27.2.205. 3 years from injury or discovery, no more than 5 years from act. Minors under age 4: age 11 or death, whichever occurs first.	§25.9.411. \$250,000 limit on noneconomic damages. §27-1-221. Liability for punitive damages determined by court, defendant must have been proven guilty of deliberate malice.	§27.6.101-704. All malpractice claims submitted to Medical Legal Panel for review unless voluntary arbitration agreed to. Findings not admissible into court evidence.	§27.1.703. Defendants are proportionally liable according to percentage of fault for damages awarded, except when defendant is assessed greater than 50% of fault.	No provisions.	No limitations.

<p>Nebraska</p>	<p>§25.222. 2 years from act or 1 year from reasonable discovery.</p>	<p>§44.2825. Total damages limited to \$1,750,000. Health care provider liability limited to \$500,000. Any excess of total liability of all health care providers paid from Excess Liability Fund.</p>	<p>§44.2840. Mandatory review of malpractice claims by medical review panel.</p>	<p>§25-21,185.10. Defendants are proportionally liable according to percentage of fault for noneconomic damages awarded, and jointly liable for economic damages.</p>	<p>No provisions.</p>	<p>§44.976. No limitations, but court can review for reasonableness.</p>
<p>Nevada</p>	<p>Nevada Ballot, 2004 Election. Question 3, Passed. Amends NRS Ch. 41A.097. 4 years from injury or 2 years from reasonable discovery if injury or wrongful death prior to Oct. 1, 2002. If after Oct. 1, 2002, 3 years from injury or 1 year from discovery.</p>	<p>Nevada Ballot, 2004 Election. Question 3, Passed. Amends NRS Ch. 41A. \$350,000 limit on noneconomic damages, no exceptions. §42.005. \$300,000 or 3 times compensatory damages limit on punitive damages, only awarded by court for fraud, oppression, or malice.</p>	<p>§41A.081. All parties, insurers and attorneys required to participate in settlement conference before district judge other than trial judge.</p>	<p>Nevada Ballot, 2004 Election. Question 3, Passed. Amends NRS Ch. 41A. Defendants proportionally liable according to percentage of fault for economic and noneconomic damages awarded.</p>	<p>§41A.071. Affidavit must be filed by medical expert practicing in area similar to defendant, failure to submit results in dismissal.</p>	<p>Nevada Ballot, 2004 Election. Question 3, Passed. Amends NRS Ch. 7. Creates sliding scale for attorney fees, not to exceed 40% of first \$50,000; 33 1/3% of next \$50,000; 25% of next \$500,000; 15% of any amount over \$600,000.</p>
<p>New Hampshire</p>	<p>§507-C:4. 2 years from injury or 2 years from discovery. Minors under age 8: until age 10.</p>	<p>None. Limits declared unconstitutional by State Supreme Court.</p>	<p>519-A:1, 2. Claimant may informally and voluntarily submit to hearing panel prior to beginning litigation. Panel to have layman, doctor selected by court, judicial representation.</p>	<p>507:7-d. Defendants are proportionally liable according to percentage of fault for damages awarded.</p>	<p>§507-C:3. Expert witness must be competent and duly qualified to render or supervise equivalent care to defendant's specialty.</p>	<p>§507-C:8. Sliding scale, not to exceed 50% of first \$1000; 40% of next \$2000; 1/3 of next \$97,000; 20% of excess of \$100,000. When settled out of court, fee limited to 25% of up to \$50,000.</p>

<p>New Jersey</p>	<p>§2A:14-2. 2 years from accrual of claim or discovery. Minor from birth: until age 13.</p>	<p>§2A:15-5.14. \$350,000 limit on punitive damages, or 5 times compensatory damages, whichever is greater.</p>	<p>§2A:23A-20. Mandatory arbitration of medical claims under \$20,000; voluntary if over \$20,000. §2A:53A-39. Presiding judge may refer malpractice action to complementary dispute resolution mechanism within 30 days after trial discovery end date.</p>	<p>§2A:15-5.2. Defendants only responsible for share of fault if less than 60% . Defendants found more than 60% at fault subject to modified rule.</p>	<p>§2A:53A-41. Expert witness must be licensed and practicing physician in same specialty as defendant, authorized to administer treatment in question.</p>	<p>Court Rules §1:2107. Sliding scale, not to exceed 1/3 of first \$500,000; 30% of next \$500,000; 25% of third \$500,000; and 20% of fourth \$500,000. 25% limit for minor or incompetent plaintiff.</p>
<p>New Mexico</p>	<p>§41.5.13. 3 years from injury.</p>	<p>§41.5.6-7. \$600,000 total limit on all damages. Health care providers not liable for any amount over \$200,000; any judgment in excess paid from Patient's Compensation Fund.</p>	<p>§41.5.14-20. Mandatory submission of malpractice claims to hearing panel; panel report not admissible as court evidence.</p>	<p>§41.3A.1. Defendants are proportionally liable according to percentage of fault for damages awarded, except when defendant is proven to have intentional malice.</p>	<p>No provisions.</p>	<p>No limitations.</p>
<p>New York</p>	<p>§214.A. 2 1/2 years from injury, 1 year from discovery. §208. Minors: statute tolled until disability ceases, not to exceed 10 years.</p>	<p>None.</p>	<p>§3045. When liability is conceded, either party may call for arbitration of damages amounts.</p>	<p>§16-1601. Defendants are proportionally liable according to percentage of fault for noneconomic damages awarded, unless found more than</p>	<p>§3012. Certificate of consultation of expert submitted within 90 days of filing complaint.</p>	<p>Jud. §474-A. Sliding scale, not to exceed 30% of first \$250,000; 25% of second \$250,000; 20% of next \$500,000; 15% of next \$250,000; 10% over \$1.25 million.</p>

				50% at fault. Defendants can be held jointly liable for economic damages.		
North Carolina	§1-15.17. 3 years from act or 1 year from reasonable discovery, not more than 4 years after injury. Foreign object: 1 year from discovery but not more than 10 years. Minors: until age 19.	§1D-25. \$250,000 limit on punitive damages, or 3 times economic damages, whichever is greater.	§7A-38.1. Mandatory pre-trial, mediated settlement conference for all civil actions filed in Superior Court.	§1B-7. No separation of joint and several liability.	§90-21.12. Expert witness must testify as to the standard of care used in community. Must be licensed physician.	No limitations.
North Dakota	§28.01.18. 2 years from act or reasonable discovery but not more than 6 years after act unless concealed by fraud. §28.01.25. Minors: 12 years	§32.42.02. \$500,000 limit on noneconomic damages. §32.03.2.08. Economic damage awards in excess of \$250,000 subject to court review.	§32.42.03. Attorneys must disclose alternative dispute resolutions; good faith effort to resolve dispute required.	§32.03.2.02. Defendants are proportionally liable according to percentage of fault for damages awarded, except when defendant is proven to have intentional malice.	No provisions.	No limitations.
Ohio	§2305.11-13. 1 year from act, no more than 4 years for discovery. Foreign object: 1 year from discovery. Minors: 4 years from act.	§2323.43. No limits on economic damages. \$250,000 limit on noneconomic damages or amount equal to three times plaintiff's economic loss, determined by court. Maximum noneconomic damages \$350,000 per plaintiff or	§2711.01. Voluntary arbitration, decision is not admissible as court evidence.	§2307.22. Defendants are proportionally liable according to percentage of fault for damages awarded, unless found more than 50% at fault.	§2743.43. Expert testimony limited to licensed physician or surgeon who devotes 3/4 time to active clinical practice or teaching.	No limitations.

		\$500,000 per occurrence.					
Oklahoma	<p>§76-18. 2 years from reasonable discovery.</p> <p>§12-96. Minors under 12: 7 years. Minors over 12: 1 year after attaining majority but in no event less than 2 years from injury.</p>	<p>§63-1-1708.1F. \$300,000 limit on noneconomic damages in all malpractice cases; limit also specific to obstetric and emergency room care. No limits for negligence or wrongful death.</p> <p>§23-9.1. Punitive damages awarded based on condition of misconduct.</p>	<p>§63-1-1708.1E. Affidavit to be submitted by plaintiff stating consultation with qualified expert; includes written opinion from expert that act or omission constituted professional negligence and claim is meritorious.</p>	<p>§23-15. Defendants are proportionally liable according to percentage of fault for damages awarded, unless found more than 50% at fault or guilty of willful misconduct or reckless disregard.</p>	<p>§63-1-1708.1I. Expert witness must be licensed to practice medicine or have other substantial training and experience in area of health care relevant to claim; actively practicing or retired from services relevant to claim.</p>	<p>§5-7. Fee may not exceed 50% of net judgment.</p>	
Oregon	<p>§12.110. 2 years from injury or reasonable discovery, not more than 5 years from act.</p>	<p>None. 2004 ballot measure to institute noneconomic damage limits rejected by voters.</p> <p>§31.740. Punitive damages not awarded if physician is found acting in scope of duties without malice.</p>	<p>§31.250. All parties and attorneys to participate in some form of dispute resolution within 270 days of action filed unless case is settled or parties voluntarily waive in writing.</p>	<p>§31.610. Defendants are proportionally liable according to percentage of fault for damages awarded.</p>	<p>No provisions.</p>	<p>§31.735. No more than 20% of punitive damages to attorney, no limitation of percentage of economic damages.</p>	
Pennsylvania	<p>§42.5524. 2 years from injury or discovery.</p> <p>§42.5533. Minor: 2 years after age of majority.</p>	<p>None. Constitutionally prohibited.</p> <p>§40.1301.812-A. Punitive damages granted only if defendant found guilty of willful misconduct or reckless disregard.</p>	<p>§40.1301.825-A. Mandatory conciliation hearing, which may be a settlement conference or mediation as the parties prefer.</p>	<p>§42.71.7102. Defendants are proportionally liable according to percentage of fault for damages awarded, unless found more than</p>	<p>§40.1301.821-A. Attorney's signature on a complaint certifies that attorney has consulted an expert who will attest to position.</p>	<p>No limitations.</p>	

				60% at fault or guilty of intentional misconduct.			s
Rhode Island	<p>§9.1.14.1. 3 years from injury, death or reasonable discovery.</p> <p>§10.7.2. Minors and incompetents: 3 years from removal of disability.</p>	<p>None.</p> <p>§9.19.34.1. Collateral source rule requiring jury to reduce award for damages by sum equal to difference between total benefits received and total amount paid to secure benefits by plaintiff.</p>	<p>§10.3.1. Arbitration Act requires request for arbitration be in writing. Voluntary.</p>	No separation of joint and several liability.	<p>§9.19.41. Expert witness qualifications are training/education levels.</p> <p>§9.19.30. Statements in published material, as found by court to be relevant and that author is recognized as expert, are admissible as evidence.</p>	No limitations.	n
South Carolina	<p>§15-3-545. 3 years from act or omission, or 3 years from discovery. not to exceed 6 years. Foreign object: 2 years from discovery.</p> <p>Minors: tolled for up to 7 years while a minor.</p>	None.	No provisions.	<p>§15-38-10. No separation of joint and several liability.</p>	No provisions.	No limitations.	§ F C F P r c s j § e c § a c n
South Dakota	<p>§15-2-14.1. 2 years from act or omission.</p>	<p>§21-3-11. \$500,000 limit on noneconomic damages. No limit on special damages.</p>	<p>§21-25-B.1. Voluntary arbitration.</p>	<p>§15-8-15.1. Defendants are proportionally liable according to percentage of fault for damages awarded; defendants found less than 50% liable not jointly liable for more than twice</p>	No provisions.	No limitations.	n

				percentage of fault allocated.		
Tennessee	§29.26.116. 1 year from injury or discovery, no more than 3 years from act unless foreign object.	None.	§29.5.101. Voluntary arbitration.	Joint and several liability provisions in statute, but overridden by State Supreme Court.	§29.26.115. Expert witness must be licensed in state or contiguous state and practice in corresponding specialty for one year preceding date of injury.	§29.26.120. Fees limited to 1/3 of award to plaintiff.
Texas	§74.151. 2 years from occurrence, no more than 10 years. Minors under 12: until age 14.	§74.301. \$250,000 limit per claimant for noneconomic damages. \$500,000 limit per claimant for noneconomic damages in judgments against health care institutions.	§74.351. Expert reports to be submitted to defendant and defendant's attorney within 120 days of filing claim. §74.451. Voluntary arbitration.	§33.013. Defendants are proportionally liable according to percentage of fault for damages awarded, unless found more than 50% at fault.	§74.401. Expert witness must be licensed physician practicing medicine and/or with knowledge of accepted standards of practice.	No limitations.
Utah	§78.14.4. 2 years from discovery but not more than 4 years from act; foreign object or fraud: 1 year from discovery, applies to all persons regardless of minority or disability	§78.14.7.1. \$400,000 limit on noneconomic damages for actions arising after July 1, 2002. Adjusted annually by Administrative Office of Courts.	§78.14.12. Voluntary pre-litigation panel may be requested. §78.14.16. Upon written agreement by all parties, proceedings may be considered a binding arbitration hearing.	§78.27.40. Defendants are proportionally liable according to percentage of fault for damages awarded.	No provisions.	§78.14.7.5. Contingency fee not to exceed 1/3 of award.
Vermont	§12.521. 3 years from incident or 2 years from discovery, whichever is later. No later than 7 years. Fraud: no statute of limitations. Foreign object: 2 years from discovery.	None.	§12.7002. Voluntary arbitration, panel consists of judicial referee selected by court administrator, layman and member of same profession as defendant.	No separation of joint and several liability.	No provisions.	No limitations.

<p>Virginia</p>	<p>§8.01-243.2 2 years from occurrence, no more than 10 years unless under disability. Foreign object: 1 year from discovery.</p>	<p>§8.01-581.15. \$1.5 million limit on recovery damages. Increased by \$50,000 each year from 2001 to 2006. Increased by \$75,000 each year in 2007 and 2008.</p>	<p>§8.01-581.2 - 8. Review by pre-trial panel by request of either party. Findings admissible in court but not considered conclusive. §8.01-581.12. Voluntary arbitration, decision binding.</p>	<p>No separation of joint and several liability.</p>	<p>§8.01-581.20. Expert witness must be licensed and have active clinical practice in defendant's field or related specialty.</p>	<p>No limitations.</p>	<p>§ E F M I C F c fi S t d d F a a fi M</p>
<p>Washington</p>	<p>§4.16.350.3 3 years from injury or 1 year from discovery, whichever is later. No more than 8 years after act.</p>	<p>§4.56.250. No specific limits on damage awards. Judgment for noneconomic damages cannot exceed formulation of average annual wage and life expectancy of injured.</p>	<p>§7.70.100. Mandatory pre-trial mediation. Panel members shall have expertise related specialty or action in question, and be a member of state bar association for minimum of 5 years or is a retired judge.</p>	<p>§4.22.070. Defendants are proportionally liable according to percentage of fault for damages awarded, unless found to be deliberately acting in concert with others.</p>	<p>No provisions.</p>	<p>§7.70.070. Court to determine reasonableness of each party's attorney fees.</p>	<p>M</p>
<p>West Virginia</p>	<p>§55.7B.4.2 2 years from injury or reasonable discovery, no longer than 10 years after injury. Minors under 10: 2 years from injury or age 12, whichever is longer.</p>	<p>§55.7B.8. \$250,000 limit for noneconomic damages. \$500,000 limit for compensatory damages, limit goes up beginning in 2004 according to inflation index. Physicians must carry at least \$1 million malpractice</p>	<p>§55.7B.6. Plaintiff must file notice with certificate of merit stating expert's familiarity with standards, qualifications, opinion of breach of standard of care. Certificates must be filed at least 30 days before filing</p>	<p>§55.7B.9. Defendants are proportionally liable according to percentage of fault for damages awarded.</p>	<p>§55.7B.7. Expert witness must be currently trained and licensed to practice in same or similar specialty as defendant, must devote at least 60% of professional time to clinical practice or teaching at accredited university.</p>	<p>No limitations.</p>	<p>§ J L t r r ii r a s c</p>

		insurance to qualify for limits.	action, and one certificate for each defendant named.			
Wisconsin	§893.55. 3 years from injury or 1 year from discovery, not more than 5 years from act. Foreign object: 1 year from discovery or 3 years from act, whichever is later. Minors: by age 10 or standard provision, whichever is later.	§895.04. After 1995, \$350,000 damage limit adjusted annually for inflation. §893.55(4)(d). \$500,000 damage limit for death of a minor, and \$350,000 damage limit for death of an adult.	§655.42-4. Voluntary. Mediation request must be made prior to court action and tolls statute of limitations until 30 days after the last day of mediation period.	§895.045. (2). Defendants are proportionally liable according to percentage of fault for damages awarded, unless found to be deliberately acting in concert with others or found more than 50% at fault.	No provisions.	§655.013. Sliding scale, not to exceed 1/3 of first \$1 million, or 25% of first \$1 million recovered if liability is stipulated within time limits, 20% of any amount exceeding \$1 million.
Wyoming	§1.3.107. 2 years from injury or reasonable discovery. Minors: until age 18 or within 2 years, whichever is later. Legal disability: 1 year from removal.	§97.3.027. Limits prohibited. 2004 ballot measure to institute noneconomic damage limits rejected by voters.	§9.2.1506. Medical Review Panel to review all malpractice claims and render decision prior to claim being submitted to court. Wyoming Ballot, 2004 Election. Legislative referendum adopted. Allows legislature to create statutes requiring alternative dispute resolution or panel review prior to filing malpractice lawsuits.	§1.1.109. Defendants are proportionally liable according to percentage of fault for damages awarded.	No provisions.	Ct. Rules, R. 5. Recovery \$1 million or less: 1/3 if claim settled prior to 60 days after filing; 40% if settled after 60 days or judgment; 30% over \$1 million.

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Additional Resources:

American Medical Association, Advocacy Resource Center, <http://www.ama-assn.org/>, 800-621-8335
American Tort Reform Association, <http://www.atra.org/>, 202-682-1163
National Academy for State Health Policy, <http://www.nashp.org/>, 207-874-6524
National Association of Insurance Commissioners, <http://www.naic.org/>, 816-842-3600
National Association of Mutual Insurance Companies, <http://www.namic.org/>, 202-628-1558

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