

Caps on Damages for Oregon Medical Malpractice Cases



When jurors decide a patient has been injured by medical malpractice they award money (i.e. damages) to compensate the patient. In Oregon, however, there are statutory caps that often mean an injured patient does not get all the compensation awarded by the jury (Washington has no such damage caps).

→ Medical Malpractice

Medical malpractice occurs when a patient is injured by the negligence of a doctor, nurse, hospital or other health care provider. In legal terms, medical malpractice means that the health care provider has failed to act consistently with the standard of care expected by the community.

→ When a Claim Can Be Filed

For a medical malpractice case to be legally viable, the patient must be able to prove that significant injuries occurred due to a negligent medical error. If the patient's injury (i.e. damages) is not significant, the cost of filing and litigating a lawsuit may exceed the amount of money a jury is likely to award in damages.

→ Types of Damages

Juries can award two types of damages to an injured patient: economic and non-economic. Economic damages include medical bills, lost wages, lost earning capacity and things of that type. Non-economic damages are commonly referred to as "pain and suffering". They include things like physical pain, emotional suffering, loss of consortium and interference with or inability to engage in usual activities.

→ Caps on Damages

In Oregon, there is currently a statutory cap on non-economic damages of \$500,000. (This cap does not apply to claims against Oregon Health Sciences University – OHSU—which has its own cap.) The cap was set by the legislature in the 1980's. In the early 1990's the Oregon Supreme Court declared the cap unconstitutional, which meant it could not be used to reduce the amount of compensation awarded by a Jury to an injured patient. But in 2016 the Oregon Supreme Court reversed itself and the 1980's damage cap was reinstated.

Today if an Oregon Jury awards a 23 year patient \$8,000,000 in non-economic damages because she was paralyzed by medical malpractice, she will only receive \$500,000. On the other hand, if a Jury awards an 83 year old patient paralyzed by medical malpractice \$500,000 in non-economic damages, the statutory damage cap allows him to receive the full amount the Jury awarded. Is that fair? No, but it's currently the law in Oregon.

→ How a Medical Malpractice Attorney Can Help

If you or your loved one has been injured through medical malpractice, a medical malpractice lawyer can help you build and navigate your case and protect your patient rights.

Our extensive experience working with and previously representing physicians gives us a unique perspective that will allow us to provide you with the best possible legal counsel. Contact an experienced Oregon medical malpractice attorney at Miller & Wager to get started.



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