



# Comment

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## Verdicts Reflect Emerging Trend in Medical Malpractice

This edition of the *Illinois and Indiana Comment* focuses on several recent large verdicts against healthcare professionals that reflect a national trend toward increased severity in medical professional liability cases. Here are a few examples:

One of the [largest verdicts ever awarded](#) in a medical malpractice case involves an allegation of brain injury during delivery. In July 2019, a Baltimore jury returned a verdict of \$229.6 million against Johns Hopkins Bayview Medical Center after a two-week trial. The judge later reduced the verdict to \$205 million due to state law caps. The suit alleged the hospital physicians gave the 16-year-old pregnant patient inaccurate predictions about possible outcomes for her pregnancy after she began experiencing preeclampsia. The hospital is appealing the verdict.

Source: <https://www.baltimoresun.com/maryland/baltimore-city/bs-md-ci-hopkins-medical-malpractice-record-20190702-story.html> accessed November 13, 2019.

A Smith County, Texas, jury returned a \$43.3 million [verdict against East Texas Medical Center](#) stemming from treatment the patient sought for pains and vomiting, which the defendant physician said resulted from gallstones. However, the defendant physician erroneously diagnosed the patient as having an anatomical abnormality that would make surgery impossible. He placed the patient in a medically-induced coma for over a month without any further treatment. Eventually, the patient underwent treatment for his gallstones without complication by another physician. Prior to the patient's treatment, the defendant physician was on probation with the Texas Medical Board. The physician settled with the patient before trial, and the case proceeded against the medical center. The jury's verdict represented \$25 million in exemplary damages for gross negligence and over \$18 million for past and future pain, anguish, medical care, expenses, and loss of earning capacity. The parties later agreed to settle the case for \$9 million to avoid appellate issues.

Source: <https://www.theexpertinstitute.com/texas-jury-awards-43-million-after-doctor-abandons-patient-in-a-coma/> accessed November 13, 2019.

A [case involving brain damage](#) resulted in a verdict of \$130 million against Beaumont Hospital in Michigan. The patient, a two-week-old boy, went to the hospital for a renal scan which required an IV line. The plaintiffs alleged the hospital failed to respond appropriately when the patient's condition deteriorated after the IV was established.

Source: <https://www.freep.com/story/news/local/michigan/oakland/2018/09/25/beaumont-hospital-royal-oak-medical-malpractice/1423035002/> accessed November 13, 2019.

A New Mexico case involving allegations of brain damage to a newborn resulted in an [award of \\$73 million](#). In August of 2018, a Lea County jury returned a verdict against the patient's healthcare providers. The verdict resulted in \$20 million for the child, \$13 million for the mother, and \$40 million in punitive damages.

Source: [https://www.santafenewmexican.com/news/local\\_news/santa-fe-jury-awards-m-in-delivery-that-left-infant/article\\_90275cd1-7a37-5b46-b232-20c0989668a5.html](https://www.santafenewmexican.com/news/local_news/santa-fe-jury-awards-m-in-delivery-that-left-infant/article_90275cd1-7a37-5b46-b232-20c0989668a5.html) accessed November 13, 2019.

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## Large Verdicts Affect Liability Premiums

Claims severity, including defense costs, is growing nationally, even though the number of claims may be flat, according to a [report](#) released by Aon PLC and the American Society for Health Care Risk Management. Verdicts of \$5 million or higher, the report attests, are becoming larger and more frequent, affecting medical professional liability insurers' expenses and insureds' premiums. The report analyzes claims data from 127 healthcare systems in the United States.

Source: <https://www.businessinsurance.com/article/20191015/NEWS06/912331165/Large-medical-malpractice-verdicts-drive-hospital-liability-up> accessed November 13, 2019.

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## Two Minutes: What's the Risk? Videos

Your ability to address risk effectively is crucial to a successful professional liability insurance program. Our Risk Resource department provides innovative loss solutions, including our video series.



Topics include:

- [Professionalism in Medical Examinations](#)
- [Universal Protocol Time Outs](#)
- [Charging for Medical Records](#)
- [Alert Fatigue](#)
- [Disruptive Behavior in Healthcare](#)
- [And more.](#)

For a wealth of brief videos and other risk resource materials, visit [ProAssurance.com/RiskManagement](https://ProAssurance.com/RiskManagement).

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## New Online Seminars

### ***Telemedicine: Legal and Practical Considerations***

Advances in medical technology can promote good patient care, but navigating laws and rules when delivering care via telemedicine, particularly across state lines, can be daunting. When designing a telemedicine system, physicians and other healthcare professionals need to evaluate their business objectives, healthcare regulatory requirements, and adherence to the standard of care. This session discusses important considerations to take into account when implementing a telemedicine program.

### ***Human Trafficking and the Healthcare Professional***

A 2014 Loyola University Chicago School of Law study found that 88 percent of sex trafficking survivors reported healthcare system contact while they were being trafficked. This program focuses on the intersection of healthcare and human trafficking.

Dr. Jeffrey Barrows presents the frequency of these encounters in healthcare settings and indicators that can help providers identify trafficked patients. He defines human trafficking, its scope, subtypes, and predisposing factors. The presentation concludes with a discussion of how a healthcare organization can prepare to respond when a trafficked person enters their facility.

### ***Burnout Proof: Leading the Creative Destruction of Physician Burnout***

A 2016 Mayo Clinic survey found nearly 55 percent of physician respondents experienced burnout symptoms. Physicians are also at higher risk for suicide than other professionals. Dr. Dike Drummond reviews the symptoms, causes, effects, and pathophysiology of physician burnout so participants can better recognize and prevent burnout in themselves and others. He challenges three burnout myths which keep physicians from practicing and modeling self-care.

The presentation also outlines a four-part leadership strategy for organization-wide burnout prevention. The seminar concludes with steps for a personal action plan physicians and healthcare providers can use to build a balanced life and ideal practice in these times of rapid change.

*To view these new programs as well as other online offerings, sign in to the secure portal at [ProAssurance.com](https://ProAssurance.com) and choose "Seminars" and "Physician Online Seminars."*

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