



# Comment

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## Medical Malpractice Plaintiff's Attorney Wins Reinstatement

The Tennessee Board of Professional Responsibility suspended a Nashville lawyer's [license](#) after claiming he posed "a threat of substantial harm to the public." The attorney sued in federal court and won. He successfully argued that his suspension was due to his complaint against a local judge and that the state board could not claim government immunity from his lawsuit, and his license was reinstated.

Source: [https://www.tennessean.com/story/news/2019/06/20/nashville-lawyer-brian-manookian-sued-disciplinary-panel-now-reinstated/1492639001/#\\_blank](https://www.tennessean.com/story/news/2019/06/20/nashville-lawyer-brian-manookian-sued-disciplinary-panel-now-reinstated/1492639001/#_blank) accessed November 5, 2019.

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## Tennessee Circuit Court Rules Non-economic Damages are Unconstitutional

A recent case threatens the Tennessee 2011 Civil Justice Act's [tort reform measures](#). Although challenged by a personal injury case, the protections at stake also apply to medical malpractice and other civil liability damage limits. In the Williamson County case, the circuit judge reinstated the original \$3 million jury verdict; the cap would have reduced noneconomic damages to \$300,000. The Tennessee Supreme Court is hearing a separate challenge to the noneconomic damage cap that will likely affect this case's appeal.

Source: <https://www.tennessean.com/story/news/local/williamson/2019/08/28/tort-reform-judge-finds-caps-tennessee-damages-unconstitutional/2129748001> accessed November 5, 2019.

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## Kentucky Associations Argue for One-Year Statute in Malpractice Lawsuits

In most cases, the statute of limitations in Kentucky gives patients one year to file a medical malpractice lawsuit. The American Medical Association and the Kentucky Medical Association [filed a brief](#); they asked the Supreme Court of Kentucky to uphold the statute against a challenge by *Sneed v. University of Louisville Hospital*. The associations support the limits previously established by the Kentucky General Assembly, which protect doctors from extended exposure to medical liability claims. The brief stated that patients with chronic conditions, requiring ongoing treatments and care, could file a lawsuit as long as they receive medical care from physicians in the same hospital or hospital system—or in essence, indefinitely. According to the AMA's brief, "such a

result would destroy the predictability and certainty essential to the ‘peace and welfare of society’ that the General Assembly sought to provide.”

Source: <https://www.ama-assn.org/practice-management/sustainability/don-t-create-unintended-loopholes-medical-liability-cases> accessed November 5, 2019.

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## Stroke Centers Could be at High Risk for High Verdicts

A [recent report](#) in the medical publication *Stroke* predicts increased litigation related to the emergency management and treatment of acute stroke. The report reviewed 272 medical malpractice claims: 27 percent settled out of court for an average of \$1.8M; another 17 percent went to court with an average plaintiff verdict of \$9.7 million.

Source: <https://www.cardiovascularbusiness.com/topics/healthcare-economics/malpractice-suits-can-cost-stroke-centers-millions> accessed November 5, 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. Severe verdicts, the report attests, affect premiums for medical professional liability insurers.

Source: <https://www.businessinsurance.com/article/20191015/NEWS06/912331165/Large-medical-malpractice-verdicts-drive-hospital-liability-up> accessed November 5, 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](http://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](http://ProAssurance.com) and choose "Seminars" and "Physician Online Seminars."

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