

Wisconsin Docs Strive to Resuscitate Damage Cap

BY MARY ELLEN SCHNEIDER
Senior Writer

Wisconsin physicians are continuing to push for the reinstatement of a medical liability damage cap, despite recent legal and legislative setbacks.

"I think our legislature clearly understands that something has to be done," said Dr. Susan Turney, executive vice president and CEO of the Wisconsin Medical Society.

Last summer, the Wisconsin Supreme Court struck down the state's \$445,775 cap on noneconomic damages as unconstitutional because it was set "unreasonably low." The state legislature acted quickly to pass legislation that enacted a \$450,000 cap for adults age 18 and older and a \$550,000 cap for those under 18.

But Gov. Jim Doyle (D) vetoed the bill last December, saying that legislators had passed virtually the same cap and ignored the concerns of the court.

"Legal experts agree that a court which found a \$445,775 cap unconstitutional would most certainly strike down a cap not even \$5,000 higher," Gov. Doyle said in his veto message. "Approving a law that would be quickly overturned doesn't do anyone any good. Instead, I encourage all the interested parties on all sides of this issue to get together and figure out a responsible and lasting solution that has a real chance of being upheld by the Wisconsin Supreme Court."

An attempt to override the governor's veto failed in January. Dr. Turney said she and her colleagues at the Wisconsin Medical Society are "concerned that the absence of caps" will hurt the state's "historically stable medical liability environment" and drive physicians out of state.

The Wisconsin Hospital Association reported that since the state Supreme Court struck down the cap last July, hospitals have had "greater difficulty recruiting physicians" and that damage awards and lawsuits have begun to rise. In addition, officials at the state's Injured Patients and Families Compensation Fund have proposed a 25% increase in annual fees.

Dr. Turney said she is optimistic that the state legislature will pass new legislation addressing the cap issue this spring. ■

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