

Wisconsin Hospital Association, Inc.



Contact: Mary Kay Grasmick, WHA, 608-274-1820 or 575-7516 (cell)

Massive Jury Award Confirms Worst Fears

Stunning \$8.3 million Award Comes Just Six Months After Cap Overturned

MADISON (February 2, 2006) ---- Hospital and physician fears of massive jury awards following the repeal of Wisconsin's cap on non-economic damages came true this week with the news of a reported staggering \$8.3 million award in Dane County Court in the case of *Greenfield v. Huepenbecker*.

In July of 2005, the Wisconsin Supreme Court overturned Wisconsin's cap on non-economic damages. At the time, the cap was set at \$447,000. The \$4.25 million in non-economic (pain and suffering) damages awarded in the *Greenfield* case exceed the previous cap by almost tenfold. Ms. Greenfield was awarded another \$4 million in economic damages for lost wages and future medical bills. Economic damages in Wisconsin have never been subject to a cap.

"We no longer need to speculate about the impact of losing the cap – our worst fears have been realized today," said WHA President Steve Brenton "We have been sounding the alarm since July 14, 2005, when the Court repealed the cap and turned our once envied medical liability system upside down. Clearly, Wisconsin is headed towards a litigation disaster and we must do something about it now."

While one can argue whether or not the plaintiff's condition was the result of the plaintiff's surgery, one cannot argue that the plaintiff's condition is truly unfortunate. That is precisely why the health care community provides for unlimited economic damages in medical liability cases. And unlike any other state, the awarded damages, minus attorney fees, are guaranteed to be available to the plaintiff when they are needed. In this case, the plaintiff was awarded over \$4 million for lost wages and possible future medical expenses in addition to the \$4.25 million in non-economic damages (pain and suffering).

Ironically, the award also comes as the Milwaukee Bar Association prepares to offer a seminar titled: "*Life After the Caps: How to Get the Most Money for Your Client.*" The February 16 seminar will include tips for personal injury lawyers on how to more effectively sue doctors and hospitals and maximize awards. There is even a section titled: "*Tools for Trial to Get the Million Dollar Verdict.*"

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“The bottom line is we have to restore balance to the medical liability system, and do it very quickly,” said Brenton. “Those injured by medical malpractice must be duly compensated for their loss, but we also have to make sure doctors are not driven out of hospitals and out of Wisconsin. We must not repeat the mistakes of other states that have seen ob/gyns, neurosurgeons, and other critical care specialists flee in droves.”

On December 1, 2005, WHA reported that the Actuarial Committee of the highly regarded Injured Patients and Families Compensation Fund had recommended a 25 percent increase in the annual fees that hospitals and physicians are required to pay into the Fund for malpractice coverage due to the lack of the cap.

“You have to be blind to not see what is happening in Wisconsin,” said Brenton. “The Governor and Legislature must reinstate a cap on non-economic damages now. We can’t wait until the 2007 legislative session.”

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