

GREATER NEW YORK HOSPITAL ASSOCIATION SURVEY OF STATE STATUTES OF LIMITATIONS AND CAPS ON DAMAGES

555 WEST 57TH STREET, NEW YORK, NY 10019 • T (212) 246-7100 • F (212) 262-6350 • WWW.GNYHA.ORG • PRESIDENT, KENNETH E. RASKE

The following is based on GNYHA's survey of state malpractice laws on statutes of limitations and damages caps. Explanatory notes follow the table.



STATE	SOL	DISCOVERY RULE / OUTER LIMIT	CAPS
Alabama	2 years	6 months following discovery with an outer limit of 4 years	No cap law
Alaska	2 years	2 years (provided by case law)	\$250,000 \$400,000 for wrongful death or severe permanent physical impairment that is more than 70% disabling
Arizona	2 years	2 years (case law)	No cap law
Arkansas	2 years	None	No cap law
California	3 years	1 year/3 years	\$250,000
Colorado	2 years	2 years/3 years	\$300,000 for non-economic damages with a total damages cap of \$1 million unless special circumstances apply



GNYHA is a dynamic, constantly evolving center for health care advocacy and expertise, but our core mission—helping hospitals deliver the finest patient care in the most cost-effective way—never changes.

This document was last reviewed in 2017.

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STATE	SOL	DISCOVERY RULE / OUTER LIMIT	CAPS
Connecticut	2 years	2 years/3 years	No cap law
Delaware	2 years	3 years/3 years	No cap law
DC	3 years	3 Years (case law)	No cap law
Florida	2 years	2 years/4 years	\$500,000 with a total of \$1 million unless certain exceptions apply Florida high court struck cap law for wrongful death cases as violating state constitution
Georgia	2 years/ 5 years	None	No cap law
Hawaii	2 years	2 years/6 years	\$375,000
Idaho	2 years	None	\$250,000 adjusted based on wage index
Illinois	2 years	2 years/4 years	No cap law
Indiana	2 years	None	\$250,000 per defendant with a total of \$1.25 million for all defendants, applicable to all categories of damages
Iowa	2 years	2 years/6 years	No cap law
Kansas	2 years	2 years/4 years	\$300,000 with statutory increases every four years
Kentucky	1 year	1 year/5 years	No cap law
Louisiana	1 year	1 year/3 years	\$100,000 per defendant with a total of \$500,000 for all defendants; applies to all damages except those for future medical care
Maine	3 years	None	\$500,000 applicable only to wrongful death actions
Maryland	5 years	3 years/5 years	\$755,000 with an annual statutory \$15,000 increase, capped at \$812,500
Massachusetts	3 years	3 years/7 years (case law)	\$500,000 with exceptions for special circumstances

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STATE	SOL	DISCOVERY RULE / OUTER LIMIT	CAPS
Michigan	2 years	6 months/6 years	\$433,000 or \$774,000 if special circumstances apply, with inflation adjustments
Minnesota	4 years	None	No cap law
Mississippi	2 years	2 years/7 years	\$500,000
Missouri	2 years	2 years from discovery solely in cases involving a failure to inform patient of test results	No cap law
Montana	3 years	3 years/5 years	\$250,000
Nebraska	2 years	1 year/10 years	\$2.25 million or \$500,000 per defendant who qualifies under applicable law
Nevada	3 years	1 year/3 years	\$350,000
New Hampshire	3 years	3 years from date of discovery	No cap law
New Jersey	2 years	2 years from discovery (case law)	No cap law, but charitable immunity applies to limit damages to \$250,000 for non-profits
New Mexico	3 years	None	\$200,000 per defendant with a total of \$600,000 for all defendants for all categories of damages, except for past and future medical expenses
New York	2.5 years	None ¹	No cap law
North Carolina	3 years	1 year/4 years	\$500,000 unless special circumstances apply; adjusted for inflation
North Dakota	2 years	2 years/6 years	\$500,000
Ohio	1 year	1 year	\$250,000 non-economic damages or 3 times economic damages up to \$350,000 per plaintiff or \$500,000 per occurrence unless special circumstances apply

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STATE	SOL	DISCOVERY RULE / OUTER LIMIT	CAPS
Oklahoma	2 years	2 years from discovery (case law)	\$350,000 unless special circumstances apply
Oregon	2 years	2 years/5 years	\$500,000 Oregon high court struck cap law for all cases except wrongful death in accordance with state constitution
Pennsylvania	2 years	2 years from discovery (case law)	No cap law
Rhode Island	3 years	3 years from discovery	No cap law
South Carolina	3 years	3 years/6 years	\$350,000 per defendant with a total of \$1.05 million for all defendants with exceptions for special circumstances; adjusted annually for inflation
South Dakota	2 years	None	\$500,000
Tennessee	1 year	1 year/3 years	\$750,000; \$1 million for catastrophic injury/loss unless special circumstances apply
Texas	2 years	None, but case law provides for tolling under "open courts" rule	\$250,000 for individual practitioner defendants plus an additional \$250,000 for institutional defendant; \$500,000 total in cases with more than one institutional defendant \$500,000 (approximately \$2 million with inflation) applicable to wrongful death cases
Utah	2 years	2 years/4 years	\$450,000
Vermont	3 years	2 years/7 years	No cap law
Virginia	2 years	1 year from discovery but only for cases involving failure to diagnose a malignant tumor or cancer, with an outer limit of 10 years	\$2.2 million for all categories of damages, with annual statutory increases
Washington	3 years	1 year from discovery with an outer limit of 8 years	No cap law
West Virginia	2 years	2 years/10 years	\$250,000; \$500,000 for certain cases, adjusted for inflation

STATE	SOL	DISCOVERY RULE / OUTER LIMIT	CAPS
Wisconsin	3 years	1 year/5 years	\$750,000 Wrongful death actions subject to separate caps for loss of society and companionship (\$500,000 per occurrence for minors, \$350,000 per occurrence for adults)
Wyoming	2 years	2 years from discovery	No cap law

EXPLANATORY NOTES

- GNYHA has made every effort to ensure that the information contained in the table above is accurate; however, the laws require characterization and are continuously being interpreted by the courts in published and unpublished opinions.
- To keep the table brief and user-friendly, some information was not included. We have not included statutes of limitations for state wrongful death actions that differ from their medical malpractice limitations counterparts. Also, state law exceptions to statutes of limitations or tolling provisions that are also codified under NYS law are not included (see footnote).
- Also not specified in the table are the various formulations of each state’s discovery rules. Differences in wording may be significant in determining exactly how the discovery rules work in each state, but such analysis is beyond the scope of this survey project.
- Unless otherwise specified the caps referenced in the table 1) pertain to non-economic damages and 2) apply regardless of the number of defendants. For brevity’s sake, whether a cap applies to multiple plaintiffs in the same case is not referenced. Also not included are 1) details on the states whose laws provide for an administrative fund to pay claims above the cap level, and 2) details on which states’ caps laws were found to violate their state constitutions. Finally, we have made efforts to determine current cap levels, but due to various methodologies for increases, some of the cap amounts listed may not reflect these increases.

1. New York does provide a discovery rule for foreign body cases; such cases may be brought within 1 year of discovery, with no outer limit. New York law also contains tolling provisions for infancy, insanity, and fraudulent concealment. Further, New York has a continuous treatment doctrine that allows claims to be filed within 2.5 years from when treatment for the condition at issue has ended, even where the negligent act or omission occurred more than 2.5 years prior.