

Medical Professional Liability - Illinois Law Update

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Bringing a lawsuit in Illinois

- ◆ Complaint + Affidavit of Merit
- ◆ Expert Testimony to prove “Four Ds”
 - Negligence, not injury severity
- ◆ Damages
 - Economic
 - Noneconomic
 - Punitive
- ◆ 1 in 5 claims vs MDs and hospitals lead to payment, small % go to trial

Reform Attempts in Illinois

◆ Fairness concerns

- payment structure, contributory fault, informing juries of add'l sources, statute of limitations

◆ Frivolity concerns

- % contingency, affidavit of merit, pretrial screening panels, expert witness req'ts, loser pays, access to plaintiff medical records

◆ Excess concerns

- caps

Constitutional Challenges

- ◆ Legislation passed in 1975, 1985, 1995
- ◆ Ill. S. Ct. review in 1976, 1986, 1997
 - Separation of powers
 - Special legislation
 - U.S. Constitutional concerns

Latest Developments 2004-05

- ◆ New wave of state & fed reform efforts
- ◆ IL 2005: \$250K noneconomic cap for MDs
 - \$500K cap for hospitals
 - \$250K Federal cap
- ◆ Politics
 - Karmeier elected, President in Collinsville, Green Armbands, Gidwitz
- ◆ Cargill v Czelatdko
 - revival of supply-depressing provisions?