



## ‘Mega-Verdicts’ Slam Illinois Doctors



### ***Jury Awards Are On the Rise in Illinois. What You Should Know About this Worrisome Trend***

If you’ve missed the headlines, we’ll add it up for you – during March alone, Illinois juries

awarded more than *\$35 million* in damages in three high-profile medical professional liability (MPL) cases.

These high jury verdicts continue a recent trend of increasing indemnity payouts for medical liability claims. The cover story in the first quarter 2019 issue of the [MPL Association’s \*Inside Medical Liability\*](#) magazine documents these developments and chronicles several recent headline-grabbing individual verdicts.

What’s behind this?

According to the MPL Association, three trends are supercharging the “mega-verdict” landscape – and plaintiff’s attorneys are winning with them:

- **‘Rock star’ paydays that influence perceptions in court:** Ordinary Americans are now conditioned to seeing ever-higher multimillion-dollar jackpot winners, lucrative sports contracts and soaring celebrity asset estimates in news and social media. “Not only are (juries) no longer offended by requests for multi-million dollar verdicts,” the article states, “they have no problem awarding that amount of money if they feel negligence has occurred.”
- **Non-medical arguments that sway juries:** They’re called “periphery accelerants” – minor, non-medical facts related to a physician’s practice that can be spun into reasonable doubt. The biggest fire-starters? Missing or altered medical records, or employee or money issues that bring negative focus to the administrative operations of a practice. “... Plaintiff’s attorneys have begun using these accelerants as the themes for their cases, *to take the focus away from the medicine,*” according to the article.
- **Inflated damage requests that go unchallenged:** Juries evaluate awards based on dollar figures they hear in court. And too often, they’re hearing them *only* from plaintiff’s attorneys. The article argues that

defense counsel “need(s) to begin defending damages at the outset” with the right discovery, selection of experts and strategic analysis as to where value might be challenged. “Defense attorneys should focus as much on damages as they do on liability, right at the outset of a case,” the story says.

As always, ISMIE is keeping a close eye on these developments. For more than 40 years, we have provided an aggressive, [team-led](#) approach to the challenges our policyholders face every day – and we will keep you informed as this troubling litigation environment evolves.



### ***Upcoming ISMIE Webinars Cover Telemedicine and Pain Management Without Opioids***

Physicians and practice leaders have little time to study emerging healthcare risk management issues during a busy workday. ISMIE makes it easier with our lunchtime webinar series.

Here’s what’s coming up:

#### **May 1, 2019 | Noon – 1 p.m. | Telemedicine: Considerations for Keeping Your Patients Safe**

Many medical professionals are considering how to safely integrate telemedicine services into their practices. If you’re one of them, you already know that there are a number of patient safety and medical liability risks to consider.

This hour-long ISMIE [webinar](#), presented by Ingrid Hubbard Reidy, CPHRM, ISMIE’s Vice President of Risk Management, offers an overview of these risks and approaches to addressing them. [Register here.](#)

#### **May 17, 2019 | Noon – 1 p.m. | Opioids: Practical Advice for Managing Chronic Pain Without Them**

The neurobiology of chronic pain and addiction, opioid weaning for patients, and ways for physicians to combat burnout while managing chronic pain cases – these topics and more will be discussed by presenter Tracy Jackson, MD, during this informative ISMIE webinar. [Register now.](#)

If you have questions about ISMIE’s full range of risk management education [offerings](#), please contact the risk management team at 800-782-4767 or by [email](#).



### ***It’s National Healthcare Decisions Day, and Here’s a Reminder – Medicare Reimburses for Advance Care Planning Counseling with Patients***

[National Healthcare Decisions Day](#) is today, but remember that every day is an opportunity to discuss the importance of advance care planning with your patients.

And if you didn’t know, Medicare [reimburses physicians](#) for time spent counseling patients on advance care planning decisions.

A 2017 University of Pennsylvania study noted that only 37% of Americans

had advance directives for end-of-life care if they became seriously ill or unable to make their own healthcare decisions.

So here's a free, downloadable resource to help you and your patients plan. [A Personal Decision](#), created by the Illinois State Medical Society (ISMS), offers practical information, sample forms and guidance on advance directives that are current with Illinois law.

As you're speaking with patients, remind them that they might want to schedule their family discussions about advance directives when everyone is together for vacation or at the holidays.



### ***The Next National Prescription Drug Take Back Day is April 27 – Here's an ISMIE Resource You Can Share with Your Patients***

ISMIE supports safe disposal of prescription and over-the-counter medicines. So don't miss the next [National Prescription Drug Take Back Day](#), now a twice-yearly event in the spring and fall.

Take Back Day helps educate patients and community members on the best ways to dispose of unused medications that could put friends, family members and pets at risk. The U.S. Drug Enforcement Administration has hosted these events since 2010 and its [event website](#) provides such helpful resources as a nationwide online collection site locator that allows users to locate disposal sites based on ZIP code and/or county, city or state information.

The next nationwide event is [Saturday, April 27](#).

But you can provide year-round reminders for safe medication disposal in your practice. Here's [background](#) from ISMIE and a downloadable [resource](#) you can share with patients either as an office poster or take-home flyer.

Remember, unless you are a licensed collector, neither you nor your staff members can accept medications for disposal at your practice.



### ***Discussions with Patients and Their Family Members Can Be Challenging – Sign Up for ISMIE's Popular 'Beyond the Basics' Seminar in Chicago June 18***

You've seen it before. Patients and their families often come to the medical encounter with

preferences – and even demands – regarding the medications, tests, referrals and other procedures that they need and want. These conversations require a plan for principled negotiation.

That's what [Beyond the Basics: Advanced Communications for Physicians and Other Clinicians](#) is all about. One of ISMIE's most popular live events, this June 18 session runs from 9 a.m. to noon at 20 N. Michigan Ave. in Chicago. It focuses on building a communications model in which the physician or another clinician and a patient reach a mutually agreed-upon treatment plan that preserves the relationship.

The event is open to ISMIE policyholders and employed staff. If you have

questions, please contact the ISMIE risk management team by [email](#) or at 800-782-4767.

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