New Mexico’s decades-long cap on what a plaintiff can be awarded in a medical liability case will remain intact thanks to a recent state supreme court ruling.

The New Mexico Supreme Court said limiting what a plaintiff can be awarded for noneconomic damages in a medical liability lawsuit doesn’t violate the right to a jury trial, a decision doctors say will help keep New Mexico a more attractive place to practice medicine.

The Litigation Center of the American Medical Association and State Medical Societies along with the New Mexico Medical Society (NMMS) filed a friend of a court brief in the case, Siebert v. Okun, that urged the court to uphold the $600,000 limit on that portion of a jury award.

“New Mexico is not alone in limiting damages in order to stabilize or improve the state’s medical liability climate and promote access to affordable care,” the brief told the court. “Two-thirds of states limit noneconomic damages in medical liability actions or in all personal injury cases. Others limit total damages in medical liability cases. The vast majority of state courts and all federal courts to our knowledge have found these laws to be constitutional.”

Overall, the brief said, New Mexico’s nonmedical damages cap is pro-consumer.

“Every citizen in the state needs access to affordable health care. The [Medical Malpractice Act] MMA furthers that goal while providing a substantial recovery to the minority of patients who may be injured due to medical negligence and suffer extraordinary nonmedical loss,” the brief said.

Find out more about the cases in which the AMA Litigation Center is providing assistance and learn about the Litigation Center’s case-selection criteria.
Jury still determines facts

The issue came before the New Mexico Supreme Court after a district court denied a physician’s request to reduce a jury award so it conformed with New Mexico’s MMA. Enacted in 1976, the MMA, among other things, limits nonmedical, nonpunitive damages that can be awarded in a medical liability case to $600,000.

A jury awarded Susan Siebert $2.6 million in total damages after injuries from perforations in her uterus and intestine after a hysteroscopy. It didn’t disaggregate the award into different categories.

When Siebert’s doctor Rebecca C. Okun, MD, and Women’s Specialists of New Mexico, Ltd. (WSNM) asked the court to reduce the award, it denied the motion. Dr. Okun and WSNM appealed saying the award should be reduced to $1,535,916.15, which included $935,916.15 to cover Siebert’s existing medical expenses plus $600,000 for the capped nonmedical damages. Siebert argued that the MMA cap was unconstitutional, violating her right to a jury trial.

The New Mexico Supreme Court sided with Dr. Okun and WSNM, saying that the damages cap doesn’t violate a person’s right to a jury trial. “Rather,” the court said, “this statutory damages cap merely gives legal consequence to the jury’s determination of the amount of the verdict.”

The court looked at several areas to decide what a constitutional right to a trial by jury encompasses, including federal and other state court rulings on statutory damages caps as they relate to jury trial rights.

The court concluded that “the right to a trial by jury is satisfied when evidence is presented to a jury, which then deliberates and returns a verdict based on its factual finding. The legal consequence of that verdict is a matter of law, which the legislature has the authority to shape.”

Caps are sound policy

The AMA Litigation Center and NMMS told the court that limiting liability as the MMA does is sound policy because jury awards for noneconomic damages have been rising disproportionately to inflation for decades.

Studies the brief cited found that less defensive medicine is practiced in states with noneconomic damages caps, that professional liability insurance rates are lower and that there is a higher per capita rate of physicians when compared to states without the caps.

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“New Mexico’s legislature crafted a unique system that prioritizes and protects the ability of those who are injured by negligent medical care to be fully compensated for their past and future medical expenses,” the brief said, “while limiting other forms of damages such as subjective pain and suffering awards.”