

8 ways the AMA is fighting to protect physicians in court

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Each year, physicians face legal threats that could take away protections that ensure doctors are able to practice medicine in the best interest of their patients.

And that's where the Litigation Center of the American Medical Association and State Medical Societies comes in to help level the playing field for physicians feeling overwhelmed in the potentially precedent-setting court battles they face.

Members of the AMA Litigation Center executive committee review requests to determine whether the court case is consistent with AMA policies and the center's objectives. They look at, among other things, whether the case's legal issues extend or clarify case law on a matter that is generally of interest to physicians; the precedential value; and the likely chances of succeeding on the merits.

Learn about some great examples of how the AMA Litigation Center has fought recently to protect patients and physicians in the exam room and courtroom.

In 2021 alone, the AMA has fought to:

1 Keep peer-review documents confidential

Patient safety prevailed this summer when the Supreme Court of Pennsylvania overturned a lower-court ruling that would have allowed plaintiffs in a medical liability lawsuit to have copies of documents that a hospital's credentialing review committee analyzed.

In an amicus brief, the AMA Litigation Center and the Pennsylvania Medical Society argued that the medical community's efforts to use the peer-review process to create a safer health care environment would be seriously undermined if the commonwealth's highest court let the appellate court ruling stand.

2 Stop unwarranted punitive damages in medical liability cases

In New Jersey, plaintiffs are seeking punitive damages that are reserved for a “markedly extraordinary occurrence” in which there is actual malice or wanton and willful disregard of people who could be harmed.

The AMA Litigation Center and the Medical Society of New Jersey told the court that threshold was not met in a case in which a physician performed a hysterectomy and urged the court to reverse a lower-court decision that would allow punitive damages to go forward as part of the lawsuit. Learn about the “chilling effect on health care” if the court allows the punitive damages to be considered.

3 Allow physicians to access experts in medical liability defense

Arizona limits each side to one expert in medical liability trials. But should a physician defendant or one of the treating physicians be considered the one expert the law allows? Find out why the AMA Litigation Center and the Arizona Medical Association urged the Arizona Supreme Court to definitively answer no.

4 Don't lower plaintiffs' burden of proof against doctors

The Illinois Supreme Court is considering a case that threatens to effectively reduce the long-standing burden-of-proof requirements in medical negligence cases. Discover why the AMA Litigation Center and Illinois State Medical Society told the court that if they allow that to happen, physicians would practice even more defensive medicine.

5 Stop juries from finding negligence simply because injury occurred

A Pennsylvania plaintiff wants a judge to let jurors find that a physician was negligent simply because there was an injury. Discover why the AMA Litigation Center and PAMED told the court “it defies logic” to let jurors infer a defendant doctor didn’t meet the standard of care in a typical battle-of-the-experts case.

6 Don’t let plaintiffs’ attorneys push up jury awards unjustifiably

The AMA Litigation Center and the Medical Society of the State of New York joined several other organizations in telling a New York appellate court that if it doesn’t reduce a \$30 million award, plaintiffs will demand ever-higher noneconomic damage awards through a practice called “anchoring.” Discover the dangers to medicine when plaintiffs’ attorneys request an unjustifiably large award that serves as a baseline for the jury’s damages calculation.

7 Let juries know about potential side effects

A Pennsylvania doctor told a patient about potential rare side effects of a prescription regimen. The patient developed Stevens-Johnson Syndrome and sued the prescribing physician. Should a Pennsylvania judge have instructed a jury that it could not consider that the patient assumed the risk when agreeing to the treatment as part of the physician’s defense?

A patient asked the Supreme Court of Pennsylvania to throw out two lower-court rulings that said the judge had no such limiting instruction duty, as assumption of risk had not been introduced as a defense during trial. Discover why the AMA Litigation Center and PAMED are urging the commonwealth's highest court to uphold the lower court decisions.

8

Stop patients from bringing “negligent credentialing” lawsuits

The Iowa Supreme Court earlier this year declined to rule on whether a “negligent credentialing” tort would be recognized, saying the parties to the lawsuit didn’t raise the question in their briefs.

The AMA Litigation Center, the Iowa Medical Society and Iowa Hospital Association urged the court to not recognize the new tort because it would force a hospital to immediately limit, restrict or suspend any credentialed physician as soon as it received notice that the state medical board of medicine had an inquiry or was investigating that doctor. Find out how recognizing the tort would reduce access to care and hurt the quality of care.

Learn more about the cases in which the AMA Litigation Center is providing assistance and discover the Litigation Center’s case-selection criteria.