

## Indiana raises medical malpractice damage caps

Damage caps in the Indiana Medical Malpractice Act, also referred to as the Indiana Patient Compensation Fund, (I.C. § 34-18-14-3) are set to increase on July 1, 2017 for the first time since the fund was created in 1999.

The maximum amount of recoverable damages will rise from \$1.25M to \$1.65M in July 2017 and increase again to \$1.8M in July 2019. Health care providers will need to update their malpractice liability coverage to match the new requirements starting in July.

### Updated financial responsibility under Indiana's updated Patient Compensation Fund

Financial Responsibility of:	Current	Effective 7/1/17	Effective 7/1/19
Health care provider	\$250,000/\$750,000	\$400,000/\$1,200,000	\$500,000/\$1,500,000
Hospital less than 100 beds	\$250,000/\$5,000,000	\$400,000/\$8,000,000	\$500,000/\$10,000,000
Hospital over 100 beds	\$250,000/\$7,500,000	\$400,000/\$12,000,000	\$500,000/\$15,000,000

#### Summary of changes:

- The increased caps apply to alleged malpractice acts that occur after 7/1/17 and 7/1/19 respectively.
- Qualified Healthcare Providers will need to increase their insurance liability coverage to match the limits of \$400,000/\$1,200,000 that will apply to alleged malpractice acts that occur after 7/1/17. Limits again increase on 7/1/19 to \$500,000/\$1,500,000. (IC 34-18-4-1 and 34-18-14-3b)
- Cap on Attorney's fees will increase from 15% to 32% of total judgment (IC 34-18-18-13)
- Increase in the amounts paid to medical review panel from \$350 to \$500 and from \$2,000 to \$2,500 to the panel chair (IC 34-18-10-25)
- Anesthesiology assistants added to the class of Qualified Health Care Providers ( IC 34-18-2-14)
- Timelier Payments by the Fund of awards. Under the revised law, payment from "the Fund" cannot be made later than 60 days after the issuance of a court-approved settlement or a final, non-appealable judgment. The PCF previously only paid plaintiffs twice per year. (IC 34-18-2-12.5 and IC 34-18-6-4)

#### *Did you know?*

If excess coverage is purchased by a health care provider participating in the PCF, the fund will not recognize erosion of the limits until the excess has also been eroded.\*

\* "Limits of liability for the Indiana exposure are those stated under IC 34-18-4-1. It is the Department's position that if higher limits are maintained; those limits must be tendered before a claimant would be eligible to receive excess damages from the PCF, and the health care provider would not receive the full benefit of the excess coverage." [http://www.in.gov/idoi/files/FAQs\\_12-21-15.pdf](http://www.in.gov/idoi/files/FAQs_12-21-15.pdf)