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Medical Malpractice Litigation: Who Pays, Who Profits, and Why Tort Reform Matters

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The plaintiffs' litigation industry spends [enormous sums](#) to convince Americans that it exists to deliver “justice” and easy money. Between 2017 and 2021 alone, attorney advertising in Kansas [increased by approximately 64%](#).

You’ve seen the ads – plaintiff attorneys portrayed as crusaders for justice, promising their clients massive payouts from big, faceless insurance companies.

The reality is different. The public and healthcare professionals ultimately foot the bill – economically, psychologically, and physically – for those big settlements and verdicts featured on billboards and TV screens. And the profits? Those line the pockets of the plaintiff litigation industry.

Who Pays?

Patients and the Public

Tort litigation costs the U.S. economy more than \$100 billion each year. The average American family of four pays approximately [\\$6,664 in added annual costs attributable to the tort litigation industry](#). This is often called the “tort tax.” We all pay it, and a disproportionate amount of it goes to attorneys’ fees and litigation expenses rather than to injured individuals.

Excessive litigation is also associated with broader economic consequences. Estimates suggest that 4.8 million jobs are lost nationwide due to excessive litigation, along with more than \$160 billion in annual costs for small businesses, \$28.8 billion in lost annual state revenues, and \$24.1 billion in lost annual local government revenues.

Beyond the economic impact, the public suffers reduced access to quality healthcare. There’s [no evidence](#) that medical malpractice litigation improves patient safety or results in better healthcare outcomes. In fact, increased medical malpractice litigation tends to [promote defensive medicine](#) and less access to quality care.

New Mexico offers a cautionary example. In 2021, legislation backed by the plaintiff litigation industry rolled back key limits on the type and amount of money damages juries could award in medical malpractice cases. Predictably, medical malpractice settlements and verdicts ballooned. Plaintiff attorneys got richer, while [patients lost access to healthcare](#). Today, two-thirds of New Mexico's physicians report they are considering leaving the state, with the majority citing medical malpractice liability risk as a primary motivator. Notably, [rural communities are suffering](#) the brunt of the plaintiff lawyer gold rush in New Mexico, where access to quality healthcare is on a sharp decline.

Healthcare Professionals

Nearly 90% of medical malpractice claims that reach a jury are found to lack merit. Despite this, the plaintiff attorneys often use the threat of potential excess verdicts to pressure and bully healthcare professionals into settling.

These settlements are reported to the National Practitioner Databank and remain on a healthcare professional’s record for their entire career. In some cases, plaintiff attorneys threaten a healthcare professional’s personal assets or, when targeting rural hospitals, suggest that continued litigation could bankrupt the facility.

Healthcare professionals who choose to stand up for themselves are often forced to endure years of litigation. This all exacts a heavy toll on healthcare professionals, who train, sacrifice, and work for many years to pursue their passion to help people. Healthcare professionals often [suffer symptoms similar to PTSD](#) after being targeted in a medical malpractice lawsuit. Studies show that more than [95% of physicians](#) involved in malpractice litigation suffer from adjustment disorders, major depressive disorder, or the exacerbation or onset of physical illnesses.



The toxic medical malpractice liability environment drives many healthcare professionals to leave the practice of medicine altogether, further reducing patient access to care.

Who Profits?

In 2025, the plaintiff litigation industry was valued at [approximately \\$61.7 billion](#), with over 50,000 personal injury law firms operating nationwide. It continues to grow.

What attorney advertisements won't tell you is that plaintiffs' attorneys make their profits from contingency fee agreements that require the injured client to hand over a large portion of any settlement or verdict to their lawyer – often 40-50%.

Because most medical malpractice claims are ultimately found to lack merit, these contingency fee agreements create incentives to prolong litigation, inflate settlement demands, and pursue costly litigation in cases that lack merit in hopes of securing a single “jackpot verdict.”

What Can Kansas Do?

Stand up for Healthcare Professionals—and Win

At KAMMCO, we're not afraid to stand up to the plaintiff litigation industry. We zealously defend healthcare professionals and support them [throughout the litigation process](#).

Over the past decade, KAMMCO-insured healthcare professionals and facilities have won approxi-

mately 90% of the medical malpractice cases that went to trial. Notably, the last eleven jury trials involving claims against KAMMCO-insured providers resulted in defense verdicts.

Preserve and Strengthen Kansas Tort Reform

Although Kansas has not updated tort reform measures for quite some time, Kansas law still contains [critical protections](#). The first step to avoid a medical malpractice crisis like the one in New Mexico is to preserve those existing protections and the continued viability of the [Kansas Healthcare Stabilization Fund](#).

There are also opportunities to maintain and improve access to quality healthcare in Kansas by updating Kansas tort reform law, such as placing reasonable limits on “hired gun” expert testimony, curbing tactics used by the plaintiff litigation industry to drive up non-economic damages, and controlling attorney contingency fee arrangements that incentivize excessive litigation.

It is far better to prevent a crisis than to respond after damage has been done. As noted by one physician commentator lamenting the crisis caused in New Mexico by the failure to retain and implement reforms:

“...malpractice legislation isn't just about litigation or compensation. It's about sustaining health care access, physician availability, and patient safety. Doctors across America should take note—and speak up before similar crises take hold in their states.”