

Kyria Cameron  
Business Law II  
Professor Angel Gomez  
2/20/2022

Some may say capping damages will reduce baseless lawsuits and the cost of medical malpractice insurance, resulting in a reduction in healthcare costs. However, others may say that damage caps restrict the ability of injured people to receive fair compensation for their losses, especially in cases of severe injury or wrongful death. Damage caps can also excessively affect vulnerable populations. A study by the Congressional Budget Office (CBO) found that limiting non-economic damages in medical malpractice lawsuits to \$250,000 would reduce healthcare spending by about 0.5% per year (CBO, 2004). However, an article in the *New England Journal of Medicine* states that damage caps had higher rates of preventable medical errors (Studdert et al., 2006). Capping damages may not minimize fraud, as fraudulent claims can be identified and addressed through the legal system. Additionally, damage caps may create incentives for insurance companies and defendants to settle meritless claims rather than fighting them in court, which may increase the number of useless claims.

A "one-fits-all" approach to recovery can be unfair to an injured person because it fails to take into account the unique circumstances of each case. In these cases, the injured person may be left with significant financial burdens that are not adequately compensated under a damage cap. A "one-fits-all" approach may also disproportionately affect certain populations. According to a study by the Rand Corporation, a "one-fits-all" approach to tort reform is unlikely to reduce overall costs or improve the quality of care (Danzon & Lillard, 2003). A study by the American Association for Justice found that damage caps unfairly burden those who suffer severe injuries or wrongful deaths (American Association for Justice, 2018).

While damage caps may be seen as a way to reduce the cost of insurance premiums and prevent frivolous lawsuits, they can also have significant negative impacts on injured individuals, particularly those with serious injuries or disabilities. The decision to cap damages should be made with careful consideration of the potential consequences for individuals as well as for society as a whole. Ultimately, the goal of the legal system should be to ensure that injured individuals receive fair compensation for their losses rather than to prioritize the financial interests of businesses or insurance companies

## ***.References:***

- American Association for Justice. (2018). The Ten Worst States for Lawsuit Abuse. <https://www.justice.org/sites/default/files/tenworststates.pdf>
- Danzon, P. M., & Lillard, L. A. (2003). The role of damage caps in medical malpractice reform.