

February 29, 2016

## Proposed Medical Liability Reform Legislation Takes Aim at Payment Guidelines, Filing Rules and Jury Size

Things are looking up for desperately needed medical liability reform in Illinois.

Two bills recently introduced in the Illinois General Assembly fire at “phantom damages,” strengthen plaintiff filing certification rules, and perhaps most importantly, restore the right to a 12-member civil jury.

**Senate Bill 2382** seeks to:

- Prevent payer administrative payment guidelines from being introduced as the standard of care in medical liability suits;
- Ensure that the actual payment amounts of medical bills are presented in medical liability cases, not the amounts charged, a current practice that often leads to artificially inflated awards; and
- Restrict the ability to file a medical liability case without a Certificate of Merit.

The Senate bill and **House Bill 4473** both seek restoration of the right to a 12-member civil-case jury, which was removed by misguided legislation in 2014. In December, a Cook County Circuit Court judge ruled that the Illinois legislature had no authority in the last days of Governor Quinn’s administration to cut the size of civil-case juries from 12 members to six. The court decision and proposed legislation offer dual tracks to a return to fairness.

Keep watching *ISMIE News Briefs* for the latest developments on this important legislation.



## 2016 Medical Record Guides – Available Now!

Medical record fees change at the start of every year, so it’s time for you and your staff to update your [www.ISMIE.com](http://www.ISMIE.com) bookmarks to two popular online resources from the Illinois State Medical Society, provided as a courtesy to ISMIE policyholders:

- The 2016 *Medical Record Quick Guide* covers the latest copying rates, retention guidelines and updated HIPAA rules that govern the copying and transmission of all medical records.
- *Medical Record Fees Under HIPAA and Illinois Law* offers an in-depth look at these rules.

To find this important information on [www.ISMIE.com](http://www.ISMIE.com), go to Risk Management, click “Find Risk Management Resources” at left and you’ll find both documents under “M.” For additional questions, call 800-782-4767 ext. 3004 or email [medicallegal@ismie.com](mailto:medicallegal@ismie.com).



Save Time on [www.ISMIE.com](http://www.ISMIE.com)**THEY'RE AT IT AGAIN: Something Seems a Little Off-Key**

Unless you have a particularly nitpicky intellectual property attorney in the family, you've probably never thought twice about singing "Happy Birthday."

Well, breathe easy. If a Los Angeles federal court approves a February 8 settlement, you'll be free to sing and play it anywhere and all you want. In short, "Happy Birthday" will finally be royalty-free and for all purposes, in the public domain.

Don't know this tune? Here's how it goes:

Last September, U.S. District Court Judge George H. King ruled that Warner Music's claim to the 1893 song's copyright – which brought Warner an estimated \$2 million a year in royalties since 1988 – was invalid. This month, without admitting wrongdoing or agreeing that "Happy Birthday" is in the public domain, Warner gave up fighting a 2013 suit to defend its ownership of the song's copyright

and agreed to pay up to \$14 million to settle claims dating all the way back to 1949.

So what's off-key?

Guess who might really get to celebrate if the settlement is approved in full? Not the bar or restaurant owners who paid up. Not even the individual plaintiffs who brought the suit.

No, it'll be the plaintiffs' attorneys who will get to drop the mic – they've asked for \$4.6 million to cover their legal costs.

We're pretty familiar with that song, too.

