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## Jury Awards Rising – But ISMIE Protects Policyholders with Top-Quality Coverage, Tools and Education

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### *As Medical Liability Jury Awards Rise, What Should You Know?*

In a [recent ISMIE News](#), we reported that multimillion-dollar jury verdicts are on the rise nationally and in Illinois. From our perspective, plaintiff's attorneys have been very effective in convincing juries that society's perspective of big paydays – from

highly publicized jackpot winners to huge salaries for sports figures and celebrities – should extend to awards for their clients, with little or no regard for the medical facts of each case.

At ISMIE, we are constantly watching such court developments, keeping policyholders informed and offering resources that safeguard the practice of medicine against serious threats in the legal system.

As an ISMIE policyholder, how should you respond? Here's some guidance:

1. **Take full advantage of our Managing Risk program.** At ISMIE, our patient safety education program never stands still. We are constantly developing online instruction and live [events](#) that deal with emerging trends in patient communication and healthcare risk management. [Start here](#). And each year, we update our risk assessment program to evaluate how well your practice or facility is addressing potential litigation landmines as they develop.
2. **Follow our publications and social media.** ISMIE News is your main resource for risk management trends affecting your practice, but you'll find breaking healthcare news and other critical information on your medical liability environment on our social media channels. Follow ISMIE on [Twitter](#), [Facebook](#) and [LinkedIn](#).
3. **Get in touch.** Our highly rated ISMIE claims department is available to answer policyholder questions about the current claims environment whether or not you're facing a claim. [Email](#) or call us at 800-782-4767.
4. **You can count on us.** Our pledge to policyholders is to present a strategic, vigorous defense for every claim. Our knowledgeable claims analysts and experienced defense attorneys possess a high level of skill and expertise defending medical liability claims. Our ISMIE team consistently achieves the best possible outcomes for policyholders.

Stay tuned for more information on these trends in future issues of ISMIE News.



## ***Round-Up: Interesting News from State Courts***

ISMIE routinely monitors legal cases relevant to the practice of medicine. Recently we've received a dose of good news in Illinois and a dose of bad news in Kansas, and the outcome of a real head scratcher looms in New Jersey.

### ***Illinois: A Win! Hospital Does Not Have to Produce a Doctor's Protected Credentialing File***

The case of *Magen Willis v. Highland Medical Center*, a medical negligence case, is of the utmost importance to physicians. The core issue hinged on whether the defendant was entitled to assert the protections of Illinois' Medical Studies Act for documents contained in a credentialing file.

The lawsuit, filed on behalf of a deceased patient's estate, alleged improper medical treatment that the deceased received in 2013. During discovery, the plaintiff sought production of a physician's credentialing file held by a hospital.

Good news: The Appellate Court of Illinois reinforced that these documents **are privileged** under Illinois law.

As doctors know, statutory confidentiality and privilege protections are important aspects of the credentialing process, as they ensure open and honest discussion and evaluation of physicians.

Without these protections, disclosure may occur, particularly during litigation – to the detriment of physicians.

### ***Kansas: Caps on Certain Non-Economic Damages Are Ruled Unconstitutional***

Last month the [Kansas Supreme Court ruled that caps on certain non-economic damages](#) that juries can award are unconstitutional. The court's decision does not apply to wrongful death cases or punitive damages.

### ***New Jersey: Can a Non-Patient Sue a Physician? Court Case Still Hangs in the Balance***

A motorist who was taking psychotropic medications prescribed by her psychiatrist tragically hit and killed a New Jersey bicyclist. The family of the woman who died from the accident wants the right to sue the doctor who prescribed medication to the car's driver. The estate of the deceased alleges that the psychiatrist should have warned the patient not to drive while taking her medications.

[New Jersey's Superior Court will decide whether to allow the lawsuit to go forward](#), which would open a Pandora's box of endless medical lawsuits whenever someone alleges that harm can be tied to care that a patient received. ISMIE will keep policyholders informed on the outcome of the case.



## ***Protect Your Organization From Cyberattacks – Webinar Friday***

Protecting your organization or practice from cyberattacks is essential to safeguarding sensitive health information, keeping your business running smoothly, and preserving your patients' trust. Something as simple as a spoofed email – a type of attack that is [on the rise](#) – can

open the door to major problems, and you owe it to yourself and your patients to keep your guard up.

To learn how, join us for “Practicing Medicine in a Cyber World,” a webinar being held this **Friday, July 12, from noon – 1 p.m.** Sarah Dufendach and Dan Raymond from [Beazley Syndicate](#) will share insights on the latest cybersecurity trends and risks in healthcare, and discuss the steps that organizations can take to guard against cyber threats.

[Register now!](#)

And remember, your ISMIE coverage provides [cyber liability protection](#) at no extra cost with the option of [higher limits protection](#) to fit any practice, offered in partnership with Beazley Syndicate. For questions about your cyber liability protection, contact our underwriting division at 800-782-4767 or by [email](#).



## ***New Educational Opportunities for ISMIE Policyholders***

ISMIE is committed to providing policyholders with the tools you need to stay at the top of your game. That's why we've recently made available on-demand coursework on some of the hottest topics in medicine, including two of the most popular sessions from the 2018 ISMIE Risk Management

Symposium:

- ***Physicians at Work: Reigniting Purpose & Mastery*** – Diagnosis is at the heart of clinical practice. Physicians excel at this challenging task, but emerging studies on the incidence of diagnostic error suggest room for improvement. In this program, Gurpreet Dhaliwal, MD, uses case discussions to outline the way clinicians diagnose and how to improve the diagnostic process through individual- and team-based approaches. [Access the on-demand course.](#)
- ***Deprescribing: The Who, What, When, Why, and How*** In the United States, 40% of people 65 and older take at least five regular medications. While sometimes justifiable, polypharmacy exposes older adults to numerous risks, and a systematic process of deprescribing may be needed to help evaluate and prioritize medications. In this program, Holly Holmes, MD, MS, outlines that process, focuses on the patients and situations where deprescribing might be helpful, and identifies several helpful tools for clinicians. [Access the on-demand course.](#)

These activities has been approved for *AMA PRA Category 1 Credit™*. Eligible clinician policyholders may also earn premium discount credits for completing them.

***Pain Management and Opioids: Balancing Risks and Benefits***

- Register for [Part 1: Friday, August 16 – noon to 1 p.m.](#) Part 1 will be presented by Vikram B. Patel, MD, DABA, FIPP, DABIPP, an anesthesiologist specializing in interventional pain medicine.
- Register for [Part 2: Wednesday, August 21 – noon to 1 p.m.](#) Part 2 will be presented by Sasha Demos, MD, PhD, FASA, currently the chair of the department of anesthesia at Edward Hospital in Naperville.

This activity has been approved for AMA PRA Category 1 Credit™.

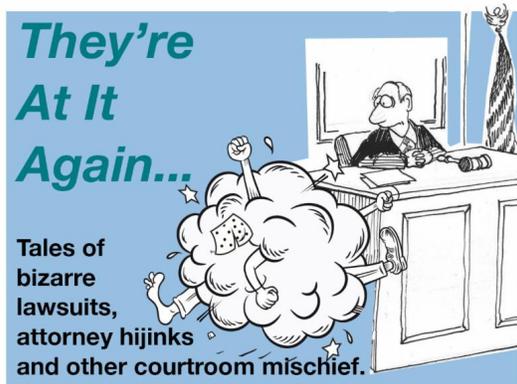
### **Save the Date for the 2019 ISMIE Risk Management Symposium**

ISMIE Mutual is pleased to announce that our annual Risk Management Symposium will take place on Friday, Nov. 1, 2019, in Lombard, Illinois. This year's theme is "Navigating What's Next."

We're extremely excited about this year's line-up. You can expect the presentations to once again be packed with practical tips and future-oriented insights on topics such as cannabis, macro-level healthcare trends, big data, opioids, physician wellness, and much more!

Stay tuned for more information soon, including the schedule, speaker details and registration.

If you have questions about ISMIE's full range of risk management education [offerings](#), please contact the risk management team at 800-782-4767 or by [email](#).



### **Frivolous Lawsuits: No Picnic?**

The city of Austin, Texas prides itself on its weirdness. But weird reasoning in frivolous lawsuits probably isn't what the locals down on 6<sup>th</sup> Street have in mind.

Case in point: Picnik, a paleo restaurant that recently received \$7.5 million in private equity funds, decided to use some of that cash to [sue](#) a Japanese restaurant called Bento Picnic for having

a similar name. The two restaurants do share a few similar menu items, but as the judge in the case pointed out, "a consumer, health-conscious or otherwise, is not likely to confuse a Japanese-style bento-box restaurant with a place known for its butter coffee."

Fortunately, the judge [threw out the case](#), but the legal fees in the case are no picnic for the small storefront catering business.

Our take: The best way to "Keep Austin Weird" might be to make it one of the few places where businesses can grow without fear of senseless litigation.

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