



Center for Justice & Democracy's  
Public Policy Clinic at  
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## NURSING HOME VICTIMS: THE IMPACT OF “CAPS

### CALIFORNIA

*Saucedo v. Cliff View Terrace, Inc.*, B218487, 2011 WL 680212 (Cal. Ct. App. Feb. 28, 2011): Plaintiff Saucedo and her daughter filed this action for negligence when she fell and did not receive adequate care for her injuries due to the nursing home’s understaffing. The jury found that the home was negligent but not reckless, malicious, or oppressive. However, the jury awarded Saucedo a total of \$1.5 million dollars for both past and future pain and suffering. The trial court reduced the award to \$250,000 – California’s cap on medical malpractice compensation.

### KANSAS

*Hoover v. Innovative Health of Kansas, Inc.*, 26 Kan. App. 2d 447, 988 P.2d 287 (1999): Kansas law imposes a noneconomic damage cap of \$250,000 for all claims brought by a particular plaintiff. Pat Hoover, the daughter and executrix for Betty Hoover, a Kansas nursing home resident, sued the nursing home for negligence on four different claims for injury and disability that had occurred when Betty fell while at the nursing home. The trial court and jury evaluated the four claims separately, and awarded various sums of money, ranging from \$500-\$200,000 for pain and suffering. The total of these noneconomic damages was almost \$450,000. On appeal from the defendant nursing home, the appellate court reversed the damage award, holding that the claims must be aggregated, and limited Pat’s total damage award to \$250,000.

### MISSISSIPPI

*Estate of Gibson ex rel. Gibson v. Magnolia Healthcare, Inc.*, 91 So. 3d 616 (Miss. 2012), reh'g denied (July 19, 2012): Henry Gibson was a resident in a Mississippi nursing home, where he was placed by his family following a stroke that left him needing full time care. Following the worsening of his condition, Henry was taken to a hospital, where it was

discovered that he had fluid in his lungs and a broken arm that had gone undetected. Although his family moved him to a different nursing home, Henry died from sepsis a few months later, and his broken arm and lung hematoma were listed as contributing factors. The family sued on behalf of Gibson's estate. Initially, the jury awarded \$1.5 million dollars in noneconomic damages, but due to Mississippi's damage cap, the court was forced to reduce the damages to \$500,000.

## TEXAS

*Valley Grande Manor v. Paredes*, 13-11-00752-CV, 2013 WL 3517806 (Tex. App. July 11, 2013), review denied (Feb. 14, 2014): The daughter (Paredes) of a nursing home resident filed suit against a Texas nursing home for negligence that resulted in her mother's injuries and eventually, death. In the trial court hearings, the jury awarded Paredes \$275,000. The court, adhering to Texas' damage cap, reduced the award to \$250,000. Going even further, the court reduced this award another \$10,000 due to the pre-trial settlement award from the nursing home. Ultimately, Paredes only recovered \$240,000, a number that was upheld on appeal.

*THI of Texas at Lubbock I, LLC v. Perea*, 329 S.W.3d 548 (Tex. App. 2010): Jacob Perea was living in a Texas nursing home when his nurses gave him medicine to which he was allergic, resulting in Jacob's death. His four sons sued the home for malpractice and negligence. Jacob's medicinal allergies were clearly stated in his medical file, yet he was still given the medication by two nurses. The trial court ruled in favor of the four sons, and awarded (in addition to medical damages and funeral costs) to each son noneconomic damages in the amount of \$400,000. The appellate court of Texas reversed this decision, holding that the trial court had violated the Texas cap on noneconomic damages, which limits such recovery to \$250,000. Furthermore, the appellate court also held that the sons could not be considered separate claimants but rather one claimant, limiting noneconomic damages to a total of \$250,000.

*Mariner Health Care of Nashville, Inc. v. Robins*, 321 S.W.3d 193 (Tex. App. 2010): Betty Battle, a resident placed in a Texas nursing home for rehabilitation following surgery, passed away after having developed Stage III and IV bedsores. Her children sued the home for negligence and medical malpractice, and were awarded \$750,000 in noneconomic damages by a jury. Because of the Texas cap on noneconomic damages, the court reduced this amount to \$250,000 to be divided among her five children.