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2012 Edition

Medical Malpractice in Connecticut

A Guide to Resources in the Law Library

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- "No civil action or apportionment complaint shall be filed to recover damages resulting from personal injury or wrongful death occurring on or after October 1, 1987, whether in tort or in contract, in which it is alleged that such injury or death resulted from the negligence of a health care provider, unless the attorney or party filing the action or apportionment complaint has made a **reasonable inquiry** as permitted by the circumstances to determine that there are **grounds for a good faith belief** that there has been negligence in the care or treatment of the claimant." CONN. GEN. STAT. § 52-190a(a) (2011) [Emphasis added].

- **CERTIFICATE: "**The complaint, initial pleading or apportionment complaint shall contain a certificate of the attorney or party filing the action or apportionment complaint that such reasonable inquiry gave rise to a good faith belief that grounds exist for an action against each named defendant or for an apportionment complaint against each named apportionment defendant. To show the existence of such good faith, the claimant or the claimant's attorney, and any apportionment complainant or the apportionment complainant's attorney, shall obtain a written and signed opinion of a similar health care provider, as defined in section 52-184c, which similar health care provider shall be selected pursuant to

the provisions of said section, that there appears to be evidence of medical negligence and includes a detailed basis for the formation of such opinion. Such written opinion shall not be subject to discovery by any party except for questioning the validity of the certificate. The claimant or the claimant's attorney, and any apportionment complainant or apportionment complainant's attorney, shall retain the original written opinion and shall attach a copy of such written opinion, with the name and signature of the similar health care provider expunged, to such certificate. The similar health care provider who provides such written opinion shall not, without a showing of malice, be personally liable for any damages to the defendant health care provider by reason of having provided such written opinion. In addition to such written opinion, the court may consider other factors with regard to the existence of good faith. If the court determines, after the completion of discovery, that such certificate was not made in good faith and that no justiciable issue was presented against a health care provider that fully cooperated in providing informal discovery, the court upon motion or upon its own initiative shall impose upon the person who signed such certificate or a represented party, or both, an appropriate sanction which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion or other paper, including a reasonable attorney's fee. The court may also submit the matter to the appropriate authority for disciplinary review of the attorney if the claimant's attorney or the apportionment complainant's attorney submitted the certificate." CONN. GEN. STAT. § 52-190a(a) (2011).

- **AUTOMATIC NINETY-DAY EXTENSION: "**Upon petition to the clerk of the court where the civil action will be filed to recover damages resulting from personal injury or wrongful death, an automatic ninety-day extension of the statute of limitations shall be granted to allow the reasonable inquiry required by subsection (a) of this section. This period shall be in addition to other tolling periods." CONN. GEN. STAT. § 52-190a(b) (2011).

- **DISMISSAL OF ACTION:** "The failure to obtain and file the written opinion required by subsection (a) of this section shall be grounds for the dismissal of the action." CONN. GEN. STAT. § 52-190a(c) (2011).

- "Our Supreme Court has held that the filing of a good faith certificate may be viewed as essential to the legal sufficiency of the plaintiff's complaint. Id. [*LeConche v. Elligers*, 215 Conn. 701, 711, 579, A.2d 1 (1990)]." Yale University School of Medicine v. McCarthy, 26 Conn. App. 497, 502, 602 A.2d 1040 (1992).

- **PURPOSE**: "The purpose of this precomplaint inquiry is to discourage would-be plaintiffs from filing unfounded lawsuits against health care providers and to assure the defendant that the plaintiff has a good faith belief in the defendant's negligence." Ibid., 501-502.

These guides are provided with the understanding that they represent only a beginning to research. It is the responsibility of the person doing legal research to come to his or her own conclusions about the authoritativeness, reliability, validity, and currency of any resource cited in this research guide.

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This guide links to advance release slip opinions on the Connecticut Judicial Branch website and to case law hosted on Google Scholar.
The online versions are for informational purposes only.

Section 1: Certificate of Good Faith, Reasonable Inquiry or Merit

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to the certificate of good faith, reasonable inquiry or merit required in negligence actions against health care providers.

SEE ALSO: Section 2: Automatic ninety-day extension of statute of limitations.

DEFINITION:

- **Good Faith Certificate**: "The complaint, initial pleading or apportionment complaint shall contain a certificate of the attorney or party filing the action or apportionment complaint that such reasonable inquiry gave rise to a good faith belief that grounds exist for an action against each named defendant or for an apportionment complaint against each named apportionment defendant." CONN. GEN. STATS. § 52-190a(a) (2011).
- **Written Opinion of Health Care Provider**: "To show the existence of such good faith, the claimant or the claimant's attorney, and any apportionment complainant or the apportionment complainant's attorney, shall obtain a written and signed opinion of a similar health care provider, as defined in section 52-184c, which similar health care provider shall be selected pursuant to the provisions of said section, that there appears to be evidence of medical negligence and includes a detailed basis for the formation of such opinion. Such written opinion shall not be subject to discovery by any party except for questioning the validity of the certificate. The claimant or the claimant's attorney, and any apportionment complainant or apportionment complainant's attorney, shall retain the original written opinion and shall attach a copy of such written opinion, with the name and signature of the similar health care provider expunged, to such certificate. The similar health care provider who provides such written opinion shall not, without a showing of malice, be personally liable for any damages to the defendant health care provider by reason of having provided such written opinion. In addition to such written opinion, the court may consider other factors with regard to the existence of good faith." ibid.
- **Consequences of filing a false certificate**: "If the court determines, after the completion of discovery, that such certificate was not made in good faith and that no justiciable issue was presented against a health care provider that fully

cooperated in providing informal discovery, the court upon motion or upon its own initiative shall impose upon the person who signed such certificate or a represented party, or both, an appropriate sanction which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion or other paper, including a reasonable attorney's fee. The court may also submit the matter to the appropriate authority for disciplinary review of the attorney if the claimant's attorney or the apportionment complainant's attorney submitted the certificate." ibid.

- **Health Care Provider**: "means any person, corporation, facility or institution licensed by this state to provide health care or professional services, or an officer, employee or agent thereof acting in the course and scope of his employment." CONN. GEN. STATS. § 52-184b(a) (2011).
- "If the defendant health care provider is not certified by the appropriate American board as being a specialist, is not trained and experienced in a medical specialty, or does not hold himself out as a specialist, a "similar health care provider" is one who: (1) Is licensed by the appropriate regulatory agency of this state or another state requiring the same or greater qualifications; and (2) is trained and experienced in the same discipline or school of practice and such training and experience shall be as a result of the active involvement in the practice or teaching of medicine within the five-year period before the incident giving rise to the claim." CONN. GEN. STATS. §§ 52-184c(b) (2011).
  "If the defendant health care provider is certified by the appropriate American board as a specialist, is trained and experienced in a medical specialty, or holds himself out as a specialist, a "similar health care provider" is one who: (1) Is trained and experienced in the same specialty; and (2) is certified by the appropriate American board in the same specialty; provided if the defendant health care provider is providing treatment or diagnosis for a condition which is not within his specialty, a specialist trained in the treatment or diagnosis for that condition shall be considered a "similar health care provider." CONN. GEN. STATS. §§ 52-184c(c) (2011).
- **Dismissal**: "The failure to obtain and file the written opinion required by subsection (a) of this section shall be grounds for the dismissal of the action." CONN. GEN. STATS. § 52-190a(c) (2011).

STATUTES:

Note: You can visit your local law library or search the most recent statutes and public acts on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- CONN. GEN. STATS. (2011)
  § 52-184c. Standard of care in negligence action against health care provider. Qualifications of expert witness.

  § 52-190a. Prior reasonable inquiry and certificate of good faith required in negligence action against a health care provider. Ninety-day extension of statute of limitations.

COURT RULES:

- **Scope of Discovery; In General** "Written opinions of health care providers concerning evidence of medical negligence, as provided by General Statutes § 52-190a, shall not be subject to discovery except as provided in that section." CT Practice Book § 13-2 (2012).

FORMS:

- Form 101.13. *Certificate of Reasonable Inquiry*, 2 Joel M. Kaye and Wayne D. Effron, Connecticut Practice Series: Civil Practice Forms (4th ed., 2004). ***See pocket part.***

CASES:

(Note: Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can contact your local law librarian to learn about the tools available to you to update cases.)

- Wilcox v. Schwartz, 303 Conn. 630, 648, 37 A3d 133, 144 (2012). "We therefore disagree with the defendants…that a written opinion always must identify the precise manner in which the standard of care was breached to satisfy the requirements of § 52-190a(a)."
- Bennett v. New Milford Hospital, 300 Conn 1, 21, 12 A3d 865, 878 (2011). "Specifically, the text of the related statutes and the legislative history support the Appellate Court's determination that, unlike § 52-184c (d), which allows for some subjectivity as it gives the trial court discretion in determining whether an expert may testify, '§ 52-190a establishes objective criteria, not subject to the exercise of discretion, making the prelitigation requirements more definitive and uniform' and, therefore, not as dependent on an attorney or self-represented party's subjective assessment of an expert's opinion and qualifications. Id.; see also *Williams* v. *Hartford Hospital*, 122 Conn. App. 597, 598, 600, 1 A.3d 130 (2010) (opinion letters from board certified internist and board certified neurologist did not satisfy requirement of § 52-190a [a] in action against board certified anesthesiologist). Accordingly, we conclude that, in cases of specialists, the author of an opinion letter pursuant to § 52-190a (a) must be a similar health care provider as that term is defined by § 52-184c (c), regardless of his or her potential qualifications to testify at trial pursuant to § 52-184c (d)."
- "We agree that the remedy of dismissal may, standing alone, have harsh results for plaintiffs, particularly when the problems with the opinion letter are as relatively insignificant as they

present in this case, given the apparently high and relevant qualifications of its author. Thus, we emphasize that, given the purpose of § 52-190a, which is to screen out frivolous medical malpractice actions, plaintiffs are not without recourse when facing dismissal occasioned by an otherwise minor procedural lapse, like that in this case. First, the legislature envisioned the dismissal as being without prejudice … and even if the statute of limitations has run, relief may well be available under the accidental failure of suit statute, General Statutes § 52-592. For additional discussion of this particular relief, see the discussion in the companion case also released today, *Plante* v. *Charlotte Hungerford Hospital*, 300 Conn. 33, A.3d (2011)." Ibid.

- Plante v. Charlotte Hungerford Hospital, 300 Conn. 33, 38, 12 A3d 885, 891 (2011). "Given the trial court's unchallenged factual finding that the plaintiffs' initial failure to select an appropriately qualified health care provider to review the case for possible malpractice amounted to 'blatant and egregious conduct,' we conclude that § 52-592 (a) does not save this time barred action."
- "See *Isaac* v. *Mount Sinai Hospital*, 210 Conn. 721, 733, 557 A.2d 116 (1989). *The plaintiffs' lack of diligence in selecting an appropriate person or persons to review the case for malpractice can only be characterized as blatant and egregious conduct* which was never intended to be condoned and sanctioned by the `matter of form' provision of § 52-592."
- "The hospital defendants contend further that the matter of form provision of § 52-592(a) is intended to aid the 'diligent suitor' and excuses only 'mistake, inadvertence or excusable neglect.' We agree with the hospital defendants and conclude that, when a medical malpractice action has been dismissed pursuant to § 52-192a(c) for failure to supply an opinion letter by a similar health care provider required by § 52-190a(a), a plaintiff may commence an otherwise time barred new action pursuant to the matter of form provision of § 52-592(a) only if that failure was caused by a simple mistake or omission, rather than egregious conduct or gross negligence attributable to the plaintiff or his attorney."
- "As discussed in greater detail in our decision in the companion case, *Bennett* v. *New Milford Hospital, Inc.*, **300 Conn. 1**, A.3d (2011), also issued today, we agree with the Appellate Court's decision in *Votre* v. *County Obstetrics & Gynecology Group, P. C.*, supra, 113 Conn. App. 583, that a 'plaintiffs failure to comply with the requirements of § 52-190a(a) does not destroy the court's subject matter jurisdiction over the claim; it does not affect the power of the court to hear her medical malpractice action.' See also *Bennett* v. *New*

Milford Hospital, Inc., supra, 2627 (no indication in legislative history that amendment of § 52-190a was intended to alter conclusion in *LeConche* v. *Elligers*, 215 Conn. 701, 710-11, 579 A.2d 1 [1990], that prelitigation requirements are not subject matter jurisdictional in nature)"

- For summaries of recent CT Supreme and Appellate Court medical malpractice cases, see our medical malpractice section in our Newslog at: http://ersa.jud.ct.gov/lawlibnews/Lists/Categories/Category.aspx?Name=Medical%20Malpractice%20Opinions

WEST KEY NUMBERS:

- Health # *804 - 805*

TEXTS & TREATISES:

- 2 & 3A Joel M. Kaye et al., Connecticut Practice Series: Civil Practice Forms (4th ed., 2004).
  Authors' Comments following Forms 101.13 and 804.4 **(*See pocket parts for both sections*).**

- Joyce A. Lagnese et al, Connecticut Medical Malpractice: A Manual of Practice and Procedure, ALM/CT Law Tribune, 2007 with 2011/2012 supplement
  Chapter 18. Areas of Special Statutory Regulation
  § 18-2. Certificate of Good Faith, pp. 149-151 – **See chapter 18A in 2011/2012 supplement for completely new chapter on this subject**
  In 2011/2012 Supplement:
  Chapter 18A. Certificate of Good Faith and Accompanying Opinion Letter
  § 18A-1. Introduction
  § 18A-2. The Certificate of Good Faith
  § 18A-3. The 90-Day Extension
  § 18A-4. The Opinion Letter
  § 18A-4:1. Whether the Action Requires an Opinion Letter
  § 18A-4:1.1. Actions Not Sounding in Medical Malpractice
  § 18A-4:1.2 Informed Consent Cases
  § 18A-4:2. Remedy for Non-Compliance with the Opinion Letter Requirement
  § 18A-4:3. The "Detailed Basis" Requirement
  § 18A-4:3.1. Detailed Basis Generally
  § 18A-4:3.2. Causation
  § 18A-4:3.3. Whether the Letter Should Indicate that the Author is a Similar Health Care Provider
  § 18A-4:4. The Author must be a "Similar Health

Care Provider"
§ 18A-4:5. Hospitals as Defendants
§ 18A-4:6. Multiple Defendants
§ 18A-4:7. Revival of Dismissed Claims under the Accidental Failure of Suit Statute

- David W. Louisell et al, Medical Malpractice, LexisNexis
  Volume 1, Chapter 9. The Defense of Malpractice Cases
  § 9.07. Failure of the Plaintiff to Comply with Statutory Requirements
  [2] Certificate of Merit

- Thomas B. Merritt, Connecticut Practice Series: Connecticut Elements of an Action (2011-2012 ed.)
  Volume 16A - Chapter 16. Medical Malpractice
  § 16:2. Authority; good faith certificate

- Richard L. Newman and Jeffrey S. Wildstein, Tort Remedies in Connecticut (1996) and pocket part.
  Chapter 16. Professional Malpractice
  § 16-3. Medical Malpractice
  § 16-3(d). Good faith certificate ***(See 2010 pocket part, pp. 129-131)***

- West's Connecticut Rules of Court Annotated, 2012 edition, volume 1
  § 13-2. Scope of Discovery; In General
  Notes of Decisions

LEGAL PERIODICALS:

- Brett J. Blank, *Symposium on Health Care Technology: Regulation and Reimbursement: Note: Medical Malpractice/Civil Procedure – Trap for the Unwary: the 2005 Amendments to Connecticut's Certificate of Merit Statute*, 31 Western New England Law Review 453 (2009).

- Thomas B. Scheffey, Article, *Defense: 'Guillotine' Law Needs Sharpening*, 30 Connecticut Law Tribune 1 (April 19, 2004) (No. 16).

- Thomas B. Scheffey, Article, *Med-Mal Lawsuit Change Defeated: Plaintiffs Bar Dealt Setback Over Who Can Write 'Similar' Provider Letter*, 38 Connecticut Law Tribune 1 (May 7, 2012) (No. 19).

CURRENT COMPILER:

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Section 2: Automatic Ninety-Day Extension of Statute of Limitations

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to the automatic ninety-day extension of statute of limitations granted to allow the reasonable inquiry in negligence actions against health care providers.

SEE ALSO: Section 1: Certificate of Good Faith

DEFINITION:

- **Ninety-day extension of statute of limitations**: "Upon petition to the clerk of the court where the civil action will be filed to recover damages resulting from personal injury or wrongful death, an automatic ninety-day extension of the statute of limitations shall be granted to allow the reasonable inquiry required by subsection (a) of this section. This period shall be in addition to other tolling periods." CONN. GEN. STATS. § 52-190a(b) (2011).
- **Statute of Limitations:** "No action to recover damages for injury to the person, or to real or personal property, caused by negligence, or by reckless or wanton misconduct, or by **malpractice of a physician, surgeon, dentist, podiatrist, chiropractor, hospital or sanatorium**, shall be brought but within two years from the date when the injury is first sustained or discovered or in the exercise of reasonable care should have been discovered, and except that no such action may be brought more than three years from the date of the act or omission complained of, except that a counterclaim may be interposed in any such action any time before the pleadings in such action are finally closed." CONN. GEN. STATS. § 52-584 (2011). [Emphasis added.]

STATUTES:

Note: You can visit your local law library or search the most recent statutes and public acts on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- CONN. GEN. STATS. (2011)
  - § 52-190a(b). Automatic ninety-day extension of the statute of limitations.
  - § 52-584. Limitation of action for injury to person or property caused by negligence, misconduct or malpractice.
  - § 52-555. Actions for injuries resulting in death.

COURT RULES:

- **Scope of Discovery; In General** "Written opinions of health care providers concerning evidence of medical negligence, as provided by General Statutes § 52-190a, shall not be subject to discovery except as provided in that section." CT Practice

Book § 13-2 (2012).

FORMS:

- Petition to Clerk for Automatic Ninety Day Extension. Figure 1.

RECORDS & BRIEFS:

- Conn. Appellate Court Record and Briefs (March/April 1996), Girard v. Weiss, 43 Conn. App. 397, 682 A.2d 1078 (1996).

CASES:

(Note: Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can contact your local law librarian to learn about the tools available to you to update cases.)

- Rockwell v. Quintner, 96 Conn. App. 221, 232, 899 A.2d 738 (2006). "To demonstrate his entitlement to summary judgment on timeliness grounds, the defendant, through his affidavit, needed to establish that there was no viable question of fact concerning the plaintiff's obligation to have brought her action within two years and ninety days of discovering the injuries allegedly caused by the defendant's treatment or, in any event, no later than three years and ninety days from the negligent treatment itself. See General Statutes §§ 52-584, 52-190a (b); *Barrett* v. *Montesano*, 269 Conn. 787, 796, 849 A.2d 839 (2004) (holding automatic ninety day extension provided by § 52-190a [b] applicable to both two year discovery and three year repose provisions of § 52-584)."
- Barrett v. Montesano, 269 Conn. 787, 849 A.2d 839 (2004). "On appeal, the plaintiffs claim that the trial court improperly held that the ninety day extension provided by § 52-190a (b) did not apply to the repose section of § 52-584, but, rather, applied only to the two year discovery provision of the statute. They contend that the three year repose section is part of the statute of limitations and is therefore extended by § 52-190a. The defendants argue in response that the exception provided by § 52-190a should be strictly construed in favor of protecting defendants from stale claims and that the term "statute of limitations" excludes the statute of repose contained in § 52-584. We agree with the plaintiffs."
- Bruttomesso v. Northeastern Connecticut Sexual Assault Crisis Services, Inc., 242 Conn. 1, 2-3, 698 A.2d 795, 796 (1997). "The dispositive issue in this appeal is whether a sexual assault crisis center that provides counseling to victims of sexual assault or abuse is a 'health care provider' within the meaning of General Statutes § 52-190a. We conclude that because neither the defendant, Northeastern Connecticut Sexual Assault Crisis Services, Inc., a corporation organized and existing under the laws of the state of Connecticut, nor its employees is licensed or certified by the department of public health, the defendant does not fall within the statutory definition and, consequently, the plaintiffs cannot rely upon the extension of the statute of limitations provided by § 52-190a (b) to save their action, which was brought beyond the two year limitation

of General Statutes § 52-584, from being time barred."

- Girard v. Weiss, 43 Conn. App. 397, 418, 682 A.2d 1078, 1088-1089 (1996). "Section 52-190a(b) grants an automatic ninety day extension of the statute, making it clear that the ninety days is in addition to other tolling periods."
- Gabrielle v. Hospital of St. Raphael, 33 Conn. App. 378, 385, 635 A.2d 1232, 1236 (1994). "Nothing in the language of 52-190a(b) supports a claim that the General Assembly intended to permit the use of a late filed petition for an automatic extension as a vehicle to revive an already expired statute of limitations. To reach such a result would require that we torture the clear language of both statutes."

- For summaries of recent CT Supreme and Appellate Court medical malpractice cases, see our medical malpractice section in our Newslog at: http://ersa.jud.ct.gov/lawlibnews/Lists/Categories/Category.aspx?Name=Medical%20Malpractice%20Opinions

TEXTS & TREATISES:

- 2 & 3A Joel M. Kaye et al., Connecticut Practice Series: Civil Practice Forms (4th ed., 2004).
  Authors' Comments following Forms 101.13 and 804.4 (***See pocket parts for both sections***).

- Joyce A. Lagnese et al, Connecticut Medical Malpractice: A Manual of Practice and Procedure, ALM/CT Law Tribune, 2007 with 2011/2012 Supplement:
  Chapter 12. Statute of Limitations
  § 12-2. Medical Malpractice not Resulting in Death, p. 98
  Chapter 18. Areas of Special Statutory Regulation
  § 18-2. Certificate of Good Faith, pp. 149-151
  In 2011/2012 Supplement:
  § 18A-3. The 90-Day Extension, p. 47

- Thomas B. Merritt, Connecticut Practice Series: Connecticut Elements of an Action (2011-2012 ed.)
  Volume 16A - Chapter 16. Medical Malpractice
  § 16:7. Limitation of actions: Statute of limitations

- Richard L. Newman and Jeffrey S. Wildstein, Tort Remedies in Connecticut (1996) and pocket part.
  Chapter 16. Professional Malpractice
  § 16-3. Medical Malpractice
  § 16-3(d). Good faith certificate *(See 2010 pocket part, pp. 129-131)*

- West's Connecticut Rules of Court Annotated, 2012 edition, volume 1
  § 13-2. Scope of Discovery; In General
  Notes of Decisions

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* Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Figure 1: Petition to Clerk for Automatic Ninety Day Extension

PETITION TO THE CLERK

Pursuant to Connecticut General Statutes Section 52-190a(b), the undersigned hereby petitions for the AUTOMATIC ninety (90) day extension of the Statute of Limitations regarding the course of treatment given to _____ and affecting _____ and any other plaintiffs yet to be identified on or about November 13, 1996; to allow reasonable inquiry to determine that there was negligence in the care and treatment of _____ by _____ Hospital and/or its servants, agents, and/or employees ; PHYSICIANS _____ and/or their servants, agents and/or employees ; _____ , M.D. and/or her servants, agents and/or employees and other health care providers and other professional corporations of health care providers, and their servants, agents and/or employees as yet to be determined.

_____
Signed

* Source: Records and Briefs, *Barrett v. Danbury Hospital*, 232 Conn. 242 (1995).

Section 3: Elements of a Medical Malpractice Action

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to the elements of a medical malpractice action in Connecticut.

DEFINITION:

- "'In order to prevail in a medical malpractice action, the plaintiff must prove (1) the requisite standard of care for treatment, (2) a deviation from that standard of care, and (3) a causal connection between the deviation and the claimed injury.' Samose v. Hammer-Passero Norwalk Chiropractic Group, P.C., (24 Conn. App. 99, 102, 586 A.2d 614 (1991)) ... Generally, expert testimony is required to establish both the standard of care to which the defendant is held and the breach of that standard. Mather v. Griffin Hospital, 207 Conn. 125, 130-31, 540 A.2d 666 (1988); Shelnitz v. Greenberg, 200 Conn. 58, 66, 509 A.2d 1023 (1986); Cross v. Huttenlocher, 185 Conn. 390, 393, 440 A.2d 952 (1981)." Williams v. Chameides, 26 Conn. App. 818 (1992), 603 A.2d 1211

  "The fact that the plaintiff's operation was followed by an injury is not sufficient to establish negligence." Mozzer v. Bush, 11 Conn. App. 434, 438 n. 4, 527 A.2d 727 (1987).

- **Medical Malpractice v. Ordinary Negligence**: "The classification of a negligence claim as either medical malpractice or ordinary negligence requires a court to review closely the circumstances under which the alleged negligence occurred. '[P]rofessional negligence or malpractice . . . [is] defined as the *failure of one rendering professional services* to exercise that degree of skill and learning commonly applied under all the circumstances in the community by the average prudent reputable member of the profession with the result of injury, loss, or damage to the recipient of those services.' (Emphasis added; internal quotation marks omitted.) *Santopietro* v. *New Haven*, 239 Conn. 207, 226, 682 A.2d 106 (1996). Furthermore, malpractice 'presupposes some *improper conduct in the treatment or operative skill* [or] . . . the failure to exercise requisite medical skill. . . .' (Citations omitted; emphasis added.) *Camposano* v. *Claiborn*, 2 Conn. Cir. Ct. 135, 136-37, 196 A.2d 129 (1963). From those definitions, we conclude that the relevant considerations in determining whether a claim sounds in medical malpractice are whether (1)

the defendants are sued in their capacities as medical professionals, (2) the alleged negligence is of a specialized medical nature that arises out of the medical professional-patient relationship and (3) the alleged negligence is substantially related to medical diagnosis or treatment and involved the exercise of medical judgment. See *Spatafora* v. *St. John's Episcopal Hospital*, 209 App.Div.2d 608, 609, 619 N.Y.S.2d 118 (1994)." Trimel v. Lawrence & Memorial Hospital Rehabilitation Center, 61 Conn. App. 353, 764 A.2d 203 (2001)

- **Standard of care in negligence action against health care provider. Qualifications of expert witness.** "In any civil action to recover damages resulting from personal injury or wrongful death occurring on or after October 1, 1987, in which it is alleged that such injury or death resulted from the negligence of a health care provider, as defined in section 52-184b, the claimant shall have the burden of proving by the preponderance of the evidence that the alleged actions of the health care provider represented a breach of the prevailing professional standard of care for that health care provider. ***The prevailing professional standard of care for a given health care provider shall be that level of care, skill and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.***" [Emphasis added] CONN GEN STAT § 52-184c(a) (2011).

STATUTES:

Note: You can visit your local law library or search the most recent statutes and public acts on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- CONN. GEN. STATS. (2011)
  - § 4-160(b). Authorization of actions against the state.
  - § 52-184b**.** Failure to bill and advance payments inadmissible in malpractice cases.
  - § 52-184d. Inadmissibility of apology made by health care provider to alleged victim of unanticipated outcome of medical care.
  - § 52-184e. Admissibility of amount of damages awarded to plaintiff in separate action against different health care provider.
  - § 52-190b. Designation of negligence action against health care provider as complex litigation case.
  - § 52-190c. Mandatory mediation for negligence action against health care provider. Stipulation by mediator and parties. Rules.
  - § 52-192a(b). Offer of compromise by plaintiff. Acceptance by defendant. Amount and computation of interest. **Please note that this statute has been amended**

by PA 11-77.

COURT RULES:

- **Sec. 17-14A. — Alleged Negligence of Health Care Provider** "In the case of any action to recover damages resulting from personal injury or wrongful death, whether in tort or in contract, in which it is alleged that such injury or death resulted from the negligence of a health care provider, an offer of compromise pursuant to Section 17-14 shall state with specificity all damages then known to the plaintiff or the plaintiff's attorney upon which the action is based. At least sixty days prior to filing such an offer, the plaintiff or the plaintiff's attorney shall provide the defendant or the defendant's attorney with an authorization to disclose medical records that meets the privacy provisions of the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) (HIPAA), as amended from time to time, or regulations adopted thereunder, and disclose any and all expert witnesses who will testify as to the prevailing professional standard of care. The plaintiff shall file with the court a certification that the plaintiff has provided each defendant or such defendant's attorney with all documentation supporting such damages." CT Practice Book § 17-14A (2012).

FORMS:

- Koskoff, Koskoff & Bieder, Joshua D. Koskoff, Editor, Library of Connecticut Personal Injury Forms, (1st ed., 2007).
  - Form 2-015. *Complaint – Medical Malpractice – Birth Injury – Asphyxia*, pp. 106 - 113
  - Form 2-016. *Complaint – Medical Malpractice – Birth Injury – Shoulder Dystocia*, pp. 114 – 125
  - Form 2-017. *Complaint – Medical Malpractice – Death – Failure to Diagnose Carotid Artery Dissection*, pp. 126 – 131
  - Form 2-018. *Complaint – Medical Malpractice – Apportionment Against Party Brought in by Defendant*, pp. 132 – 135

- Thomas B. Merritt, Connecticut Practice Series: Connecticut Elements of an Action (2011-2012 ed.)
  - Volume 16A - Chapter 16. Medical Malpractice
    - § 16:10. Sample trial court documents – *Sample complaint*

- AmJur Pleading and Practice Forms, volume 19B, Physicians, Surgeons and Other Healers, §§ 82 – 99
  - § 82. Checklist – Drafting a complaint in action for damages against a physician, dentist, or other healer for

injuries caused by defendant's malpractice
§ 83. Introductory Comments
§ 84. Complaint, petition, or declaration – For malpractice – General form
§ 85. Complaint, petition, or declaration – For malpractice – Specification of items of negligence
§ 86. Complaint, petition, or declaration – For negligence in permitting fall of aged patient – Wrongful death
§ 87. Complaint, petition, or declaration – Failure to warn patient against driving – Loss of control of car due to diabetic attack – Action for personal injuries by plaintiff struck by patient's car
§ 99. Complaint, petition, or declaration – By physician – To recover damages from patient and attorney for filing groundless and unfounded suit for medical malpractice

CASES:

(Note: Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can contact your local law librarian to learn about the tools available to you to update cases.)

- Dzialo v. Hospital of Saint Raphael, Superior Court, judicial district of New Haven at New Haven, Docket No. CV 10 6014703 (June 21, 2011, Burke, J.). "The Appellate Court in *Trimel*, *Votre* and *Selimoglu* resolved this issue by applying a three-part test to determine whether a claim sounds in medical malpractice or ordinary negligence. Under this test, 'the relevant considerations in determining whether a claim sounds in medical malpractice are whether (1) the defendants are sued in their capacities as medical professionals, (2) the alleged negligence is of a specialized medical nature that arises out of the medical professional-patient relationship, and (3) the alleged negligence is substantially related to medical diagnosis or treatment and involved the exercise of medical judgment.' *Votre v. County Obstetrics & Gynecology Group, P.C.*, *supra*, 113 Conn.App. 576; *Trimel v. Lawrence & Memorial Hospital Rehabilitation Center*, *supra*, 61 Conn.App. 358. If all of the factors are met, the cause of action properly sounds in medical malpractice and a written opinion letter is required pursuant to § 52-190a. *Votre v. County Obstetrics & Gynecology Group, P.C.*, *supra*, 585."

- For summaries of recent CT Supreme and Appellate Court medical malpractice cases, see our medical malpractice section in our Newslog at: http://ersa.jud.ct.gov/lawlibnews/Lists/Categories/Category.aspx?Name=Medical%20Malpractice%20Opinions

WEST KEY NUMBERS:

- Health # *610 – 643*
  # 610. In general
  # 611. Elements of malpractice or negligence in general

612. Duty
617. Standard of Care
622. Breach of Duty

ENCYCLOPEDIAS:

- Richard J. Kohlman, *Medicolegal Malpractice Litigation*, 32 AmJur Trials 547 (1985)
- Nancy Smith, *Discovery Date in Medical Malpractice Litigation*, 26 POF3d 185 (1994)

TEXTS & TREATISES:

- Jon R. Abele, editor, Medical Errors and Litigation: Investigation and Case Preparation, Lawyers & Judges Publishing Co., 2004
  Chapter 4. Making Sense of Standards of Care, by MaryAnn Shea and Cynthia Northcutt

- Joel M. Kaye et al., Connecticut Practice Series: Civil Practice Forms 4th, 2004, Vol. 3A
  Authors' Comments following Form 804.4 ***(See pocket part for section)***.

- Joyce A. Lagnese et al, Connecticut Medical Malpractice: A Manual of Practice and Procedure, ALM/CT Law Tribune, 2007 with 2011/2012 supplement
  Chapter 1. General Duty of Health Care Providers
  § 1-1. Introduction
  § 1-2. Duty in General
  § 1-3. Standard of Care
  § 1-4. Duty to NonPatients
  § 1-5. Fiduciary Duty
  § 1-6. Recklessness
  § 1-7. Vicarious Liability
  § 1-8. Contributory Negligence
  Chapter 2. Informed Consent
  § 2-1. Introduction
  § 2-2. Battery
  § 2-3. The Nature of the Duty to Inform
  § 2-4. The Lay Standard
  § 2-5. Expert Testimony in
  § 2-6. Hospitals' Duty
  § 2-7. Causation
  § 2-8. When Informed Consent is Not Required
  Chapter 7. Medical Malpractice Versus Similar Claims
  § 7-1. Actions Brought Under Contract Theory
  § 7-2. Medical Malpractice v. Ordinary Negligence
  § 7-3. Medical Malpractice v. Products Liability
  Chapter 8. Causation

§ 8-1. Causation Generally
§ 8-2. Cause in Fact
§ 8-3. Proximate Cause
§ 8-4. Concurrent / Consecutive Cause
§ 8-5. Intervening / Superseding Cause
§ 8-6. Subsequent Medical Treatment

- Thomas B. Merritt, Connecticut Practice Series: Connecticut Elements of an Action (2011-2012 ed.)
  Volume 16A - Chapter 16. Medical Malpractice
  § 16:1. Elements of action

- Michael S. Taylor and Daniel J. Krisch, Encyclopedia of Connecticut Causes of Action
  Medical Malpractice (Informed Consent), pp. 39-41
  Medical Malpractice (Loss of Chance), p. 41
  Medical Malpractice (Standard), p. 42

JURY INSTRUCTIONS:

- State of Connecticut, Judicial Branch, Civil Jury Instructions
  3.8-3. Medical Malpractice -
  http://www.jud.ct.gov/ji/civil/part3/3.8-3.htm

- Thomas B. Merritt, Connecticut Practice Series: Connecticut Elements of an Action (2011-2012 ed.)
  Volume 16A - Chapter 16. Medical Malpractice
  § 16:12. Sample trial court documents – Plaintiff's request for jury instructions
  § 16:13. Sample trial court documents – Defendant's request for jury instructions

- Douglass B. Wright and William L. Ankerman, Connecticut Jury Instructions (Civil), 4th ed., with 2010 supplement
  Chapter 9. Charitable Immunity – Medical Malpractice
  § 120. Malpractice of Physicians and Surgeons
  § 121. Care Required of Nurse
  § 122. Breach of Contract by Physician .. Misrepresentation
  § 123. Unauthorized Operation .. Assault and Battery
  § 123a. Malpractice against a Dentist
  § 124. Informed Consent
  § 125 Captain of the Ship
  § 126. Wrongful Birth .. Wrongful Life

COMPILER:

Janet Zigadto, Connecticut Judicial Branch, Law Library at New Haven, 235 Church Street, New Haven, CT 06510. (203) 503-6828. Email.

Section 4: Defenses

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to defenses in medical malpractice lawsuits.

TYPES OF DEFENSES:

- "Our Appellate Court has recognized comparative negligence as a viable defense "[i]n situations where the claim of malpractice sounds in negligence." *Somma v. Gracey*, 15 Conn.App. 371, 378, 544 A.2d 668 (1988) (recognizing that other jurisdictions have long sanctioned this defense in medical malpractice actions); see also *Juchniewicz v. Bridgeport Hospital*, 281 Conn. 29, 34, 914 A.2d 511 (2007); *Bradford v. Herzig*, 33 Conn.App. 714, 716, 638 A.2d 608, cert. denied, 229 Conn. 920, 642 A.2d 1212 (1994)... Where the comparative negligence of the plaintiff is alleged by the defendant, "[i]t shall be affirmatively pleaded by the defendant or defendants, and the burden of proving such [comparative] negligence shall rest upon the defendant or defendants." General Statutes § 52-114; see *Bradford v. Herzig*, *supra*, 722; See also Practice Book § 10-53 (requiring the defense of contributory negligence to be specially pled)." Teixeira v. Yale New Haven Hospital, Superior Court, judicial district of New Haven at New Haven, Docket No. CV 09-503067 S (Mar. 5, 2010, Wilson, J.) (49 CLR 443).
- "Moreover, this court has already held that contributory negligence is a valid special defense in a medical malpractice action. See *Poulin v. Yasner*, Superior Court, judicial district of Stamford/Norwalk at Stamford, Docket No. 141928 (February 26, 1997, *Lewis, J.*) (denying a motion to strike a special defense of contributory negligence in a medical malpractice action)." Corello v. Whitney, Superior Court, judicial district of Stamford-Norwalk at Stamford, Docket No. CV 97-0156438 (Aug. 24, 1999, D'Andrea, J.).
- **Pleading of contributory negligence.** "In any action to recover damages for negligently causing the death of a person, or for negligently causing personal injury or property damage, it shall be presumed that such person whose death was caused or who was injured or who suffered property damage was, at the time of the commission of the alleged negligent act or acts, in the exercise of reasonable care. If contributory negligence is relied upon as a defense, it shall be affirmatively pleaded by the defendant or defendants, and the burden of proving such contributory negligence shall rest upon the defendant or

defendants." CONN. GEN. STATS. § 52-114 (2011).

- **Negligence actions. Doctrines applicable. Liability of multiple tortfeasors for damages. "**In causes of action based on negligence, contributory negligence shall not bar recovery in an action by any person or the person's legal representative to recover damages resulting from personal injury, wrongful death or damage to property if the negligence was not greater than the combined negligence of the person or persons against whom recovery is sought including settled or released persons under subsection (n) of this section. The economic or noneconomic damages allowed shall be diminished in the proportion of the percentage of negligence attributable to the person recovering which percentage shall be determined pursuant to subsection (f) of this section." CONN. GEN. STAT. § 52-572h(b) (2011).

STATUTES:

Note: You can visit your local law library or search the most recent statutes and public acts on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- CONN. GEN. STATS. (2011)
  - § 52-114. Pleading of contributory negligence.
  - § 52-557b. "Good samaritan law". Immunity from liability for emergency medical assistance, first aid or medication by injection. School personnel not required to administer or render. Immunity from liability re automatic external defibrillators.
  - § 52-572h(b). Negligence actions. Doctrines applicable. Liability of multiple tortfeasors for damages.

FORMS:

- Thomas B. Merritt, Connecticut Practice Series: Connecticut Elements of an Action (2011-2012 ed.)
  - Volume 16A - Chapter 16. Medical Malpractice
    - §16.11. Sample trial court documents – *Sample answer containing affirmative defenses*

CASES:

(Note: Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can contact your local law librarian to learn about the tools available to you to update cases.)

- Dziadowicz v. American Medical Response of Connecticut, Inc., Superior Court, judicial district of New Britain at New Britain, Docket No. HHB-CV11-6010944 (January 23, 2012, Swienton, J.). "With these principles in mind, in enacting § 52-557b, the legislature appears to have intended emergency medical personnel to be immune from suit in ordinary negligence. This was only intended to provide partial immunity because suit could still be maintained for conduct constituting 'gross, wilful or wanton negligence.'"
- For summaries of recent CT Supreme and Appellate Court medical malpractice cases, see our medical malpractice section in our Newslog at: http://ersa.jud.ct.gov/lawlibnews/Lists/Categories/Category.asp

x?Name=Medical%20Malpractice%20Opinions

WEST KEY NUMBERS:

- Health # *765 – 771*
  - # 765. In general
  - # 766. Contributory and comparative negligence
  - # 767. Assumption of risk
  - # 768. Immunity in general
  - # 769. Good Samaritan doctrine
  - # 770. Official or governmental immunity

ENCYCLOPEDIAS:

- Deborah F. Buckman, *Construction and Application of State Constitutional Provisions Concerning Defenses of Assumption of Risk and Contributory Negligence*, 62 ALR 6th 313 (2011)
- James Sloane Higgins, *Defense of Medical Malpractice Cases*, 16 AmJur Trials 471 (1969)
- Kurtis A. Kemper, *Contributory Negligence, Comparative Negligence, or Assumption of Risk, Other than Failing to Reveal Medical History or Follow Instructions, as Defense in Action Against Physician or Surgeon for Medical Malpractice*, 108 ALR 5th 385 (2003)
- Caroll J. Miller, *Patient's failure to reveal medical history to physician as contributory negligence or assumption of risk in defense of malpractice action*, 33 ALR 4th 790 (1984)
- 61 Am.Jur. 2d *Physicians* (2002)
  - § 280-285 Defenses, generally
- 70 CJS *Physicians* (2005)
  - § 135 Defenses

TEXTS & TREATISES:

- Joyce A. Lagnese et al, Connecticut Medical Malpractice: A Manual of Practice and Procedure, ALM/CT Law Tribune, 2007 with 2011/2012 supplement
  - Chapter 1. General Duty of Health Care Providers
    - § 1-8. Contributory Negligence
  - Chapter 12. Statute of Limitations
    - § 12-1. Introduction
    - § 12-2. Medical Malpractice Not Resulting in Death
      - § 12-2:1. The Two-Year Limitations Period
      - § 12-2:2. The Three-Year Repose Period
    - § 12-3. Medical Malpractice Resulting in Wrongful Death
    - § 12-4. Tolling Doctrines
      - § 12-4:1. Continuing Treatment
      - § 12-4:2. Continuing Course of Conduct
      - § 12-4.3. Fraudulent Concealment
    - § 12-5. Breach of Contract Theory
    - § 12-6. Relation Back

§ 12-6:1. Relation Back Applied
§ 12-6:2. Relation Back Not Applied

- David W. Louisell et al, Medical Malpractice, LexisNexis
  Volume 1, Chapter 9. The Defense of Malpractice Cases
  § 9.01. Introduction
  § 9.02. Assumption of the Risk
  [1] In General
  [2] Express Assumption of the Risk
  [3] Implied Assumption of the Risk
  § 9.03. Contributory Negligence and Related Concepts
  [1] Contributory Negligence in General
  [2] Avoidable Consequences Rule and the Particularly Susceptible Victim Doctrine
  [3] Failure to Follow Therapeutic Regimen
  [4] Failure to Give an Accurate Medical History
  [5] Failure to Seek Timely Treatment
  § 9.04. Causation
  [1] In General
  [2] Causation in Fact
  [3] Legal Causation
  [4] Loss of Chance of Survival or Successful Treatment
  [5] Superseding Cause
  [6] Causation in Informed Consent Actions
  [7] "Sole" Proximate Cause
  § 9.05. Standard of Care
  [1] In General
  [2] Honest Errors of Judgment
  [3] Respectable Minority Rule
  § 9.06. The Emergency Rule
  § 9.07. Failure of the Plaintiff to Comply with Statutory Requirements
  [1] In General
  [2] Certificate of Merit
  [3] Notice of Claim
  § 9.08. Screening Panels and Arbitration
  [1] Screening Panels
  [2] Arbitration
  § 9.09. Defenses in FTCA Actions
  [1] In General
  [2] The *Feres* Doctrine and Military Service
  [3] Claims Arising in Foreign Countries
  [4] Discretionary Functions
  [5] Assault and Battery
  § 9.10. Plaintiff's Violation of Criminal Statute

§ 9.11. Collateral Estoppel
§ 9.12. Coemployee Physicians; Workers' Compensation Exclusive Remedy Rule

- Thomas B. Merritt, Connecticut Practice Series: Connecticut Elements of an Action (2011-2012 ed.)
  Volume 16A - Chapter 16. Medical Malpractice
  § 16:8. Defenses: Limitations

- Steven E. Pegalis, American Law of Medical Malpractice 3d, West, 2005
  Volume 2 – Chapter 7. Defenses of Medical Malpractice Action
  Part A. Generally
  § 7:1. Introduction
  § 7:2. Contributory and Comparative Negligence
  § 7:3. Contribution, indemnity, and set-off
  § 7:4. Release
  § 7:5. Arbitration agreement
  § 7:6. Worker's compensation defense
  Part B. Statute of Limitations
  § 7:7. Introduction
  § 7:8. Statutory codifications
  § 7:9. Discovery as basis for accrual
  § 7:10. Continuous treatment
  § 7:11. Foreign object
  § 7:12. Fraud and estoppel
  Part C. Good Samaritan Defense
  § 7:13. Introduction
  § 7:14. Medical emergency defined
  § 7:15. Good Samaritan defined
  § 7:16. Scene of emergency defined
  § 7:17. Good faith requirement

- Charles C. Sharpe, Nursing Malpractice: Liability and Risk Management, Auburn House, 1999
  Chapter 3. Defenses in Malpractice

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Table 1: Settlements and Verdicts in Connecticut Medical Malpractice Actions

Settlements and Verdicts in Connecticut Medical Malpractice Actions

- **Remittitur when noneconomic damages in negligence action against health care provider determined to be excessive.**
  "Whenever in a civil action to recover damages resulting from personal injury or wrongful death, whether in tort or in contract, in which it is alleged that such injury or death resulted from the negligence of a health care provider, the jury renders a verdict specifying noneconomic damages, as defined in section 52-572h, in an amount exceeding one million dollars, the court shall review the evidence presented to the jury to determine if the amount of noneconomic damages specified in the verdict is excessive as a matter of law in that it so shocks the sense of justice as to compel the conclusion that the jury was influenced by partiality, prejudice, mistake or corruption. If the court so concludes, it shall order a remittitur and, upon failure of the party so ordered to remit the amount ordered by the court, it shall set aside the verdict and order a new trial. For the purposes of this section, "health care provider" means a provider, as defined in subsection (b) of section 20-7b, or an institution, as defined in section 19a-490." Conn. Gen. Stat. § 52-228c (2011)

- **Review of medical malpractice awards and certain settlements.**
  "Upon entry of any medical malpractice award or upon entering a settlement of a malpractice claim against an individual licensed pursuant to chapter 370 to 373, inclusive, 379 or 383, the entity making payment on behalf of a party or, if no such entity exists, the party, shall notify the Department of Public Health of the terms of the award or settlement and shall provide to the department a copy of the award or settlement and the underlying complaint and answer, if any. The department shall review all medical malpractice awards and all settlements to determine whether further investigation or disciplinary action against the providers involved is warranted. Any document received pursuant to this section shall not be considered a petition and shall not be subject to the provisions of section 1-210 unless the department determines, following completion of its review, that further investigation or disciplinary action is warranted." Conn. Gen. Stat. § 19a-17a (2011)

- Joyce A. Lagnese et al, Connecticut Medical Malpractice: A Manual of Practice and Procedure, ALM/CT Law Tribune, 2007 and 2011/2012 supplement
  Chapter 11. Apportionment
  § 11-3:5. Pre-Trial Settlements
  Chapter 18. Areas of Special Statutory Regulation
  § 18-3. Offers of Compromise
  § 18-3:1. Offers of Compromise by Plaintiff

§ 18-3:2. Offers of Compromise by Defendant
Chapter 19. Insurance Issues
§ 19-4. Consent to Settle Clause
§ 19-4:1. Consent to Settle: Insurer
§ 19-4:2. Consent to Settle: Physician
§ 19-4:3. Hammer Clause

- David Louisell et al, Medical Malpractice, LexisNexis
  Volume 1, Chapter 10. Settling the Medical Malpractice Case
  § 10.01. Introduction
  § 10.02. Preparation for Settlement Negotiations: Evaluating Damages
  § 10.03. Assignment of Damage Values
  § 10.04. Assessing Liability
  § 10.05. Limitations on Liability
  § 10.06. Client Discussions and Consent
  § 10.07. Medical Malpractice Panel Hearings
  § 10.08. Timing Settlement Negotiations
  § 10.09. Settlement Conference
  § 10.10. Lump Sum Settlements
  § 10.11. Structured Settlements
  § 10.12. Formalizing the Settlement
  § 10.13. Reporting Medical Malpractice Payments
  § 10.14. Evidence of Settlement in Litigation Against Codefendants
  § 10.15 – 10.99 Reserved
  § 10.100 Forms
  [1] Sample Order of Compromise
  [2] Sample Attorney's Affirmation
  Volume 6, Chapter 40. Illustrative Awards

- Thomas B. Merritt, Connecticut Practice Series: Connecticut Elements of an Action (2011-2012 ed.)
  Volume 16A - Chapter 16. Medical Malpractice
  § 16:14. Jury Verdict Summaries

- Henry G. Miller, Art of Advocacy: Settlement, LexisNexis
  Chapter 9A. Settlement of a Medical Malpractice Case
  § 9A.01. Introduction
  § 9A.02. Preparation for Settlement Negotiations: Evaluating Damages
  § 9A.03. Assignment of Damage Values
  § 9A.04. Assessing Liability
  § 9A.05. Limitations on Liability
  § 9A.06. Client Discussions and Consent
  § 9A.07. Medical Malpractice Panel Hearings

§ 9A.08. Timing Settlement Negotiations
§ 9A.09. Settlement Conference
§ 9A.10. Types of Settlements

- Ronald V. Miller, Jr. and Kevin M. Quinley, Insurance Settlements, James Publishing, vol. 2

  Chapter 31. Evaluating and Settling of Medical Malpractice Claims
  § 3100. Introduction
  § 3110. Preparing for Settlement Means Preparing Your Case for Trial
  § 3120. Negotiation Strategy
  § 3130. Factors to Consider in Making Your Settlement Evaluation
  § 3140. Evaluating Experts
  § 3150. Issues with Jury Appeal
  § 3160. The Settlement Package
  § 3170. Final Considerations

- New England Jury Verdict Review and Analysis, searchable at http://www.jvra.com/Verdict_Trak/

- West's Jury Verdicts: Connecticut Reports – see topical index at the back of each issue

- What's It Worth?

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