

Hinshaw's Annual Guide to Key Illinois Medical Malpractice Litigation: 2020 Edition

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In a year where COVID-19, social injustice protesting, a contested national election, and even murder hornets challenged our sense of normalcy, Illinois courts decided medical malpractice disputes befitting a truly unprecedented year—cases involving a patient who swallowed a dental appliance while kissing her boyfriend, a litigant who rendered medical aid to a jury who fell ill at trial, a reversal of a \$50M trial verdict, and even a claim of *res ipsa loquitor*. In other respects, many of the opinions dealt with fairly “normal” legal issues that typically arise from medical malpractice litigation. They cover myriad topics relevant to medical malpractice lawyers throughout the state, including expert witness standards, trial practice, and civil procedure.

The opinions featured in this medical malpractice guide were selected with an eye toward inclusion, without regard to outcome or favorability to plaintiff or defendant. Given the survey nature of this guide, each succinct case summary focuses on the key legal issues, rather than addressing every legal issue raised on appeal.

We've organized these cases below according to the most pertinent issues. You can read more about each case by clicking on an individual link below.

- **Apparent Agency**
 - [Hospital Ads Insufficient to Overcome Consent Forms in Establishing Apparent Agency](#)
- **Physician Experts**
 - [Plaintiff Permitted to Redesignate Rule 213\(f\)\(3\) Controlled Expert to Consultant](#)
 - [Defendant Physician can be Cross-Examined With His Disclosure and ACR Guidelines](#)
 - [Emergency Physician Not Qualified to Opine on Psychiatric Standard of Care](#)
 - [Standard of Care Opinions Outside an Expert's Specialty Barred](#)
- **Trial Practice**
 - [Improper Remarks Made During Closing Argument Reverse Trial Verdict](#)
 - [Trial Court Erred in Refusing Non-Pattern Loss of Chance Jury Instruction](#)
 - [Expert Demonstrations at Trial Must Meet “Substantially Similar” Standard](#)

- No Mistrial Required When Defendant Physician Rendered Medical Aid to Juror at Trial
- **Alternative Causation - Medical Conditions**
 - \$50M Jury Verdict Overturned on Appeal Because Evidence of Autism Excluded at Trial
 - Cross-Examination About Medical Condition Without Formal Diagnosis Deemed Error
- **Certificate of Merit**
 - Trial Court Not “Without Discretion” When Plaintiff Fails to File Certificate of Merit
- **Civil Procedure**
 - “Forum Shopping” Argument Rejected in *Forum Non Conveniens* Analysis
 - *Res Ipsa Loquitur* in Practice
 - Post-Trial Motion Required to Preserve Trial De Novo on Issues Decided by Jury
 - Case Management Orders Must be Flexibly Applied in Cases Involving Minors
 - Dispositive Motions Should Proceed Only After Expert Discovery Completed
 - Cook County Protective Order Template Violates HIPAA With Regard to PHI Disclosures
- **Damages**
 - Determining Future Lost Wages for Minor Child Speculative, But Unavoidable Task