



## Alerts

### **Court Strikes Down Budget Provision Authorizing Injured Patients and Families Compensation Fund Raid**

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*Hinshaw Health Law Alert*

The Wisconsin Supreme Court today struck down a 2007-2009 state budget provision (“the Act”) that authorized a transfer of \$200 million from the Injured Patients and Families Compensation Fund (Fund). The Court found that the transfer was an unconstitutional taking of private property without just compensation and ordered the state to pay back all monies taken from the Fund, along with lost earnings and interest. The Court further ordered a permanent injunction blocking the state from taking any further money from the Fund pursuant to the Act.

The Supreme Court’s ruling represents a victory for the Wisconsin Medical Society, which was a plaintiff in the lawsuit against the Secretary of the Wisconsin Department of Administration. A circuit court had previously dismissed the case, finding that the Wisconsin Medical Society had no property interest in the Fund. But the Supreme Court reversed, holding that health care providers such as those who are members of the Wisconsin Medical Society do indeed have a property interest in the Fund.

In reaching its decision, the Supreme Court noted that health care providers have a right to have the Fund money managed on their behalf. It also noted that any removal of money from the Fund would almost certainly result in an increase in provider assessments in order to maintain the Fund’s solvency.