



Mountain State INSURANCE AGENCY, INC.

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Illinois Declares Medical Malpractice Caps Unconstitutional

On Thursday, February 4, 2010 the Illinois Supreme Court once again struck down a four-year-old law that caps jury payouts in medical malpractice cases. This would make the third time the Court has rejected medical malpractice caps. The Supreme Court in the state of Illinois found that the legislature violated the separation of powers by infringing on the authority of the judiciary.

The February 4th decision comes in the wake of Abigaile Lebron's trial that alleged her injuries went beyond the cap regulations. The Lebron Family sued Gottlieb Memorial hospital after Abigaile was born with severe brain damage. In Abigaile's case, the family felt the young girl's rights would be compromised if the law were to stand.

Doctors and hospitals around the state are outraged with



the Supreme Court's decision to strike down cap regulation. They claim that those caps were helping to tame a once-soaring liability cost. In past years medical malpractice premiums in Illinois were outrageous for doctors in riskier specialties such as obstetrics and neurosurgery. Many doctors were forced to leave the state, particularly those in rural areas, sighting that they could not afford to practice in their communities.

In 2005 the General Assembly offered a solution to the medical community with a law that would protect health care workers in the state of

Illinois. The law proposed caps that would grant limited non-economic damages, such as pain and suffering to \$500,000 for claims against physicians and to \$1,000,000 in claims brought against hospitals. Physicians claim that since the law took hold frivolous lawsuits have receded and malpractice rates have leveled off or decreased. With these results doctors felt that the trend was proof that the caps were working.

With the Medical Malpractice Cap law being struck down doctors and hospitals in Illinois worry that history could repeat itself. No one knows what the future holds but many worry that they could soon be facing high premiums, frivolous lawsuits and the possibility of insurance carriers leaving the state once again.

What Does This Mean for West Virginia Doctors?

With Medical Malpractice laws changing across the country, many physicians and hospitals around the state of West Virginia are wondering "How will the change in Illinois Cap laws effect me?" News like this reminds us all how quickly things can change. It has not been that long ago that West Virginia

doctors were victims of high medical malpractice premiums and frivolous lawsuits themselves.

It is up to the WV medical community to stay active in the issues that affect not only their direct practice but also the laws and regulations that apply to the healthcare industry. Physicians are encour-

aged to know who their Senators and Representatives are and to know those individuals' position on tort reform. It is with this knowledge that you can vote for and support the government officials that take a stand in healthcare laws. Take the time to do your part, remember every voice counts and you can make a difference.

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Special points of interest:

- Illinois Cap Law Declared Unconstitutional.
- WV Doctors look to other states as forecast of Med Mal future.



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