

Ill. Malpractice Caps Unconstitutional

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A judge threw out Illinois' law placing caps on some medical malpractice lawsuit awards Tuesday, reigniting debate over one of the Legislature's most contentious issues.

Cook County Circuit Court Judge Diane Joan Larsen on Tuesday sided with plaintiffs' argument that the caps on non-economic damages such as pain and suffering in medical malpractice cases violate victims' rights.

The Illinois Hospital Association said in a statement it was disappointed in the verdict but it is confident an appeal to the Illinois Supreme Court will successfully uphold the caps.

The ruling came in the case of Abigaile LeBron, whose family last December sued Gottlieb Memorial Hospital in Melrose Park and Dr. Roberto Levi-D'Ancona for not acting quickly enough when Abigaile's mother began showing problems during her October 2005 birth. Abigaile was left with severe brain damage and other developmental problems.

Lawsuit cap supporters and opponents have been eyeing the LeBron case since it was filed in Cook County court because it's the first "test case" challenge of the 2005 law that put caps on some medical malpractice lawsuit awards.

The law limited what victims could collect for non-economic damages such as pain and suffering to \$500,000 against doctors and \$1 million against hospitals.

Those caps came after a lengthy, intense debate two years ago over how to help doctors deal with soaring malpractice insurance rates. The caps were a cornerstone of the aid lawmakers provided after feeling enormous pressure from doctors and upset patients to prevent more doctors from leaving the state.

Two previous caps on damages have been deemed unconstitutional by the state Supreme Court _ the last time in 1997 as part of a broader reform law that covered wrongful death and personal injury cases. The court said the law was illegal special legislation and legislators infringed on the judiciary's power to reduce unfair damage awards.

Cap advocates say this time should be different, partly because the latest caps only cover malpractice cases.

Trial lawyers, including LeBron's team, argue the caps still violate victims' constitutional rights to due process and equal protection by limiting what they can receive for their pain and suffering.

Associated Press Writer Ryan Keith in Springfield contributed to this report.