

Illinois Supreme Court Votes to Overturn Malpractice Reform – Again

► Make Your Vote Count During an Election Year

In what the Chicago Tribune described as a “disastrous decision,” the Illinois Supreme Court overturned Illinois’ 2005 medical malpractice reform legislation on February 4. The Supreme Court’s decision in *Lebron v. Gottlieb Memorial Hospital* has been deemed “absurd” and “lawless” by legal scholars and has even been ridiculed by two of Illinois’ own Supreme Court Justices, Lloyd Karmeier and Rita Garman.

In their dissenting opinion, Justices Karmeier and Garman noted that the majority’s decision to overturn malpractice reform itself violated the Illinois Constitution and that the Court’s reasoning for overruling damage caps “has not only been rejected by the federal courts, [but] has failed to carry the day in any reported decision in any other state in the United States since it was filed 12 years ago.”

The Supreme Court’s full opinion is available online at www.state.il.us/court/Opinions/SupremeCourt/2010/February/105741.pdf.

Several legal commentators have noted that one of the few ways to improve the status of tort reform in Illinois is to change the makeup of the Supreme Court. There are seven Illinois Supreme Court Justices: Thomas R. Fitzgerald (Chief Justice); Charles E. Freeman; Robert R. Thomas; Thomas L. Kilbride; Rita Garman; Lloyd Karmeier; and Anne M. Burke.

The terms of Justices Fitzgerald, Thomas, and Kilbride end this year, meaning that if they wish to remain on the Supreme Court, they must submit their names for “retention.”

Under Article VI of the Illinois Constitution, judges can be voted out of office just like politicians. Once a judge’s term has ended, 60% of



the people voting in a general election must vote to retain the judge in order for the judge to keep his or her position on the bench.

Justices Fitzgerald and Kilbride both voted to overturn Illinois medical malpractice reform legislation. Justice Thomas chose to abstain from the vote but seems to be more understanding of the implications of medical malpractice reform in Illinois.

With three Supreme Court justices up for retention this year, Illinois citizens now have the ability to change the composition of the Supreme Court. Justices Fitzgerald and Kilbride voted “no” on medical malpractice reform. In November, how will you vote on the decision to retain them?

Another way to improve access to medical care in Illinois is to help our lobbyists show our elected officials how issues such as reimbursement and malpractice liability affect access to medical care in Illinois.

The Illinois Emergency Medicine Political Action Committee (EMPAC) helps us educate our legislators and also makes campaign contributions to candidates who seek to improve the practice of medicine in Illinois. In order to do this, EMPAC’s efforts require funding.

For the national PAC, ACEP has an ongoing “give a shift” campaign that asks members to give the monetary equivalent of one shift’s work to help with its national legislative efforts.

Illinois EMPAC is asking ICEP members to “give an hour” to help with our legislative efforts. Please consider donating the equivalent of one hour of work to EMPAC. Simply call ICEP at 630.495.6400 and state that you would like to donate to EMPAC. The staff will take your personal information and apply your donation.

While we won’t come close to the amount of money that trial lawyers donate in their fight against tort reform, our donations can help EMPAC advocate for a work environment in Illinois that is conducive to helping patients and providing the “safety net” care that all of our patients depend upon.

This year, an election year, it is especially important to “give an hour” of your time to improve EMPAC’s legislative efforts, as there is greater power for change. And don’t forget to let your voice be heard this November on whether certain judges should retain their positions on the Supreme Court. Your vote counts!

— **Dino P. Rumoro, DO, FACEP, President-Elect, & William P. Sullivan, DO, JD, FACEP, Past President, ICEP Board of Directors**

References

Point of Law Forum. Online at: www.pointof-law.com/archives/2010/02/illinois-high-c.php

“Illinois Supreme Court declares medical malpractice reform unconstitutional: A disastrous decision.” Editorial published February 4, 2010. Chicago Tribune. Online at: www.chicagotribune.com/news/opinion/editorials/ct-edit-medmal-20100204,0,5948924.story

Abigaile Lebron v. Gottlieb Memorial Hospital (Illinois Supreme Court 2010). Online at: www.state.il.us/court/Opinions/SupremeCourt/2010/February/105741.pdf



Illinois College of Emergency Physicians
3000 Woodcreek Drive, Suite 200
Downers Grove, IL 60515
Phone 630.495.6400 Fax 630.495.6404
www.icep.org

Editor
Cai Glushak, MD, FACEP
ICEP President
Mark E. Cichon, DO, FACEP, FACOEP
Executive Director
Virginia Kennedy Palys
Managing Editor
Kate Blackwelder

Illinois EPIC is published by the Illinois Chapter, American College of Emergency Physicians. Opinions expressed in this newsletter do not necessarily express the views of ICEP.

All advertisements appearing in the Illinois EPIC are printed as received from the advertisers. Advertisement in the EPIC does not imply endorsement of any product or service by the Illinois College of Emergency Physicians. ICEP receives and publishes

advertisements but neither reviews, recommends or endorses any individuals, groups or hospitals who respond to these advertisements.

For membership or advertising information, call 630.495.6400 or dial toll-free 888.495.ICEP. Also, visit the ICEP Website at <http://www.icep.org>.

© 2010

