

FOR IMMEDIATE RELEASE: November 13, 2008
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Illinois Supreme Court Hears Arguments on Constitutionality of Medical Liability Reforms

Springfield – The Illinois Supreme Court heard oral arguments on *Lebron v. Gottlieb Memorial Hospital* to determine whether the medical liability reform law, enacted by the Illinois General Assembly in 2005, is constitutional. Theodore B. Olson, former U.S. Solicitor General and constitutional scholar, represented the legal team defending the 2005 reform law and its importance in keeping doctors in Illinois and preserving patient access to medical care. It is unclear when the Illinois Supreme Court will release its ruling on the case. (For more updates and background on this case, visit www.realitymedicine.com.)

“Before 2005, non-economic awards in medical liability were increasing substantially and wreaking havoc on the medical liability insurance market – both of which were driving doctors to retire early or leave for states with better legal environments,” Mr. Olson said. Non-economic damages are largely unpredictable and unquantifiable sums awarded by juries for emotional issues such as pain and suffering.

Among a comprehensive list of reform provisions aimed at preserving patient access to medical care, the Illinois legislature capped non-economic damage awards at \$500,000 for doctors and \$1 million for hospitals. Under the reform law, patients injured through medical negligence will still receive unlimited economic damages such as lost wages, medical expenses, and future earning potential.

Mr. Olson added, “By adopting the reforms, the legislature sought to bring rationality to the malpractice insurance market and thereby make practicing in Illinois sustainable for doctors.”

“The *Lebron* case involves exceedingly high stakes for the health, safety and welfare of the people of Illinois,” stated Illinois State Medical Society President Shastri Swaminathan, M.D. “Turning the clock back to the days prior to these reforms would cause a devastating effect on access to care, especially in high-risk specialties like neurosurgery and obstetrics.”

“Since the passage of the medical liability reform law, access to health care is widening and malpractice rates have decreased. Not only is competition among insurers increasing, but doctors are now returning to or deciding to remain in Illinois,” cited ISMIE Chair Harold L. Jensen, M.D. “This law is a well-balanced approach to a very troubling problem. Hopefully, for the sake of our patients, the Illinois Supreme Court will agree.”

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ISMIS is a professional membership association representing nearly 12,000 physicians practicing in all medical specialties statewide. ISMIE Mutual Insurance Company is the largest insurer of medical liability for Illinois physicians. Dr. Swaminathan is a psychiatrist practicing in Chicago. Dr. Jensen is an internal medicine specialist from Frankfort.