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Caps threaten \$19.2 million jury award to family of preemie who received overdose

A jury recently awarded \$19.2 million to a Florida couple whose premature infant daughter received a massive overdose of nutrients at a Fort Myers hospital, but the family may never see most of it due to a cap on liability. The little girl is in a wheelchair for life and nearly blind due to the negligence of the hospital staff.

The cap, which is based on the concept of “sovereign immunity,” applies to public institutions, including public healthcare systems. (HealthPark Medical Center, where

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the event occurred, is part of the Lee Memorial Health System, a public health care system created by a special act of the Florida Legislature.) Sovereign immunity means that an employee, officer, or agent of the state and local governments is not held personally liable for negligence committed during the scope of his or her employment or function, unless the employee acts in bad faith or with malicious purpose. Instead, the state takes the place of the employee and defends the claim.

In Florida, sovereign immunity also limits the amount of recovery in any claim against the state to \$100,000 per person and \$200,000 per incident. (Effective Oct. 1, 2011, the limits will rise to \$200,000 per person and \$300,000 per incident.)

The verdict came after a two-week trial for medical negligence brought against the Lee Memorial Health System by the parents of Kiarra Summer Smith, who was born in 2007 weighing 1.5 pounds and 3 months premature. Kiarra was give a formula of neonatal nutrition including amino acids and carbohydrates as well as vitamins and trace minerals based upon her body weight. When she was 15 days old, the pharmacy misread an updated physician order sheet and calculated the dosage of trace elements as if it were for a person weighing about 160 pounds. As a result, Kiarra received a dose of trace elements, including zinc, copper, manganese and others, about 100 times larger than she should have.

The lawsuit states Kiarra's body fluids became highly acidic and she went into cardiac arrest, requiring cardiopulmonary resuscitation and transfusion of all the blood in her body. She also suffered a brain hemmorrhage. The long-term result is Kiarra has

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permanent neurological damage, a type of cerebral palsy where all four extremities are spastic, and is nearly blind. She also is completely disabled and in a wheelchair.

Lee Memorial admitted negligence but denied the overdose caused damage. “Although Lee Memorial Health System accepts responsibility for this unfortunate event, we believe the verdict is excessive and against the greater weight of the evidence,” a Lee spokeswoman said after the trial. “We admitted error in administering nutrition but we believe strongly that this was not the cause of the child’s condition.”

To overcome Lee Memorial’s sovereign immunity protection, a specific bill would have to be passed by the Florida Legislature, which could only happen after all appeals had been exhausted, which could take years.

Source: [Fort Myers News-Press](#)

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