

Senate Joint Resolution 33

Sponsored by Senators MORSE, KRUSE, MONNES ANDERSON, JOHNSON, BATES; Senators BOQUIST, FERRIOLI, GEORGE, GIROD, OLSEN, STARR, TELFER, VERGER, WHITSETT, WINTERS, Representative OLSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Proposes amendment to Oregon Constitution to impose limitation on damages in claims against health care providers based on provision of medical care or failure to provide medical care. Provides for adjustment based on cost of living in subsequent calendar years.

Refers proposed amendment to people for their approval or rejection at next regular general election.

JOINT RESOLUTION

Be It Resolved by the Legislative Assembly of the State of Oregon:

PARAGRAPH 1. The Constitution of the State of Oregon is amended by creating a new section 12 to be added to and made a part of Article XV, such section to read:

SECTION 12. (1) In any action against a health care provider based on the provision of medical care or the failure to provide medical care, the liability for a single claim arising out of a single act or omission may not exceed the limitation imposed under subsections (3) and (5) of this section, regardless of the number of health care providers against whom the claim is asserted.

(2) In any action against a health care provider based on the provision of medical care or the failure to provide medical care, the liability for all claims arising out of a single act or omission may not exceed the limitation imposed under subsections (4) and (5) of this section, regardless of the number of health care providers against whom the claims are asserted.

(3)(a) The limitation on damages imposed under subsection (1) of this section for claims arising in calendar years 2013 and 2014 is \$2 million.

(b) The limitation on damages imposed under subsection (1) of this section for claims arising in calendar years after 2014 is the adjusted limitation determined under subsection (5) of this section.

(4)(a) The limitation on damages imposed under subsection (2) of this section for claims arising in calendar years 2013 and 2014 is \$4 million.

(b) The limitation on damages imposed under subsection (2) of this section for claims arising in calendar years after 2014 is the adjusted limitation determined under subsection (5) of this section.

(5) Not later than February 1 of each calendar year after 2014, the limitations established under paragraph (a) of subsection (3) and paragraph (a) of subsection (4) of this section shall be adjusted to reflect changes in the cost of living. The Legislative Assembly may by law determine the method for adjusting the limitations. The adjusted limitations apply to all

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **claims arising in the calendar year in which the adjustment is made.**

2 **(6) The limitation on damages imposed by this section applies to actions brought by in-**
3 **jured patients, actions brought by the legal representatives of patients and actions brought**
4 **by persons claiming loss of consortium or loss of care, comfort, companionship or society.**

5 **(7) The limitation on damages imposed by this section applies only to a health care pro-**
6 **vider acting within the scope of the health care provider's license.**

7 **(8) The limitation on damages imposed by this section does not apply to claims based on**
8 **intentional injury.**

9 **(9) For the purposes of this section, "health care provider" means a person licensed,**
10 **certified or otherwise authorized or permitted by the laws of this state to administer health**
11 **care services in the ordinary course of business or practice of a profession, including but not**
12 **limited to physicians, physician assistants, nurses, dentists, hospitals, health care clinics,**
13 **ambulatory surgery centers, optometrists, naturopathic physicians and chiropractors.**

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15 **PARAGRAPH 2. The amendment proposed by this resolution shall be submitted to the**
16 **people for their approval or rejection at the next regular general election held throughout**
17 **this state.**

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