

April 7, 2015

**JAMES T. DORIGAN, JR.**  
**Senior Vice President, Regional Operating Officer**  
**The Doctors Company**  
**Regional Office - Lake Oswego, Oregon**

**RE: Senate Judiciary Committee - Senate Bill 409**

My name is Jim Dorigan. I am the Regional Operating Officer for The Doctors Company and have been engaged in insuring Oregon healthcare providers since 1983. The Doctors Company insures approximately 40% of physicians practicing in Oregon. Over the last 5 years in Oregon, medical professional liability premiums have decreased and are currently at or below the premiums paid by physicians in 2002. Frequency, or the number of claims made against Oregon physicians, has decreased by 30%. There are many theories as to why claims frequency has dropped but a contributing factor is the focus of physicians and insurers on patient safety. Professional liability insurers, physicians and hospitals have invested heavily in patient safety efforts over the last decade.

Senate Bill 409 eliminates the cap on non-economic damages for wrongful death cases in Oregon. **The Doctors Company and a large coalition of healthcare providers and hospitals oppose this bill.** The reasons for our opposition are as follows:

- All economic damages including medical expenses, future earnings and the cost of replacing services are recoverable in a wrongful death action. The current \$500,000 non-economic damage cap provides a reasonable and fair amount for pain and suffering and emotional loss in wrongful death cases. In California, there is a \$250,000 limit on all non-economic damages.
- The stable market in Oregon for professional liability insurance could be damaged. Rates have decreased and many insurers are writing coverage in Oregon. In 2000, when the non-economic damage cap for cases other than wrongful death was eliminated, there was a spike in claims filed and claim payments. This caused a rapid increase in premiums and the withdrawal of several insurers.
- Over 80% of claims against physicians are closed without payment other than the expenses of defending the claims. Eliminating the \$500,000 cap on non-economic damages in wrongful death cases will create more costly litigation. There may be additional cases filed and settlements will be more difficult to obtain with the potential for unlimited damages.
- Oregon has created a vehicle for resolving medical professional liability claims without litigation. SB 483, Early Discussion and Resolution, has been in effect for less than one year. We need to give this legislation a chance to work without creating additional incentives for litigation.