

April 7, 2015

The Honorable Floyd Prozanski
Oregon State Senate
900 Court St. NE, S-415
Salem, OR 97301

Dear Senator Prozanski:

On behalf of the American Medical Association (AMA) and our physician and student members, I am writing to urge your **opposition to Senate Bill (S.B.) 409**, which would repeal Oregon's current \$500,000 limit on noneconomic damages recoverable in wrongful death actions and other statutorily created causes of action. Medical liability reform is a crucial issue, and S.B. 409 threatens to significantly weaken the liability climate for Oregon patients and physicians.

The medical liability system adversely affects patients in many ways. It reduces patients' access to health care – particularly high risk procedures. It hinders patients' communication with their physicians. It adds to the cost of patients' health care expenses, and it forces patients to go through additional tests and procedures due to a system that encourages physicians to practice defensive medicine.

The medical liability system has a detrimental effect on physician practices, as well. According to results from a 2010 AMA survey, 61 percent of physicians age 55 and older have been sued at some point during their career, and nearly 40 percent have been sued two or more times. Among surgeons age 55 and older, nine out of 10 have been sued. These statistics are even more alarming after reviewing how such claims are resolved. According to a 2006 *New England Journal of Medicine* article, researchers found that no injury had occurred in three percent of the claims that they reviewed, and that in another 37 percent, there had been no error.¹ Further, according to PIAA data, 65 percent of the claims against physicians that closed in 2013 were dropped, withdrawn or dismissed.²

The medical liability system causes physicians to practice defensive medicine at a time when federal and state budgets are under intense pressure. The current medical liability system also leads to astronomically high liability premiums for physicians in high risk specialties. Such premiums threaten the practice viability of physicians in these specialties, which in turn affects some of Oregon's most vulnerable patients.

¹ Studdert, David M. et al. "Claims, Errors, and Compensation Payments in Medical Malpractice Litigation." *New England Journal of Medicine*. 2006;354:2024-2033.

² Guardado JR. Professional Liability Insurance Indemnity Payments, Expenses, Claim Disposition, and Policy Limits. *Policy Research Perspectives*. ama-assn.org/org/resources/doc/health-policy/x-ama/prp-piaa-2014-final.pdf

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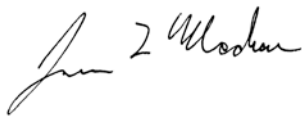
Additionally, a state's legal climate will affect the number of new physicians who decide to practice in a state. The 2010 Illinois New Physician Workforce Study³ provides some insight into how new physicians are affected by the medical liability system. According to that survey, 49 percent of new Illinois physicians plan to relocate to a different state. Two-thirds of the new physicians planning to leave the state cited the medical liability environment as an important or very important consideration in that decision. It is likely that Oregon physicians new to the profession have similar concerns.

The effectiveness of a cap on non-economic damages is borne out in California, where liability premiums have increased only 261 percent since 1976, compared to an increase of 945 percent in the rest of the country. Further, national research provides a convincing argument that physician supply is more plentiful and patients' access to care is enhanced in areas where physicians are under less pressure from the liability system due to the enactment of traditional medical liability reform provisions, such as caps on non-economic damages.

Passage of S.B. 409 would make the practice of medicine increasingly unaffordable for Oregon's physicians and risk diminished access to care for Oregon's patients. For these reasons, we strongly urge you to **oppose S.B. 409**.

Thank you for the opportunity to submit comments. If you have any questions, please contact Kristin Schleiter, JD, Senior Legislative Attorney, Advocacy Resource Center, at kristin.schleiter@ama-assn.org or (312) 464-4783.

Sincerely,

A handwritten signature in black ink, appearing to read "James L. Madara". The signature is written in a cursive, flowing style.

James L. Madara, MD

cc: Oregon Medical Association

³ 2010 *Illinois New Physician Workforce Study*, available at:
www.familymedicine.northwestern.edu/RESLI/FINAL%20REPORT%2011%2011%2010.pdf