

## Your Oregon physicians ask you to vote NO on HB 4136.

### HB 4136 triples the reasonable and constitutional \$500,000 limit on noneconomic damages recoverable in civil injury lawsuits.

- Tripling the limit on non-economic damages disrupts the stability of the medical malpractice insurance market and causes professional liability insurance premiums to increase. Studies show that for every \$100,000 increase in a cap, premiums go up by as much as 3.9 percent<sup>1</sup>—at \$1.5 M this would mean a premium increase of 39 percent!
- Instability in the medical liability market, as was evidenced in the period after the Oregon Supreme Court decision on *Lakin v. Senco, Inc.* (1999), has the greatest impact on rural Oregonians and their access to care.
  - Between 1999 and 2004, many Oregon physicians, especially in OB/GYN, pediatric and neurology practices, were forced to either close their practices or stop providing certain services. Oregon's rural physician number dropped to just over 100 physicians per 100,000 population (compared to their urban counterparts, at 302 per 100,000 population<sup>2</sup>).
  - This crisis led the Oregon Legislature to create the Rural Medical Practitioners Subsidy Program that took effect in 2004. This program allows rural independent physicians and nurse practitioners to continue to practice and stay in rural Oregon. HB 4136 does not contemplate the financial strain on this program and rural health care providers.
- Oregon's Early Discussion and Resolution (EDR) program, passed by the legislature in 2013, is in its infancy and has not been utilized to its fullest capacity nor reached its potential in terms of impacting medical liability. EDR can be used in wrongful death cases to allow the patient's representative and the health care facility or provider to reach a shared understanding about what led to their loved one's death and allows all parties to come to a resolution.



#### For more information please contact:

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<sup>1</sup> Kilgore ML, Morrisey MA, Nelson LJ. Tort Law and Medical Malpractice Insurance Premiums. *Inquiry*. 2006;43:255-270.

<sup>2</sup> Hedrick, V. The Medical Malpractice Crisis: Bandaging Oregon's Wounded System and Protecting Physicians. *Willamette Law Review*. 2007. Accessed Feb.4, 2016 [https://willamette.edu/law/resources/journals/review/pdf/WLR%2043-3\\_Hedrick\\_MEproof\\_HT\\_5\\_8\\_07.pdf](https://willamette.edu/law/resources/journals/review/pdf/WLR%2043-3_Hedrick_MEproof_HT_5_8_07.pdf)