

HB 2807-A: Oppose –A4, -A5 and –A7 Amendments

Non-Economic damages caps of \$10 million or \$15 million do not help control costs

Please vote **NO** on proposed amendments to **HB 2807** to oppose changes to the reasonable and constitutional \$500,000 limit on noneconomic damages recoverable in civil injury lawsuits and other causes of action.



- The amendments to HB 2807 will not limit a provider's exposure in a significant enough way to impact premiums. A cap of \$10-\$15 million is too high at a time when rising healthcare costs and decreased access to health care providers and services are a major concern for Oregonians; this is only exacerbated by the uncertain future of the ACA and Medicaid Funding.



- In research of available information on awards in the last three years, only one case exceeded an award of \$10 million for non-economic damages. That award was \$10.5 million. The next highest award for non-economic damages was \$4 million. Few cases have awards that exceed \$500,000 for non-economic damages, but the potential exposure for medical professionals can impact the cost of liability insurance.



- Objective, *predictable economic damages*, including past and future medical costs, lost wages and potential lifetime earnings, and any other conceivable loss are **unlimited** and fully recoverable, a fair and reasonable approach to our medical liability system. *Punitive damages* to "punish" a defendant for willful and malicious conduct are also unlimited.



- Subjective and *unpredictable noneconomic (pain and suffering) damages* were limited by the Oregon Legislature to bring stability and predictability to our liability system, to improve access to medical care and to create an environment that makes Oregon attractive to practitioners and employers.



- No other state that caps non-economic damages has a cap for individual medical providers that is more than \$1 million. A majority of Western States cap noneconomic damages at or below \$500,000. California caps noneconomic damages at \$250,000 - a decision reaffirmed by voters in 2014.



- Noneconomic damage caps ensure that patients receive fair compensation while preserving access to healthcare. Recent increased severity (cost of claims) trends indicate that medical liability costs are increasing in Oregon. A study by Milliman indicates that maintaining current law will keep rates low and prevent steep medical liability increases for doctors, nurses, and healthcare providers, helping them serve the most vulnerable populations. The study further indicates that keeping both injury and wrongful death caps in place will result in potential cost savings.



- Oregon's safety-net providers serve thousands of patients, the majority of whom are women and children. These providers are unable to shift higher insurance costs to their patients – which means less funds available for patient care.



- The amendments to HB 2807 apply to actions that occur before, on or after the effective date. This means those who purchased insurance based on the law in place at the time will have the rules changed with no notice and no ability to modify policies for actions that may have already occurred. Further, the legislation would impact cases already in the pipeline. Defendants make decisions about whether or not to go to trial based on the circumstances at the time. Changing the rules in the middle of the game is patently unfair. This is further exacerbated for causes of actions capped pre-Horton but not by the proposed amendments to HB 2807.



For more information, please contact:

Fawn Barrie, ORLRC - 503.580.5487 or Courtnei Dresser, OMA - 503.380.9488

The following coalition members strongly urge you to vote No on SB 737:



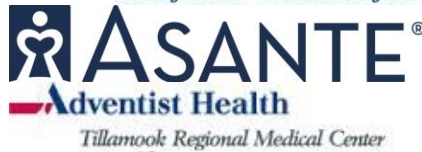
Allstate
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HEALTH AUTHORITY



Oregon CHAPTER

