

## LEGISLATIVE UPDATE

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### **SB 193 – Non-Economic Damages Cap**

In 2020, the Oregon Supreme Court ruled that Oregon's non-economic damages cap was unconstitutional in a case called *Busch v McInnis Waste System, Inc.* The question legislators are now wrestling with is, did the court rule that the cap is unconstitutional in all injury cases or just in *Busch*?

Mr. Busch was walking in a crosswalk and had the right-of-way when he was struck by a garbage truck. As a result, his right leg was amputated above the knee. The jury awarded Mr. Busch \$3 million in economic damages and \$10.5 million in non-economic damages. Because of the cap on non-economic damages, that portion of the award was reduced to \$500,000.

The Supreme Court ruled that the \$500,000 cap should not have applied.

The Oregon Trial Lawyers say the ruling should apply in all injury cases. Nadia Dahab quoted from the decision's summary saying, "We conclude that the application of (the non-economic damages cap) as a limit on the damages that the court can award to a plaintiff violates Article I Section 10" which is the remedy clause of the Oregon Constitution.

Paul De Muniz, retired chief justice of the Oregon Supreme Court, testified that the Court's decision only applies to the particular circumstances of the *Busch* case.

The bill already passed the Senate and is now being heard in the House Rules Committee.

### **HB 3036 – PA Supervision**

"I think we've gotten a good product for patient access and patient protection," Sen. Tim Knopp (R-Bend) said as the Senate Health Committee adopted the -8 amendment to HB 3036, which streamlines supervision of physician assistants.

The -8 amendment:

- Modifies the definition of "employer" by adding group medical practices that are part of a health system.
- Clarifies a physician assistant is responsible for the care they provide if they are acting as an employee.
- Modifies the collaboration specifying standard of care in accordance with a physician assistant's education, experience, and competence.
- Resolve conflicts with HB 2078, which would amend various statutes to reflect changes in Oregon Health Authority programs, reporting requirements, and align with federal requirements.

ZoomCare and the Oregon Trial Lawyers Association said they were supportive of the amendments. The Oregon Medical Association still has concerns about language it felt would "muddy the water" on responsible parties.

The bill now goes to the Senate floor.

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