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★ AMERICA VOTES 2004 ★

Closing arguments on medical lawsuits

Constitutional rights and the availability, cost of health care key issues surrounding Measure 35

BY JARED PABEN
NEWS EDITOR

Measure 35 proponents tell stories about foolhardy multimillion-dollar settlements for victims of medical mistakes, rising insurance costs that drive away doctors and a state left with dangerously few health care providers.

Measure 35 opponents tell stories about lives ruined by the mistakes of a few bad doctors, a callous health-care system that tries to push it under the rug and insurance companies escaping desperately needed reform.

On Tuesday, Oregonians get to decide which story they subscribe to and whether they want to support a \$500,000 cap on noneconomic damages awarded to victims of a health care provider's negligence or recklessness. The measure states that the cap would apply only to noneconomic damage awards, such as pain, mental suffering, emotional distress and personal costs. The measure would not limit awards reimbursing people for medical and health expenses, loss of income and other expenses.

Both sides agree there is a lot at stake in the complicated issue. Proponents say the availability and cost of health care for all Oregonians is at stake, while measure opponents argue that our constitutional rights are at stake.

Measure proponents

Spokeswoman for the Yes on 35 campaign Kelly Stoner said her campaign is a doctor-headed effort to fix Oregon's health care crisis. Because of the high costs of malpractice insurance and the risks of getting sued for large sums, doctors are flocking from Oregon en masse, leaving many areas without adequate

protection, she said. For example, in the last five years or so, Oregon has lost about 34 percent of its obstetricians, and there are only 51 neurosurgeons left after about one-fifth of them left the state, she said.

Many communities don't have any care left, she said. "Many of the neurosurgeons in Oregon are going to leave if something isn't done about this crisis," she said. "It's about preserving patient access to care ... You never know when you're going to need a doctor, especially in an auto accident."

There are only two neurosurgeons left in Oregon that deal with children, and both are in Portland, she said. This is especially frightening to her because as a young girl she fell off her horse, putting her in a coma for about a week and requiring care from a neurosurgeon.

University Health Center physician Paula Ciesielski wrote in an e-mail interview that the rates for insurance in some specialties can reach \$60,000 to \$75,000 per year, which leaves doctors with four choices:

"They can absorb the cost of the insurance into their practice, they can raise the price of care to reflect the increased cost, they can limit their practice to less risky procedures or they can quit practicing in Oregon," she wrote. "In Oregon,

delivering babies is one of the highest risk procedures. If doctors limit their practices, then access for patients is limited. If we can't attract young physicians to the area because of an unstable liability issue in Oregon, then we all suffer."

Stoner said a similar cap on noneconomic damages was put into place in 1987, but the Oregon Supreme Court ruled against it in 1999, deciding that the legislature didn't have constitutional authority to implement the measure. Premiums have skyrocketed since the loss of the cap, Stoner said.

Eugene neurologist Ray Englander is leading the Yes on 35 campaign's Lane County efforts and is on the board for Northwest Physicians Mutual Insurance Company, a doctor-owned malpractice insurance provider that covers about 23,000 doctors in the state, he said.

Englander said the cap did make a difference in keeping rates down and that since then the state hasn't had a "competitive litigation climate."

Englander said the measure doesn't propose a cap on settlements if the doctor was found to have intentionally hurt somebody and doesn't propose a cap on punitive damages.

Stoner said the opposition's claim that the problem is a few bad doctors raising rates for everybody is false, insisting that over the past 10 years about 95 percent of the claims were filed against doctors with one or fewer previous claims against them.

Measure opponents

Dylan Malone has traveled around the country for years as an advocate for patients' rights. He and his son, Ian, have appeared in television commercials that have been broadcast across the nation urging support for a national

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Students concerned about lost ballots

Improper registration, such as a wrong address or county, has nullified several ballots

BY MORIAH BALINGIT
NEWS REPORTER

Despite the approaching election deadline, many students have still not received their ballots, said ASUO Legal Services Director Ilona Koleszar.

Koleszar said this is often due to students filling out voter registration forms incorrectly. "If a student listed inconsistent addresses, the election office flagged it as a questionable application," she said. "If a student did not list all of the information requested, the election office won't register the voter because the registrant failed to meet minimum requirements for registration."

Courtney Hight, the Oregon Student Association Campus Organizer, said another reason students may not have their ballots is if they listed incorrect addresses, or if they listed an address in another county. Hight said she contacted the Lane County Elections Office when concerned students informed her they still had not received their ballots.

"According to them, they're still sending out ballots," she said.

However, Lane County Elections official Annette Newingham said people who haven't received their ballots should call the office "sooner rather than later."

Koleszar urges students who did not receive their ballots to go in person to Lane County Elections on 275 W. 10th Ave. to verify if they're registered to vote in this county. If they are registered, they should ask for a replacement ballot. If they find that they're not, they should ask for a provisional ballot.

But two students who followed this advice said they were told they could not receive these ballots, Koleszar said. She added that she thinks this happened because receptionists at the elections office were misinformed.

Jed Barden, a University law student, said he and his wife registered to vote in the ASUO office but never received their ballots.

"We went down to Lane County Elections last Thursday and they told me I was pretty much out of luck," he said.

Barden, who is registered to vote in Washington state but was trying to change his registration to Oregon, said he was also denied a provisional ballot when he requested one.

"The problem with the provisional ballots is that the people at the elections office didn't know how they worked," he said.

Lane County Elections Supervisor Roxann Marshall said if some part of a person's eligibility is in question, they can receive a provisional ballot. The office will then research their eligibility after the election to determine whether the vote will be counted or not.

"In the meantime, we don't want to disenfranchise voters," she said.

Marshall said she didn't know why Barden was denied a provisional ballot, but added the concept of provisional ballots is fairly new.

"I have a lot of new staff that aren't familiar with all the laws," she said.

No one at the office could figure out

BALLOTS, page 6A

Technology a popular study aid for students

In addition to high-tech gadgets, many students also turn to academic services

BY ANTHONY LUCERO
NEWS REPORTER

For some students, a study aid is a load of caffeine and staying organized involves an old notebook with messy handwriting sprawled with lists of facts and figures to memorize. However, many students at the University are employing technology both in and out of the classroom to help them understand or organize the material.

The Digital Duck at the University Bookstore is the first place most students go to grab the technology that will help them get their work done.

"The products we sell most are iPods and Apple Computers," said Rachel Drummond, a Digital Duck employee. "These students come in and when they want a computer for school, they are looking for ones that they can write their essays on, listen to music and

STUDY AIDS, page 6A

UNDERSTANDING THE ELECTORAL COLLEGE Electoral equation: population equals power

Each state is allocated a number of electors equal to the number of senators (always two) plus the number of its representatives. However, the congressional leaders are not electors. Electors are generally nominated by parties at the conventions. The presidential candidate that gains the majority of electoral votes wins the election.

Population, not land

A state's congressional delegation is determined by its general population, last counted by the Census Bureau in 2000. States with higher population rates have more representatives.

People
Square miles

Ohio 20 electoral votes
11.4 million
44,828

2 senators;
18 representatives

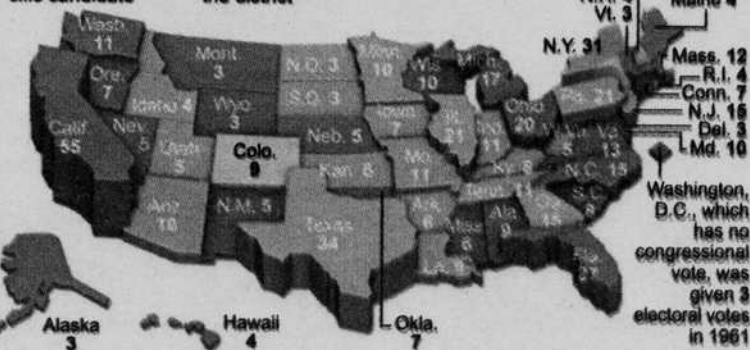
Idaho 4 electoral votes
1.3 million
83,574

2 senators;
2 representatives

State-by-state number of electors and vote requirements

In 48 states, the winning ticket's nominated electors are also elected. In effect, whichever presidential ticket gets the most popular votes wins all the state's electors.

Majority winner takes all, but electors are not legally bound to vote for a specific candidate
Two votes go to overall winner of state and remaining votes go to winner of the district
Majority winner takes all and electors are legally bound or pledged to vote for a specific candidate
Ballot measure this year could distribute votes to district winner



Majority of votes wins election

Majority Total votes

This year 270 538

1904 Teddy Roosevelt won with 336 votes

1860 Abraham Lincoln/180 votes

1789 George Washington/69 votes

Founders started electoral

The Electoral College was established by the founders as a compromise between election for the president by Congress and election by popular vote. Alexander Hamilton was among the first to write about the concept of electors in the Federalist Papers in 1788.

Hamilton

SOURCES: Federal Election Commission; Library of Congress; National Archives and Records Administration; Census Bureau; World Almanac