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■ In my opinion

Columnists **sick** about Measure 35

Ailee Slater — YES

Measure 35 is essential to decreasing insurance premiums so that high-risk medical practitioners, such as obstetricians, gynecologists and head trauma specialists, continue to work in Oregon. It is especially important to remember that from 1987-1999, when caps like those in Measure 35 existed, medical malpractice insurers greatly reduced premiums. Even though the measure's opponents may claim otherwise, empirical evidence proves that if put into effect, this measure will provide doctors with an incentive to continue to practice in Oregon.

Consider also that these caps limit only subjective, non-economic damages. If a medical error results in wheelchair confinement, patients can still receive money for all present and future medical costs, lost wages for the rest of their lives, and more. At the risk of losing our doctors, is it worthwhile to award another sum of more than half a million dollars?

If insurance premiums do not decrease, the deficit of Oregon high-risk practitioners, already dwindling in numbers, will be what truly results in pain and suffering.

Chuck Slothower — NO

The creation of a "lawsuit crisis" has been one of the most successful public relations campaigns in American history. Insurance

companies have become experts at citing anecdotal evidence — mostly the same cases over and over again — to convince gullible Americans and lazy journalists that the health-care system is on the verge of collapse from excessive litigation. I'm calling bullshit; it ain't happening. According to an article in the Washington Monthly, the rate of lawsuits has been falling since 1975 and the actual number of lawsuits has been falling since 1996. Furthermore, the median jury award in tort suits has dropped from \$65,000 in 1992 to \$37,000 in 2001. We do need dramatic health-care reform, but the solution is to take the profit motive out of health care, not limit the bedrock right of trial by jury.

Travis Willse — NO

An unfortunate trend in jurisprudence over recent decades is the automation of legal decisions: Judges now often assign sentences based on rigid guidelines, leaving them unable to consider mitigating circumstances. A decade ago, the passage of Oregon's Ballot Measure 11 established a series of minimum sentences for certain felonies. Measure 35 continues this unfortunate trend. While jury awards for noneconomic damages are sometimes excessive and the escalating costs of medical malpractice insurance are problematic at best, slapping a half-million-dollar cap on

those damages isn't the way to solve the problem. Is \$500,000 enough to compensate someone for decades of paralysis due to a doctor's negligence? I'd say no — not by a long shot. Still, some of the spirit, if not the letter of Measure 35, is well-intentioned. The system of malpractice suit awards needs considerable reform, but that reform should leave room for the informed sensibilities of judges infinitely more sensitive to special considerations than an arbitrary cap could ever be.

Jennifer McBride — NO

No one disputes that victims of medical malpractice have a right to claim compensation. The only way they can do this is through the courts. Most of the time it's through settlement, but the presence of a cap would make it harder to negotiate fairly, shifting the burden to courts and to the taxpayers. The only time juries give high awards is in cases where it is necessary, so it is difficult to believe that rare abuses of the system are what's keeping insurance high. This law won't keep frivolous lawsuits out of court and it won't lower insurance rates by any significant amount. True reform of the system is necessary to allow doctors to continue practicing, but this measure is not the right medicine.

■ Guest commentary

Lament of a lifelong Republican who turned moderate Democrat

In 1960, as a recent college graduate and new Navy Ensign, I registered to vote for the first time as a Republican. For a fiscal and social moderate, the Republican Party was a good place to be. But today's GOP is no longer the party of Lincoln or Eisenhower or Reagan. The Bush Republican Party has moved so far to the right, and is so intolerant of dissent, there is simply no room for moderates anymore.

So, after more than 40 years, I changed affiliation. I simply could no longer associate my name with the neoconservative extremists who have hijacked the Republican Party and have abandoned so many of its most cherished principles. Here are just three examples:

Balanced budget

Traditionally, a balanced budget has been the cornerstone of Republican fiscal management. No more. During his term, Bush and his party have converted the largest surplus in history into the largest deficit. In fiscal year 2004, the federal government spent well over \$400 billion more than it collected, the largest deficit in U.S. history, with similar red ink projected for fiscal year 2005. Why? Because Mr. Bush was determined to push through huge tax cuts,

primarily benefiting the wealthy, while funding enormously expensive military operations. As Republican Senator John McCain observed, never before has the federal government cut taxes in the middle of a war.

State sovereignty

Republicans have always defended the sovereignty of the 50 states against overzealous intervention by the federal government — until recently. In 1994, Oregon voters passed a statewide initiative authorizing physicians to prescribe, but not administer, lethal drugs to dying patients who meet specific criteria. Shortly after taking office, Attorney General John Ashcroft threatened to prosecute physicians so prescribing under the Controlled Substances Act. The Ninth Circuit Court of Appeals rejected this "unilateral attempt to regulate general medical practices historically entrusted to state lawmakers ... (who) are the primary regulators of professional medical conduct." Why was this not obvious to Bush and Ashcroft?

Individual freedom

The Republican Party has a long history of protecting individual rights and freedoms. Consider, then, the case of the "morning-after" pill.

There are 3 million unwanted pregnancies in this country each year. By prescription, the morning-after pill has proven extraordinarily safe and effective for more than a decade. Nevertheless, the Bush FDA refused to allow its sale over the counter, thereby denying millions of women access to last-minute contraception. Why? Principally, because Mr. Bush and his supporters from the religious right believe that a fertilized egg immediately constitutes a human life, even before implantation. Therefore, any disruption of the process constitutes "destruction" of a human life.

Ours is a democracy, not a theocracy. When did it become acceptable for personal religious beliefs to dictate public health policy? Perhaps one day the Republican Party will disassociate itself from those who seek to impose their personal version of God's word on the rest of us, and from those who think that huge income tax cuts for the wealthy constitutes viable economic policy. Until then, I will remain affiliated with the Democratic Party, the only major party that still values dissent and moderation, and still cares about the welfare of the average American.

Steven D. Popell lives in Los Altos Hills, Calif.

■ Editorial

Two sides means only one choice: No on 35

Measure 35 would limit non-economic damages in medical malpractice lawsuits to \$500,000. The Emerald believes juries should retain the power to make decisions about damages on a case-by-case basis rather than using the initiative process to put a one-size-fits-all cap in place.

Medical malpractice tort reform is an emotional issue with many sob stories on both sides. Supporters of Measure 35 tell stories of doctors driven out of practice by greedy, predatory lawyers. With health care costs being so outrageous, it's heartbreaking to think that costs would be lower if we didn't allow a pack of money-mad lawyers to get rich on the suffering of others.

On the other side, critics of Measure 35 tell stories about the heroic lawyers taking down a small handful of doctors who have no regard for their patients' well-being. These stories are heartbreaking as well, with their terrible images of pain and suffering of innocent patients at the hands of those sworn to heal them. But because there are so many good points to consider on each side of the issue, the Emerald recommends a "no" vote on Measure 35.

Medical malpractice suits can only be fairly evaluated on a case-by-case basis. Ideally, a representative sample of open-minded third parties would meet in a committee to hear all the evidence and make a decision based on the relevant points of law and the unique circumstances of a particular case.

Sound familiar? It's called trial by jury, and it's the system we have now. It's ridiculous to give a jury the responsibility to assign liability in a case while taking away its ability to judge a fair compensation for pain and suffering. Measure 35 would declaw the trial by jury system and implement an arbitrary cap for situations that should be judged on a case-by-case basis.

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Cut clear-cutting, vote Yes on Measure 34

Measure 34 is very dear to my heart. The thought of it not passing brings tears to my eyes. I go camping, four-wheeling and dirt bike riding in the Tillamook forest almost every weekend. Year round! One of my favorite camp spots has a breathtaking view of the Trask River valley. There is not a clear-cut in sight. This will not be the case if Measure 34 passes. No amount of money is worth destroying a pristine forest that is an hour away from Portland.

I am voting yes on Measure 34 because I want my children and others to see a truly magical place that is relatively free of clear-cut. Clear-cut forests are just too ugly and it takes too long for the trees to grow back. Not to mention that the Tillamook and Clatsop forests are home to numerous species, like the bald eagle I saw that was the size of a Great Dane. Please help save my home away from home. Vote yes on Measure 34.

Zoe Raab
Undergraduate

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