

LISA REYNOLDS, MD  
STATE REPRESENTATIVE  
District 36



## HOUSE OF REPRESENTATIVES

**June 15th, 2021**

Dear Chief Clerk Sekerak,

I wish to submit the following explanation for my vote on Senate Bill 193A.

As both a physician and legislator, this was a difficult vote. SB 193A has two distinct concepts wrapped up into one bill - one which I support and one with which I have concerns.

First and foremost, I wholeheartedly support the end of non-unanimous juries in Oregon. Indeed, the US Supreme Court's 2020 ruling on the unconstitutionality of non-unanimous juries (*Ramos v Louisiana*) was long overdue. The "clean up" of state statute in SB 193A to match the US Supreme Court ruling is appropriate to do but is not necessary for Oregon to require unanimous juries in all guilty verdicts, finally matching the other 49 states in the US. I am confident a "no" vote on SB 193A is still consistent with my belief that Oregon must require unanimity in its juries for all guilty verdicts.

SB 193A would also remove the cap on non-economic damages to an injured party. This part of SB 193A has been put forward in the aftermath of an Oregon Supreme Court Ruling - *Busch v. McInnis Waste Systems, Inc.* - in July 2020. That ruling did away with a cap on non-economic damages in one case. However, the ruling, like other rulings of this type, does not deem all non-economic damage caps unconstitutional.

Non-economic damages seek to compensate people for "pain and suffering" due to an injury. These awards are distinct from economic damages, which seek to cover lost wages and medical expenses, and which have no cap. Economic damages are estimates of such losses and costs, while non-economic damages are quite variable as they are unquantifiable.

Half of the states in the US have placed limits on non-economic damages for medical malpractice. These limits, or caps, are one type of tort reform, and reign in the risks of doing business and the cost of insurance. In the realm of healthcare, these caps lower the overall cost of healthcare and increase physician supply. This then improves access to healthcare.

Oregon has a healthcare provider shortage, most marked in seven rural counties, but impacting every county in the state. Rural communities experience a variety of unmet healthcare needs, including access to primary care. Removal of the cap on non-economic damages threatens to further imperil physician supply, and, access to care, especially in rural areas.

The legislative mechanism to remove this cap, coupling it with the important work to clean up statute on non-unanimous juries, is a shortcut around a more comprehensive process to address reform on non-economic caps. I acknowledge that it may be appropriate to raise the current cap on non-economic damages. I encourage the legislature to more fully consider this, and other medical malpractice reform, by convening all interested parties, including those who support this provision in SB 193A.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa Reynolds". The signature is fluid and cursive, with a prominent initial "L" and a long, sweeping tail.

**Representative Lisa Reynolds**