



April 10, 2024

Dear Madam Chair Gonzales and Senate Judiciary Committee,

I am submitting this testimony on SB24-68 on behalf of the Colorado Cross Disability Coalition and our nearly five thousand members statewide. CCDC is a statewide organization that advocates for social justice for people with all different kinds of disabilities.

CCDC is in a monitor position on this bill and we're watching its progress closely. As an organization that cares deeply about both health care cost and access as well as people being fairly compensated for emotional pain and suffering as a result of medical malpractice, we believe that this issue is too nuanced and there is too much at stake for people with disabilities to have this issue negotiated at the ballot box. While we are strong supporters of the right of Colorado citizens to have access to the ballot, we also recognize that there are some policy discussions that don't lend themselves well to that forum where there is far less room for the intricate details, weedy policy discussion and needle threading that has to happen in order to get this policy right. Our hope is that all interested parties are able to work through the legislative process and ultimately land on a legislative solution that is in the best interest of consumers and represents a fair balance between both proponent and opponent concerns.

Finally, we are not medical experts, but think that the \$500,000 cap in the current version of the bill may be too low.

Sincerely,
Hillary Jorgensen
Co-Executive Director
Colorado Cross Disability Coalition



March 2024

TO: Senate Judiciary Committee
RE: SB24-130--Noneconomic Damages Cap Medical Malpractice Actions

Dear Committee Members:

The American Association of University Women (AAUW) is one of the oldest women's organizations in the country, empowering women since 1881. The mission of AAUW is to advance equity for women and girls through research, education, and advocacy. AAUW of Colorado represents over 700 community leaders as members in local branches around the state.

For many years, Colorado law has set the maximum amount of damages that can be awarded to a plaintiff in a medical malpractice case for a noneconomic loss or injury at \$300,000. Adjustments to limitations on damages to reflect the effects of inflation were made in a number of areas in 2019, the first time since 2008. Medical malpractice damages were not included. AAUW believes it is time to raise this limit to help the many women who have suffered noneconomic loss or injury, such as grief, pain and suffering, loss of companionship, and emotional stress. SB 130 gradually raises this maximum to \$500,000 over a period of 5 years.

AAUW respectfully requests your AYE vote in committee and throughout the process of becoming law.

Respectfully submitted,

A handwritten signature in blue ink that reads "Su Ryden".

Su Ryden
AAUW Colorado Public Policy Co-Director

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303.898.5797 • suryden25@gmail.com

American Association of University Women--AAUW is a top-rated 501(c)3 charitable organization whose mission is to advance gender equity for women and girls through research, education and advocacy.



TO: Members of the Senate Judiciary Committee
FROM: Jake Williams, President & CEO, Healthier Colorado
RE: Testimony in Support [SB24-130](#): Noneconomic Damages Cap Medical Malpractice Actions
DATE: Tuesday, April 9, 2024

To the Members of the Senate Judiciary Committee:

Thank you Madame Chair and members of the committee for considering my written testimony in support of SB24-130, to raise the cap on non-economic damages for victims of medical malpractice. Healthier Colorado is a nonpartisan nonprofit organization dedicated to raising the voices of Coloradans in the public policy process to improve the health of our state's residents. We believe that every Coloradan should have a fair chance at living a healthy life.

After remaining stagnant for about two decades, Colorado is overdue on raising these limits in the interest of providing victims with just compensation. Through this bill and potentially other legislative action to resolve related issues, Healthier Colorado hopes that our state is able to avoid a costly fight on the statewide ballot that could have unintended consequences, like reducing access to care and making health care more expensive.

Proposed initiatives have been filed with the Colorado Title Board - [#150](#) and [#277](#) (elimination of caps on non-economic damages) - that would make these non-economic damages limitless, which would make it more expensive for providers to practice medicine in Colorado. The research is clear that having a cap at some level helps tame medical malpractice insurance costs and, in turn, leads to more health providers being willing to practice in that jurisdiction, which supports access to health care.¹² This is why Healthier Colorado supports raising the cap on non-economic damages for victims of malpractice in our state, but we also remain aligned with the evidence in supporting the existence of a cap in order to maintain a health provider workforce that can meet the needs of patients.

Several other proposed initiatives have been filed at the Title Board - [#149](#), [#274](#), [#275](#), and [#276](#) (disclosure of adverse medical incidents and access to patient medical information) - that would reform medical disclosure laws. The evidence is clear that disclosing medical mistakes benefits both patients and health care systems, as this practice reduces future mistakes and

¹ Nelson LJ 3rd, Morrisey MA, Kilgore ML. Damages caps in medical malpractice cases. *Milbank Q.* 2007 Jun;85(2):259-86. doi: 10.1111/j.1468-0009.2007.00486.x. PMID: 17517115; PMCID: PMC2690332. [URL](#).

² Pesko MF, Cea M, Mendelsohn J, Bishop TF. The Effects of Malpractice Non-Economic Damage Caps on the Supply of Physician Labor: Heterogeneity by Physician Age and Risk. *Int Rev Law Econ.* 2017 Jun;50:7-14. doi: 10.1016/j.irle.2017.03.002. Epub 2017 Mar 21. PMID: 29129949; PMCID: PMC5675024. [URL](#).



medical malpractice suits.³ Research also demonstrates that establishing a culture and regulatory environment in which providers are less likely to fear repercussion is more likely to support the disclosure of these mistakes.⁴ This is a nuanced policy area with high human stakes that deserves a deliberative process, if at all possible. The state legislature is a superior venue in which to consider these issues, versus asking voters to consider a binary question on the ballot that is proposed by a single stakeholder.

Thank you for your time and consideration for this important bill. Please vote yes on SB24-130.

Sincerely,

Jake Williams
President & CEO, Healthier Colorado

³ Petronio S, Torke A, Bosslet G, Isenberg S, Wocial L, Helft PR. Disclosing medical mistakes: a communication management plan for physicians. *Perm J*. 2013 Spring;17(2):73-9. doi: 10.7812/TPP/12-106. PMID: 23704848; PMCID: PMC3662285. [URL](#).

⁴ Wolf ZR, Hughes RG. Error Reporting and Disclosure. In: Hughes RG, editor. *Patient Safety and Quality: An Evidence-Based Handbook for Nurses*. Rockville (MD): Agency for Healthcare Research and Quality (US); 2008 Apr. Chapter 35. [URL](#).

Senate Judiciary

04/10/2024 01:30 PM

SB24-130 Noneconomic Damages Cap Med Malpractice Actions

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
<p>Stephanie Porter For Gunnison Valley Health</p>	<p>I am a physician in rural Colorado and also Chief Medical Officer for Gunnison Valley Health. I am writing to express the importance of passing SB 24-130 to protect the quality and economy of the healthcare that we provide in our rural community. As you know, our rural hospitals struggle to provide complete health care for our friends and family; raising caps on claims would make Colorado less attractive to physicians and make it more difficult for hospitals to afford the cost of their medical staff. In addition, these costs would be passed along to our friends and family as consumers.</p> <p>In my experience as a physician for over 20 years in rural settings, malpractice lawsuits that occur for valid reasons are not sought for the financial benefit of the affected patient, but for resolution of the distress and harm and to prevent similar events from occurring. The monetary portion is often parceled off to lawyers and insurance companies – increasing the caps just fuels that industry, not necessarily making our healthcare any safer. In addition, in that environment, physicians practice defensive medicine which can involve more procedures and testing of the patient, creating increased stress and risk.</p> <p>In addition, and more importantly, I am opposed to the idea of removing protection from the peer review process. For most hospitals, but especially our rural hospitals, peer review is the most effective way to maintain quality. It provides a forum in which physicians and APPs may discuss cases, identify trends and opportunities for improvement in an enriching and positive manner. I have had the fortune of being on the peer review committee of every hospital I have had privileges with and it has been a key factor in my development as a physician. The practice of Just Culture has been shown over and over again to be the key to quality. Removing the protections would erase decades of progress and crush an already stressed and regulated field.</p>

	<p>Thank you for your time with my letter and please support SB 24-130</p>
<p>Angelina Salazar For Club 20 Healthcare Committee & Western Healthcare Alliance</p>	<p>Western Healthcare Alliance is a network of 29 rural hospitals in Colorado and they each are vital to the economy of the communities they serve. Rural hospitals and clinics are major employers in the State and access to care helps us attract and retain quality workforce, thereby improving the health of our rural citizens.</p> <p>We have concerns about the 5 ballot measures moving through the Title Board process:</p> <p>Initiatives 150 and 277 would completely eliminate reasonable and responsible limits on the amount of money an individual can collect when suing a health care provider.</p> <p>Initiatives 274, 275 and 276 would significantly alter and, in some cases, eliminate professional protections that allow health care professionals to confidentially review cases to learn from one another and improve patient safety and quality care.</p> <p>We must do everything we can to maintain a stable medical liability environment to keep health care costs lower and health care services accessible for everyone.</p> <p>We support for SB 130: a reasonable proposal to increase the non-economic damages caps, while not destabilizing Colorado's medical liability environment.</p> <p>Please pass SB 130 so we can negotiate a fair policy solution through the legislature and not send these complex issues to the ballot.</p>
<p>Jason Hogan For themselves</p>	<p>Dear Members of Senate Judiciary,</p> <p>I am writing in support of SB 24-130 to provide malpractice caps and protection of the peer review process. I am a board-certified Emergency Medicine physician and currently serve as Chief of Staff of Gunnison Valley Health. I have worked intensely over the past several years to ensure our hospital provides in-depth case reviews and participates in a constructive peer review process to recognize opportunities for improvement at various committee levels as well as at the Medical Executive Committee level. This protected peer review process is critical to ensure patient safety and allow for all providers to have an opportunity to learn from systems issues as well as individual issues that can lead to adverse events. A loss of protected peer review would have severe, long-term effects on the ability of</p>

	medical systems to ensure high-quality care going forward. Thank you all for discussing this important matter.
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April 8, 2024

Senator Julie Gonzales, Chair
Senate Judiciary Committee
COLORADO STATE SENATE
200 E. Colfax Avenue
Denver, CO 80203

Via electronic transmission

Re: Support for Senate Bill 24-130 – Noneconomic Damages Cap Medical Malpractice Actions

Dear Chair Gonzales and Members of the Committee:

We write in support of Senate Bill 24-130, because this bill will help maintain access to healthcare for all Coloradans.

The Doctors Company is the largest physician-owned medical malpractice insurance company in the nation and insures more than 1,200 healthcare providers in Colorado.

SB 24-130 is a reasonable increase that will modernize and preserve the HCAA's cap on noneconomic damages in medical malpractice cases. This bill represents a fair, just, and balanced approach for both patients and healthcare practitioners that will help safeguard access to healthcare.

One in five Coloradans go without necessary medical care because of cost.¹ SB 24-130's preservation of the noneconomic damages cap will prevent increasing the cost of malpractice insurance that would be passed on to patients.²

Thank you for your kind consideration, and we urge a yes vote on SB 24-130.

Sincerely,

Dennis Chiu, Esq.
Senior Government Relations Specialist
Dennis.Chiu@TheDoctors.com

c: Colorado State Senate Judiciary Committee Members

¹ Colorado Health Institute. (2024) Colorado Health Survey of more than 10,000 Coloradans. p. 8.

<https://www.coloradohealthinstitute.org/sites/default/files/2024-02/2023%20Colorado%20Health%20Access%20Survey.pdf>

² Hao You and Olesya Baker, "Do noneconomic damage caps reduce medical malpractice premiums? Evidence from North Carolina." RISK MANAGEMENT AND INSURANCE REVIEW (Summer 2022) (finding that noneconomic damage caps lead to a "significant reduction in premiums."). <https://doi.org/10.1111/rmir.12216>; see also Leonard J. Nelson III, Michael A. Morrisey, Meredith L. Kilgore, "Damages Caps in Medical Malpractice Cases) THE MILBANK QUARTERLY (May 17, 2007) (finding that "better-designed studies show that damages caps reduce liability insurance premiums"). <https://doi.org/10.1111/j.1468-0009.2007.00486.x>