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Bill Seeks to Help Patients Crippled or Disfigured by Medical Negligence Live Normal Lives

Legislation makes inflation adjustments to Colorado's outdated non-economic damage caps.

April 13, 2009 (Denver, Colorado) - Sponsored by Rep. Christine Scanlan, D-Dillon, and Senate President pro tem Betty Boyd, D-Lakewood, HB09-1344 focuses on patient fairness by providing an inflation increase to the non-economic damage caps originally enacted 21 years ago under the Health Care Availability Act.

"Someone whose quality of life has been turned upside down because of medical negligence is devastated," said Scanlan. "We are talking about injured patients who need a lifetime of care. Now, they are unable to meet even their basic needs. Without inflation adjustments, injured patients, their families and Colorado taxpayers suffer," she added.

"Krysta started running a fever just four days after she was born," explained Janine Vitteta, Krysta's mother from Colorado Springs. Her physician failed to diagnose the fever, bacterial meningitis, a brain injury and subsequent cerebral palsy.

"Because of medical negligence, the expense of her medical and personal care is astronomical. While no amount of money can fully heal Krysta, it can help her get the best medical care and quality of life possible," she added.

In 1988, the cap was originally set at \$250,000 and adjusted to \$300,000 in 2003. Even with the 2003 adjustment, the current cap is far lower than the 1988 cap in real dollars. The purchasing power of \$300,000 dollars today is equivalent to \$160,000 in 1988 according to the Bureau of Labor Statistics.

HB09-1344 restores the original purchasing power of the cap on non-economic loss by adjusting it from \$300,000 to approximately \$460,000. It also allows the cap to keep pace with inflation.

Physicians at a legislative committee hearing in 2008 supported inflation adjustments on caps. "Most states, with respect to inflation, have a very small amount in which the cap is raised according to inflation. Whether they do it yearly or every five years, they do have some catch up for inflationary reasons. I do think that is quite reasonable," said Dr. Peter Ajluni, president of the American Osteopathic Association.

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