

Enrolled
Senate Bill 60

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CHAPTER

AN ACT

Relating to health care professional liability limitation; creating new provisions; amending ORS 676.340 and 676.345; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 676.340 is amended to read:

676.340. (1) Notwithstanding any other provision of law, a health practitioner described in subsection (7) of this section who has registered under ORS 676.345 and who provides health care services without compensation is not liable for any injury, death or other loss arising out of the provision of those services, unless the injury, death or other loss results from the gross negligence of the health practitioner.

(2) A health practitioner may claim the limitation on liability provided by this section only if the patient receiving health care services, or a person who has authority under law to make health care decisions for the patient, signs a statement that notifies the patient that the health care services are provided without compensation and that the health practitioner may be held liable for death, injury or other loss only to the extent provided by this section. The statement required under this subsection must be signed before the health care services are provided.

(3) A health practitioner may claim the limitation on liability provided by this section only if the health practitioner obtains the patient's informed consent for the health care services before providing the services, or receives the informed consent of a person who has authority under law to make health care decisions for the patient.

(4) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner requires payment of laboratory fees, testing services and other out-of-pocket expenses.

(5) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner provides services at a health clinic that receives compensation from the patient, as long as the health practitioner does not personally receive compensation for the services.

(6) In any civil action in which a health practitioner prevails based on the limitation on liability provided by this section, the court shall award all reasonable attorney fees incurred by the health practitioner in defending the action.

(7) This section applies only to:

- (a) A physician licensed under ORS [677.100 to 677.228] **chapter 677**;
- (b) A nurse licensed under ORS 678.040 to 678.101;

- (c) A nurse practitioner licensed under ORS 678.375 to 678.390;
- (d) A clinical nurse specialist certified under ORS 678.370 and 678.372;
- (e) A physician assistant licensed under ORS 677.505 to 677.525;
- (f) A dental hygienist licensed under ORS 680.010 to 680.205;
- (g) A dentist licensed under ORS 679.060 to 679.180;
- (h) A pharmacist licensed under ORS chapter 689;
- (i) An optometrist licensed under ORS chapter 683; [and]
- (j) A naturopathic physician licensed under ORS chapter 685; **and**
- (k) An acupuncturist licensed under ORS 677.757 to 677.770.**

SECTION 2. ORS 676.345 is amended to read:

676.345. (1) A health practitioner described in ORS 676.340 (7) may claim the liability limitation provided by ORS 676.340 only if the health practitioner has registered with a health professional regulatory board in the manner provided by this section. Registration under this section must be made:

- (a) By a physician, [or] physician assistant **or acupuncturist**, with the Oregon Medical Board;
- (b) By a nurse, nurse practitioner or clinical nurse specialist, with the Oregon State Board of Nursing;
- (c) By a dentist or dental hygienist, with the Oregon Board of Dentistry;
- (d) By a pharmacist, with the State Board of Pharmacy;
- (e) By an optometrist, with the Oregon Board of Optometry; and
- (f) By a naturopathic physician, with the Oregon Board of Naturopathic Medicine.

(2) The health professional regulatory boards listed in subsection (1) of this section shall establish a registration program for the health practitioners who provide health care services without compensation and who wish to be subject to the liability limitation provided by ORS 676.340. All health practitioners registering under the program must provide the health professional regulatory board with:

- (a) A statement that the health practitioner will provide health care services to patients without compensation, except for reimbursement for laboratory fees, testing services and other out-of-pocket expenses;
- (b) A statement that the health practitioner will provide the notice required by ORS 676.340 (2) in the manner provided by ORS 676.340 (2) before providing the services; and
- (c) A statement that the health practitioner will only provide health care services without compensation that are within the scope of the health practitioner's license.

(3) Registration under this section must be made [*annually*] **biennially**. The health professional regulatory boards listed in subsection (1) of this section [*shall*] **may not** charge [*no*] a fee for registration under this section.

SECTION 3. (1) **The amendments to ORS 676.340 and 676.345 by sections 1 and 2 of this 2019 Act become operative on January 1, 2020.**

(2) **The Oregon Medical Board, the Oregon State Board of Nursing, the Oregon Board of Dentistry, the State Board of Pharmacy, the Oregon Board of Optometry and the Oregon Board of Naturopathic Medicine may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the board by the amendments to ORS 676.340 and 676.345 by sections 1 and 2 of this 2019 Act.**

SECTION 4. **This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.**

Passed by Senate March 19, 2019

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 22, 2019

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State