

A-Engrossed
Senate Bill 60

Ordered by the Senate February 6
Including Senate Amendments dated February 6

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Allows acupuncturists **and podiatric physicians** to claim liability limitation for provision of health care services without compensation. Requires biennial registration by health practitioners claiming liability limitation.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to health care professional liability limitation; creating new provisions; amending ORS
3 676.340 and 676.345; and declaring an emergency.

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

5 **SECTION 1.** ORS 676.340 is amended to read:

6 676.340. (1) Notwithstanding any other provision of law, a health practitioner described in sub-
7 section (7) of this section who has registered under ORS 676.345 and who provides health care ser-
8 vices without compensation is not liable for any injury, death or other loss arising out of the
9 provision of those services, unless the injury, death or other loss results from the gross negligence
10 of the health practitioner.

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

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

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

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 ceive compensation for the services.

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

5 (7) This section applies only to:

6 (a) A physician licensed under ORS [677.100 to 677.228] **chapter 677**;

7 (b) A nurse licensed under ORS 678.040 to 678.101;

8 (c) A nurse practitioner licensed under ORS 678.375 to 678.390;

9 (d) A clinical nurse specialist certified under ORS 678.370 and 678.372;

10 (e) A physician assistant licensed under ORS 677.505 to 677.525;

11 (f) A dental hygienist licensed under ORS 680.010 to 680.205;

12 (g) A dentist licensed under ORS 679.060 to 679.180;

13 (h) A pharmacist licensed under ORS chapter 689;

14 (i) An optometrist licensed under ORS chapter 683; [and]

15 (j) A naturopathic physician licensed under ORS chapter 685; **and**

16 **(k) An acupuncturist licensed under ORS 677.757 to 677.770.**

17 **SECTION 2.** ORS 676.345 is amended to read:

18 676.345. (1) A health practitioner described in ORS 676.340 (7) may claim the liability limitation
19 provided by ORS 676.340 only if the health practitioner has registered with a health professional
20 regulatory board in the manner provided by this section. Registration under this section must be
21 made:

22 (a) By a physician, [or] physician assistant **or acupuncturist**, with the Oregon Medical Board;

23 (b) By a nurse, nurse practitioner or clinical nurse specialist, with the Oregon State Board of
24 Nursing;

25 (c) By a dentist or dental hygienist, with the Oregon Board of Dentistry;

26 (d) By a pharmacist, with the State Board of Pharmacy;

27 (e) By an optometrist, with the Oregon Board of Optometry; and

28 (f) By a naturopathic physician, with the Oregon Board of Naturopathic Medicine.

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

34 (a) A statement that the health practitioner will provide health care services to patients without
35 compensation, except for reimbursement for laboratory fees, testing services and other out-of-pocket
36 expenses;

37 (b) A statement that the health practitioner will provide the notice required by ORS 676.340 (2)
38 in the manner provided by ORS 676.340 (2) before providing the services; and

39 (c) A statement that the health practitioner will only provide health care services without
40 compensation that are within the scope of the health practitioner's license.

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

44 **SECTION 3. (1) The amendments to ORS 676.340 and 676.345 by sections 1 and 2 of this**
45 **2019 Act become operative on January 1, 2020.**

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

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

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