

MAP Provider Liability Charitable Immunity

The State of Oregon provides limitation of liability for donated medical services (HB 2554). The registration as a charitable care provider must be completed through the State Board of Medical Examiners. Additional information is attached.

MAP's role in assuring limitations on your liability:

- ◆ MAP requires all MAP clients to sign a charitable immunity waiver upon enrolling in MAP.
- ◆ MAP clients sign this waiver prior to receiving any MAP services.

Your role in assuring limitations on your liability:

- ◆ You should complete the attached registration form annually. There is no fee for registering.
- ◆ The Board of Medical Examiners will NOT send you a notice of expiration or renewal. You and/or your office are responsible for annual registration.
- ◆ Services must be provided without the expectation of compensation or payment.
- ◆ Charitable immunity applies only to professional fees. Some "pass through" costs such as DME needs or pharmaceuticals do not negate the immunity.
- ◆ Legal counsel has advised providers who want immunity under the full scope of the law should also have MAP clients sign a practice and provider specific waiver prior to provision of charitable services.

What type of providers can register for liability limitations?

Please see attached Oregon revised statutes governing the limitations on liability of healthcare practitioners providing healthcare services without compensation.



Oregon

Theodore R. Kulongoski, Governor

Board of Medical Examiners

1500 SW 1st Ave Ste 620

Portland, OR 97201-5847

(971) 673-2700

FAX (971) 673-2672

www.oregon.gov/bme

TO: Physicians and Physician Assistants Interested in Registering with the Board for Limitation on Liability for Donated Services

FROM: Oregon Board of Medical Examiners

REGARDING: LIABILITY CAP FOR DONATED SERVICES

House Bill 2554, passed by the 1999 Legislature, limits the liability of Oregon-licensed physicians, physician assistants, and certain other health professionals for injury, death, or other loss that may arise from services they provide without compensation. These health professionals are liable only when such loss results from gross negligence on their part, provided they have met the following prior conditions:

1. The physician or physician assistant is registered with the Board of Medical Examiners as a provider of health care services without compensation and who wishes to claim the liability limitation provided by HB 2554.
2. The patient, or a person who has authority under law to make decisions for the patient, signs a statement notifying the patient that the health care services are provided without compensation and that the practitioner is liable only to the extent provided by the new law. This statement must be signed prior to receiving the services.
3. The practitioner receives the informed consent of the patient or the person who has authority under law to make health care decisions for the patient prior to providing the health care services.
4. The practitioner provides health care services without compensation, except for reimbursement for laboratory fees, testing services, and other out-of-pocket expenses.

There is no charge by the Board of Medical Examiners for registration in this program, which must be renewed annually. However, to keep expenses down, the Board will not send renewal notices. Participating physicians and physician assistants will be responsible for updating their own registration each year.

Also included in this registration packet is the registration form to be completed and returned to the Board, and the Notification of *Health Care Services Provided without Compensation and Limitation of Physician Liability* form. Please make a copy of the blank registration form so that you can submit it to register next year, and make copies of the notification of health care services form for your patients to sign. You may contact the Oregon Medical Association at 503-226-1555 for additional copies of the notification of health care services form.

If you have any questions, please contact the Board at 971-673-2700.

Oregon Board of Medical Examiners
1500 SW 1st Ave., Suite 620
Portland, Oregon 97201-5847
971-673-2700

Received by the BME: _____

**REGISTRATION FOR LIABILITY LIMITATION FOR PHYSICIANS AND
PHYSICIAN ASSISTANTS - House Bill 2554 - 1999**

This registration is valid for one year from the date it is received by the Board. Registration must be renewed annually. If you wish to renew this registration, please request a new registration form and submit it to the Board two weeks prior to the expiration date.

_____	_____	_____	_____
Last Name	First Name	Middle Initial	MD/DO/PA

Practice Street Address			

City	State	Zip	
_____		_____	
()			
Practice Phone Number		License Number	

Per ORS 676.340 and 676.345 a physician (MD/DO) or physician assistant (PA) who is registered with the Oregon Board of Medical Examiners 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 physician or physician assistant.

By registering with the Board, I agree to the following:

- I will provide health care services to patients without compensation that are within the scope of my license, except for reimbursement for laboratory fees, testing services and other out-of-pocket expenses.
- I will provide the patient, or person authorized under law to make health care decisions for the patient, with a statement notifying the patient that my health services are provided without compensation, and that I may be held liable for death, injury or other loss only if the injury, death or other loss results from gross negligence. The patient must sign a *Notification of Health Care Services Provided Without Compensation and Limitation of Physician Liability* form (attached) prior to health care services being provided.
- I will obtain the patient's informed consent for the health care services before providing the services, or receive the informed consent of a person who has authority under law to make health care decisions for the patient.

Licensee's Signature

Date

Limitations on liability of health practitioners providing health care services without compensation

Below are portions of the Oregon Revised Statutes governing limitations on liability of health practitioners providing health care services without compensation, and the registration program for health practitioners claiming liability limitation.

676.340 Limitations on liability of health practitioners providing health care services without compensation; requirements; exceptions; attorney fees; applicability. (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;
- (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; and

(g) A dentist licensed under ORS 679.060 to 679.180. [1999 c.771 §1; 1999 c.771 §3; 2005 c.462 §2]

Note: 676.340 and 676.345 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapters 676 to 681 or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

676.345 Registration program for health care professionals claiming liability limitation; program requirements. (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, with the Board of Medical Examiners;

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

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

(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. The health professional regulatory boards listed in subsection (1) of this section shall charge no fee for registration under this section. [1999 c.771 §2; 1999 c.771 §4; 2005 c.462 §3]

Note: See note under 676.340.

Note: Providers may opt to have clients sign this form, provided by the State BME, prior to receiving charitable care. This form would be in addition to a form that all MAP clients must sign to participate in the program.

**NOTIFICATION OF HEALTH CARE SERVICES PROVIDED WITHOUT
COMPENSATION AND LIMITATION OF PHYSICIAN LIABILITY**

Check one:

I am a patient of: _____
(Physician's/Physician Assistant's (PA) Name)

I am a person who has the authority under law to make health care
decisions for: _____
(Patient's/Physician Assistant's (PA) name)

My doctor/PA is providing me with health care services free of charge. However, I may be required to pay my doctor/PA for laboratory fees, testing services, or other out-of-pocket expenses. In cases where my doctor/PA is providing the services at a health clinic, I may also be required to pay the clinic a fee for my doctor's/PA's services. However, my doctor/PA will not be paid for providing these services.

Because I am getting this care free of charge, I understand and agree that my doctor/PA is not liable for any injury, death, or other loss arising out of giving me these health care services unless the injury, death, or other loss is caused by my doctor's/PA's gross negligence.

My doctor/PA gave me this notice and I signed it before receiving any health care services. Additionally, I have given my informed consent to receiving health care services from my doctor/PA.

Patient's Signature Date

Patient's Name

Signature of Patient's authorized representative (if necessary)