

# House Bill 3139

Sponsored by COMMITTEE ON HEALTH CARE

## 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 **as introduced**.

Provides immunity from liability under certain circumstances for pharmacists and optometrists providing services without compensation.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to limitations on liability of volunteer health practitioners; creating new provisions;  
3 amending ORS 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-  
27 ceive compensation for the services.

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

31 (7) This section applies only to:

**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 (a) A physician licensed under ORS 677.100 to 677.228;
- 2 (b) A nurse licensed under ORS 678.040 to 678.101;
- 3 (c) A nurse practitioner licensed under ORS 678.375 to 678.390;
- 4 (d) A clinical nurse specialist certified under ORS 678.370 and 678.372;
- 5 (e) A physician assistant licensed under ORS 677.505 to 677.525;
- 6 (f) A dental hygienist licensed under ORS 680.010 to 680.205; [and]
- 7 (g) A dentist licensed under ORS 679.060 to 679.180[.];
- 8 **(h) A pharmacist licensed under ORS chapter 689; and**
- 9 **(i) An optometrist licensed under ORS chapter 683.**

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

11 676.345. (1) A health practitioner described in ORS 676.340 (7) may claim the liability limitation  
12 provided by ORS 676.340 only if the health practitioner has registered with a health professional  
13 regulatory board in the manner provided by this section. Registration under this section must be  
14 made:

- 15 (a) By a physician or physician assistant, with the Oregon Medical Board;
- 16 (b) By a nurse, nurse practitioner or clinical nurse specialist, with the Oregon State Board of  
17 Nursing; [and]
- 18 (c) By a dentist or dental hygienist, with the Oregon Board of Dentistry[.];
- 19 **(d) By a pharmacist, with the State Board of Pharmacy; and**
- 20 **(e) By an optometrist, with the Oregon Board of Optometry.**

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

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

33 (3) Registration under this section must be made annually. The health professional regulatory  
34 boards listed in subsection (1) of this section shall charge no fee for registration under this section.

35 **SECTION 3. (1) The amendments to ORS 676.340 and 676.345 by sections 1 and 2 of this**  
36 **2011 Act become operative on January 1, 2012.**

37 **(2) The State Board of Pharmacy and the Oregon Board of Optometry may take any**  
38 **action necessary before the operative date specified in subsection (1) of this section to enable**  
39 **the boards to exercise, on and after the operative date specified in subsection (1) of this**  
40 **section, all the duties, functions and powers conferred on the boards by the amendments to**  
41 **ORS 676.340 and 676.345 by sections 1 and 2 of this 2011 Act.**

42 **SECTION 4. This 2011 Act being necessary for the immediate preservation of the public**  
43 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
44 **on its passage.**