



CENTRAL OREGON VETERAN OUTREACH, INC.

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Federal Tax Nonprofit ID # 76-0782755

MEASURE: HB 4027 A
EXHIBIT: 4
2012 SESSION SENATE RULES
DATE: 02-27-2012 PAGES: 12
SUBMITTED BY: CHARLES HEMINGWAY

February 24, 2012

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Bend, Oregon

Clarence Carnahan, MD
HOB Program Consultant

RE: Proposed Amendments to A-Engrossed House Bill 4027

Senator Diane Rosenbaum
Chair, Rules Committee
Oregon State Capitol, S-223
900 Court Street, NE
Salem, OR 97301

Dear Senator Rosenbaum:

My name is Chuck Hemingway. I am Executive Director of Central Oregon Veterans Outreach (COVO). We provide outreach services to homeless veterans and other vulnerable populations in Central Oregon.

Since April 2011 we have been providing free medical services to homeless populations in Central Oregon. We have struggled, and continue to struggle, to find medical providers to staff our Mobile Medical Unit, because of liability concerns. This is notwithstanding existing provisions of Oregon law (ORS 676.340 and 676.345) that arguably provide protection from liability.

HB 4027, as passed by the House, is a step in this direction but it passed with a major flaw that is going to kill our medical van program. At Section 2(1)(b)(B) of the Engrossed Bill (page 2, lines 23-25), "outreach services" are defined to exclude medical and dental services where the practitioner may register under ORS 676.340 and 676.345. This flaw could not be fixed before HB 4027 came to the Senate, and your committee. But it was forwarded with HB 4027-A6, an amendment which would cure this fatal flaw.

We are soliciting your support, in your capacity as Chair of the Rules Committee and as Senate Majority Leader, to have this amendment adopted and HB 4027 passed, as amended. Otherwise we are asking that you take action (or perhaps take no action) so that HB 4027 dies.

I noted from your biography that you have been a passionate advocate for Oregon's working families and low-income Oregonians. We are seeing patients on our medical van who are homeless, yet working, and have no access to medical care. Attached is email correspondence between COVO and Karen Yeargain, a Crook County public health nurse in Prineville. COVO is going to provide our medical van in support of a Crook County Mobile Connect event in May 2012. However, as you will see from the email traffic, Karen cannot find doctors in Prineville willing to volunteer because of the liability issue and she is asking that we bring our volunteer doctors from Bend to Prineville to staff the van.

The doctors and other medical providers tell us that they are well-educated about ORS 676.340 and 676.345 but they want the additional express language of HB 4027-A6 that will work in tandem with ORS 676.340 and 676.345. Please support us in our efforts and pass HB 4027 as it would be amended by HB 4027-A6 or otherwise kill it.

Sincerely,

Charles W. (Chuck) Hemingway



RE: COVO van costs for Crook County Connect

7 messages

Chuck Hemingway <hemingwaych@bendnet.com>

Mon, Jan 9, 2012 at 6:07 AM

To: Karen Yeargain <kyeargain@h.co.crook.or.us>

Cc: Central Oregon Veterans Outreach <covo.org@gmail.com>

Hi Karen,

For the medical van, I would figure the costs would be for the diesel to drive over and back – less than \$50 I would estimate. Twice a month we take the van to Superior Automotive for maintenance. We pay \$150 a month for that, so if the budget could cover for one visit (\$75). The prescription cards would probably run up to \$200. So.... could you budget \$325?

One thing concerning the medical van, Dr. Jacobs (our medical director) wants to see if you can first find local doctors and nurses to be the providers on board and sign up through our system and get trained on our system of records. It is not a complicated process and we have time to work on this. If we can establish a "team" for Prineville, that would go a long way toward us being able to start scheduling Prineville on a recurring basis. Since we are talking about May as the date of the Mobile Connect event, there should be time to get all this set.

I am sending this from home. When I get to the office I will email you Lisa's contact info.

Re: the Crook Count for the ONHC, let me talk to Lisa about volunteers. She has a team meeting scheduled for Thursday. We may know before then, but definitely after Thursday.

Thanks,

Chuck

From: Karen Yeargain [mailto:kyeargain@h.co.crook.or.us]

Sent: Friday, January 06, 2012 3:52 PM

To: hemingwaych@bendnet.com

Subject: COVO van costs for Crook County Connect

Hi Chuck,

I talked with the ladies from Volunteer Connect this morning. They would like to have the costs associated with the COVO medical van incorporated into my budget/grant request for the medical branch of the CCC rather than look at that separately. Could you let me know what the costs will be and I will put that in my budget.

Also, can you give me Lisa Miller's contact info. She didn't have cards with her today (nor did I...) and doesn't know what her work e-addy is yet.

Finally, can you tell me how many volunteers COVO can assign to Crook County for the ONHC? Karole and I are working on planning what the outreach locations are that we would do..... knowing whether we have one, two, three people will determine how many "citizen volunteers" we train.

Thanks on all scores.

Karen

Central Oregon Veterans Outreach <covo.org@gmail.com>

Mon, Jan 9, 2012 at 7:32 AM

To: Chuck Hemingway <hemingwaych@bendnet.com>, Karen Yeargain <kyeargain@h.co.crook.or.us>

Cc: Lisa Miller <lisa10@bendbroadband.com>

Hi Karen,

Lisa's cell phone # is (541) 420-2336. Her office line is the same # (541) 383-2793. I am copying her with this email, but her email is lisa10@bendbroadband.com. She is setting up a covo email address and I will have her send that to you when she does.

Thanks,

Chuck

[Quoted text hidden]

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"The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive the Veterans of earlier wars were treated and appreciated by their nation."

- George Washington

Central Oregon Veterans Outreach <covo.org@gmail.com>

Mon, Jan 9, 2012 at 7:37 AM

To: Randall Jacobs <rjacobsmd@gmail.com>, joan and dave goodwin <djgoodwin@bendbroadband.com>, colette whelan <whelancolette@gmail.com>

Hi Randy, Joan --

Karen Yeargain, the public health nurse in Crook County, is trying to work toward setting up the Crook County Mobile Connect event in May. She would like to have the COVO MMU there. Please see my email to her about pushing to get local providers with the expectation that they could be enrolled as part of our provider team and

we could look upon the May event as the first in regularly scheduled outings into Crook County. This is in keeping with a strategy to push for a successor arrangement to Health Matters referrals. Since Mosaic started in Prineville and spread to Bend (and now is spreading to other locations), my thought is that this is an inroad into convincing Mosaic to grant us a special exception to referrals instead of getting in line behind their other referrals. If we can get a Mosaic provider to work with us on the Crook County Connect event and enroll them in our MMU system, that creates a good link, I believe.

Thanks,

Chuck

[Quoted text hidden]

Randall Jacobs <rjacobsmd@gmail.com>

Mon, Jan 9, 2012 at 8:23 AM

To: Central Oregon Veterans Outreach <covo.org@gmail.com>

Cc: joan and dave goodwin <djgoodwin@bendbroadband.com>, colette whelan <whelancolette@gmail.com>

My sense is that Crook Co volunteers will need to coordinate scheduling - lets put on our agenda for later this month - 1/19 0800

thanks

RJ

[Quoted text hidden]

Karen Yeargain <kyeargain@h.co.crook.or.us>

Wed, Jan 18, 2012 at 10:43 AM

To: Chuck Hemingway <hemingwaych@bendnet.com>, "lisa10@bendbroadband.com"

<lisa10@bendbroadband.com>, Karole Stockton <karoles@crestviewcable.com>

Cc: Central Oregon Veterans Outreach <covo.org@gmail.com>

Hi Chuck,

1.) I won't be able to get local practitioners recruited for the COVO van. I have trouble enough getting one P.A. a year to volunteer for the event. If there was any chance of getting local docs to volunteer for the van, it would be through peer-to-peer recruitment, ie. Dr. Jacobs approaching them. I would suggest getting on the schedule to talk at one of the medical staff meetings that all the local providers attend once a month at the hospital.

2.) Can you or Lisa tell me how many COVO volunteers will be assigned to Crook County for the ONHC? That is essential info for us to plan how to allocate our volunteers. Please be sure to cc Karole on all communications as she and I are coordinating the count together. (And, I'll be out of town from tomorrow through Monday, so she'll be your main go-to person in the next week.)

Thanks Chuck!

Karen

From: Chuck Hemingway [mailto:hemingwaych@bendnet.com]

Sent: Monday, January 09, 2012 6:08 AM

To: Karen Yeargain
Cc: 'Central Oregon Veterans Outreach'
Subject: RE: COVO van costs for Crook County Connect

[Quoted text hidden]

Central Oregon Veterans Outreach <covo.org@gmail.com>

Wed, Jan 18, 2012 at 11:04 AM

To: Karen Yeargain <kyeargain@h.co.crook.or.us>

I'll talk to Dr. Jacobs & pass on the info in your email and also talk to Lisa about possible volunteers.

Thanks!

Chuck

[Quoted text hidden]

[Quoted text hidden]

Karole Stockton <karoles@crestviewcable.com>

Thu, Jan 19, 2012 at 6:24 PM

To: Karen Yeargain <kyeargain@h.co.crook.or.us>, Chuck Hemingway <hemingwaych@bendnet.com>, lisa10@bendbroadband.com, stockton5@crestviewcable.com

Cc: Central Oregon Veterans Outreach <covo.org@gmail.com>

Thanks, Karen...

Karole

From: Karen Yeargain [mailto:kyeargain@h.co.crook.or.us]

Sent: Wednesday, January 18, 2012 10:44 AM

To: Chuck Hemingway; lisa10@bendbroadband.com; Karole Stockton

[Quoted text hidden]

[Quoted text hidden]

FEBRUARY 22,
2012

WEDNESDAY

75¢

Bill aims to help increase medical care for homeless

By Lauren Dake
The Bulletin

SALEM — It's similar to any urgent care: There are burn victims, patients with high blood pressure, some with frostbite and others who without care likely would die.

Only, these patients are often homeless and treated in a camp rather than a hospital.

In the past year, since the Central Oregon Veterans Outreach started making rounds and providing medical care for those without homes, it has garnered a caseload of 350 standing patients. To treat the patients, there are eight volunteer physicians and 22 volunteer nurses.

"We're worried we'll burn them out and there will be nobody there to back fill," said COVO Executive Director Chuck Hemingway.

Legislation passed the House floor Tuesday that could help encourage more medical professionals to volunteer their time. Hemingway is worried that many medical experts don't donate their time for fear of lawsuits. House Bill 4027 would protect medical professionals who volunteer for charitable organizations and nonprofits from lawsuits. It would not provide protection from gross negligence.

See Volunteers / A6



A6 THE BULLETIN • WEDNESDAY, FEBRUARY 22, 2012

Volunteers

Continued from A1

Rep. Gene Whisnant, R-Sunriver, pushed the bill last session without success. He was pleased with its passage on Tuesday.

"It helps our most needy people," he said.

There are many trained retired professionals living in Central Oregon, he pointed out.

Hemingway hopes the legislation could help the nonprofit

expand. More volunteers means more trips to homeless camps.

He has some volunteers who are paying for extra insurance out-of-pocket so they can continue to help. It's been a roadblock when it comes to recruiting more help.

"This bill will cure that," he said.

The bill now heads to the Senate.

—Reporter: 541-419-8074,
ldake@bendbulletin.com

EDITORIALS

Health volunteers should be protected

A bill working its way through the Oregon Legislature is likely to help homeless veterans get more health care.

Sponsored by Rep. Gene Whisnant, R-Sunriver, it would provide protection from most lawsuits for doctors, nurses and other health professionals who donate their time.

Approved by the House on Tuesday, it now goes to the Senate. We urge quick passage and the governor's signature to make it law.

Central Oregon Veterans Outreach has eight physicians and 22 nurses in its program to provide needed care for the homeless. In the past year, the organization has been visiting homeless camps and now has a caseload of 350 patients.

COVO Executive Director Chuck Hemingway thinks the new legislation would help him recruit more medical professionals and thus avoid burnout among those already helping.

Except in cases of gross negligence, House Bill 4027 would protect those volunteers from lawsuits if they were donating time to charitable organizations or nonprofits.

The bill specifically includes dentists, dental hygienists, pharmacists and optometrists, in addition to physicians, physician assistants, nurses, nurse practitioners and clinical nurse specialists. To be eligible for protection, the person must register annually with the relevant regulatory board — for example, a pharmacist must be registered with the State Board of Pharmacy. The person must also pledge to limit donated services to those covered by his or her license.

Whisnant said there are many retired medical professionals living in Central Oregon, and passage of the bill could help "our most needy people."

According to Hemingway, some of the current volunteers pay for extra insurance for themselves, and the need to do that has made it more difficult to recruit additional help.

Whisnant's bill would remove a significant barrier to health care for some who need it. It would also encourage the civic virtue of citizen helping citizen. That's a benefit that goes far beyond the specific care provided, weaving a stronger community fabric that helps us all.

A-Engrossed House Bill 4027

Ordered by the House February 14
Including House Amendments dated February 14

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

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.

Expands immunity from liability for health care provider who provides services for charitable organization without compensation.

Provides immunity from liability for person providing outreach services without compensation to homeless individuals, or individuals at risk of becoming homeless individuals, under certain circumstances.

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

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to limitations on liability of persons providing services without compensation; creating new
3 provisions; amending ORS 30.792, 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 30.792 is amended to read:

6 30.792. (1) As used in this section:

7 (a)(A) "Charitable [*corporation*] organization" [*has the meaning given that term in ORS*
8 *128.620.*] means a charitable organization, as defined in ORS 128.620, that:

9 (i) Spends at least 65 percent of its revenues on charitable programs; and

10 (ii) Has a financially secure source of recovery for individuals who suffer harm as a re-
11 sult of actions taken by a volunteer on behalf of the organization.

12 (B) "Charitable organization" does not include hospitals, intermediate care facilities or
13 long term care facilities, as those terms are defined in ORS 442.015.

14 (b) "Health care provider" means [*any person*] an individual licensed in this state as a practi-
15 tioner of one or more healing arts as described in ORS 31.740.

16 (c) "Health clinic" means a public health clinic or a health clinic operated by a charitable
17 [*corporation*] organization that provides primarily primary physical health, dental or mental health
18 services to low-income patients without charge or using a sliding fee scale based on the income of
19 the patient.

20 (2) Except as provided in subsection (3) of this section, [*no*] a person may **not** maintain an action
21 for damages against:

22 (a) A health care provider who voluntarily provides [*to a charitable corporation any*] assistance,
23 services or advice [*directly related to the charitable purposes of the corporation*] **through a charita-**
24 **ble organization if:**

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) The assistance, services or advice that caused the damages are within the scope of the
2 license of the health care provider; [or] and

3 (B) The health care provider was acting within the course and scope of the provider's
4 volunteer duties when the damages occurred; or

5 (b) A health clinic for the assistance, services or advice provided by a health care provider de-
6 scribed in paragraph (a) of this subsection.

7 (3) The immunity provided in this section [shall] does not apply to:

8 (a) Any person who receives compensation other than reimbursement for expenses incurred by
9 the person providing [such] the assistance, services or advice described in subsection (2) of this
10 section.

11 (b) A person operating a motor vehicle, vessel, aircraft or other vehicle for which the
12 person or owner of the vehicle, vessel, aircraft or other vehicle is required to possess an
13 operator's license or to maintain insurance.

14 [(b)] (c) The liability of any person for damages resulting from the person's gross negligence or
15 from the person's reckless, wanton or intentional misconduct.

16 [(c)] (d) Any activity for which a person is otherwise strictly liable without regard to fault.

17 **SECTION 2.** (1) As used in this section:

18 (a) "Homeless individual" has the meaning given that term in 42 U.S.C. 11302, as in effect
19 on the effective date of this 2012 Act.

20 (b)(A) "Outreach services" includes, but is not limited to, case management services such
21 as assessment and referral for alcohol or other drug-related services and for housing, fi-
22 nancial, educational and related services.

23 (B) "Outreach services" does not include medical or dental services provided by a health
24 practitioner who may register with a health professional regulatory board to claim a liability
25 limitation under ORS 676.340 and 676.345.))

26 (2) Except as provided in subsection (3) of this section, a person providing outreach ser-
27 vices to homeless individuals or individuals at risk of becoming homeless individuals is im-
28 mune from civil liability for all acts or omissions in providing the care if:

29 (a) The person has registered as a volunteer with a nonprofit corporation organized un-
30 der the laws of this state that has as one of its principal missions the provision of services
31 to homeless individuals or individuals at risk of becoming homeless individuals; and

32 (b) The services are provided without compensation from the nonprofit corporation, the
33 individual to whom services are rendered or any other person.

34 (3) This section does not apply to intentional torts or to acts or omissions that constitute
35 gross negligence.

36 **SECTION 3.** ORS 676.340 is amended to read:

37 676.340. (1) Notwithstanding any other provision of law, a health practitioner described in sub-
38 section (7) of this section who has registered under ORS 676.345 and who provides health care ser-
39 vices without compensation is not liable for any injury, death or other loss arising out of the
40 provision of those services, unless the injury, death or other loss results from the gross negligence
41 of the health practitioner.

42 (2) A health practitioner may claim the limitation on liability provided by this section only if
43 the patient receiving health care services, or a person who has authority under law to make health
44 care decisions for the patient, signs a statement that notifies the patient that the health care ser-
45 vices are provided without compensation and that the health practitioner may be held liable for

1 death, injury or other loss only to the extent provided by this section. The statement required under
2 this subsection must be signed before the health care services are provided.

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

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

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

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

17 (7) This section applies only to:

- 18 (a) A physician licensed under ORS 677.100 to 677.228;
- 19 (b) A nurse licensed under ORS 678.040 to 678.101;
- 20 (c) A nurse practitioner licensed under ORS 678.375 to 678.390;
- 21 (d) A clinical nurse specialist certified under ORS 678.370 and 678.372;
- 22 (e) A physician assistant licensed under ORS 677.505 to 677.525;
- 23 (f) A dental hygienist licensed under ORS 680.010 to 680.205; [and]
- 24 (g) A dentist licensed under ORS 679.060 to 679.180[.];
- 25 **(h) A pharmacist licensed under ORS chapter 689; and**
- 26 **(i) An optometrist licensed under ORS chapter 683.**

27 **SECTION 4.** ORS 676.345 is amended to read:

28 676.345. (1) A health practitioner described in ORS 676.340 (7) may claim the liability limitation
29 provided by ORS 676.340 only if the health practitioner has registered with a health professional
30 regulatory board in the manner provided by this section. Registration under this section must be
31 made:

- 32 (a) By a physician or physician assistant, with the Oregon Medical Board;
- 33 (b) By a nurse, nurse practitioner or clinical nurse specialist, with the Oregon State Board of
34 Nursing; [and]
- 35 (c) By a dentist or dental hygienist, with the Oregon Board of Dentistry[.];
- 36 **(d) By a pharmacist, with the State Board of Pharmacy; and**
- 37 **(e) By an optometrist, with the Oregon Board of Optometry.**

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

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

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

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

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

7 **SECTION 5.** Section 2 of this 2012 Act and the amendments to ORS 30.792 by section 1
8 of this 2012 Act apply to causes of action that arise on or after the effective date of this 2012
9 Act.

10 **SECTION 6.** (1) The amendments to ORS 676.340 and 676.345 by sections 3 and 4 of this
11 2012 Act become operative on January 1, 2013.

12 (2) The State Board of Pharmacy and the Oregon Board of Optometry may take any
13 action necessary before the operative date specified in subsection (1) of this section to enable
14 the boards to exercise, on and after the operative date specified in subsection (1) of this
15 section, all the duties, functions and powers conferred on the boards by the amendments to
16 ORS 676.340 and 676.345 by sections 3 and 4 of this 2012 Act.

17 **SECTION 7.** This 2012 Act being necessary for the immediate preservation of the public
18 peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect
19 on its passage.
20

HB 4027-A6
(LC 267)
2/21/12 (MNJ/ps)

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 4027**

1 On page 2 of the printed A-engrossed bill, delete lines 20 through 25 and
2 insert:

3 “(b) ‘Outreach services’ includes, but is not limited to:

4 “(A) Case management services such as assessment and referral for alco-
5 hol or other drug-related services and for housing, financial, educational and
6 related services; and

7 “(B) Medical or dental services provided by a health practitioner who
8 complies with ORS 676.340 and 676.345.”.

9
