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

RE: **Liability Limitation for Donated Services**

Oregon Revised Statutes 676.340 and 676.345 limit the liability of Oregon licensed physicians, physician assistants, and certain other health care practitioners from injury, death, or other loss that may arise from services they provide without compensation. These health care practitioners 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 Oregon Medical Board as a provider of health care services without compensation who wishes to claim the liability limitation provided by ORS 676.340 and 676.345.

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 law. This *Notification of Health Care Services Provided Without Compensation and Limitation of Physician/Physician Assistant Liability* form 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 Oregon Medical Board 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.

The registration form needs to be completed and returned to the Board, and the *Notification of Health Care Services Provided Without Compensation and Limitation of Physician/Physician Assistant Liability* form to be signed by the patient prior to providing health care services. You may obtain additional copies of this form by visiting the Oregon Medical Board website at **www.Oregon.gov/OMB**. If you have any questions, please contact the Oregon Medical Board at 971-673-2700.

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 care 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;

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

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

(i) An optometrist licensed under ORS chapter 683.

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 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; and

(e) By an optometrist, with the Oregon Board of Optometry.

(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 is 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.

Registration for Liability Limitation for Physician & Physician Assistants

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

Select One: ☐ MD ☐ DO ☐ DPM ☐ PA

Last Name First Name Middle Name

Practice Street Address

City State Zip

Practice Phone Number License Number

Per ORS 676.340 and 676.345, a physician or physician assistant registered with the Oregon Medical Board 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 Oregon Medical Board, I agree to the following:

1. 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.
2. 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 care 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 will sign a *Notification of Health Care Services Provided without Compensation and Limitation of Physician/Physician Assistant Liability* form prior to health care services being provided.
3. I will obtain the informed consent of the patient, or person who has authority under law to make health care decisions for the patient, prior to providing the health care services.

Licensee's Signature Date

Notification of Health Care Services Provided without Compensation and Limitation of Physician/Physician Assistant Liability

Patient Name (Print) _____

Physician/Physician Assistant Name (Print) _____

Check one:

☐ I am the patient

-OR-

☐ I am a person who has legal authority to make health care decisions for the patient

Authorized Representative Name (Print) _____

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

By signing this notification form, I understand and agree that my physician/PA is not liable for any injury, death or other loss arising out of these health care services unless the injury, death or other loss is caused by my physician's/PA's gross negligence.

I received and am signing this notification before receiving any health care services.

Additionally, I have given my informed consent to receiving these health care services from my physician/PA.

_____ _____

Patient Signature Date

-OR-

_____ _____

Authorized Representative Signature Date