



Liability Limitation Information for COVID-19

March 31, 2020

New! Liability Limitation for Volunteers During COVID-19 Emergency Response (Federal)

Federal law ([CARES Act, H.R. 748, Section 3215](#)) provides that health care professionals are not be liable under Federal or State law for harm caused by an act or omission while volunteering their health care services during the COVID–19 public health emergency. For the law to apply, the health care provider must be volunteering (not receiving payment) in response to the public health emergency, the services must be within the scope of the professional’s state license, and must be provided in good faith. This section preempts the laws of a State or any political subdivision of a State, unless such laws provide greater protection from liability. The are exceptions to the limitation, such as willful or criminal misconduct, gross negligence, reckless misconduct, or if the health care professional rendered the health care services under the influence of alcohol or an intoxicating drug. The federal limitation is not a substitute for insurance coverage; for additional information on exceptions and definitions, see the [CARES Act, Section 3215](#).

Liability Limits for Emergency Medical Assistance (Oregon)

Oregon law ([ORS 30.800](#)) provides liability protections for health care professionals providing voluntary emergency medical assistance, without the expectation of compensation, to an injured person who needs immediate medical care. The emergency medical assistance must be provided in a place where emergency medical care is not regularly available. The Oregon law disallows an action for damages for injury, death or loss that result from acts or omissions of a person while rendering emergency medical assistance unless grossly negligent in rendering the emergency medical assistance.

Liability Limitation for Volunteer Service (Oregon) *program registration required

Oregon law ([ORS 676.340-676.345](#)) establishes a Liability Limitation for Volunteer Services Program to limit the liability for health care professionals who provide services without compensation. The program is not a substitute for insurance coverage; rather Oregon law limits the liability for health practitioners who meet the requirements of the program and have registered with the Board. Registration is free. Program registration forms, requirements, and patient notice forms are available on the [Liability Limitation Program webpage](#). For questions, contact the Oregon Medical Board at licensing@omb.oregon.gov.

Malpractice Insurance

The Oregon Medical Board is unable to advise licensees on malpractice insurance coverage decisions during this public health emergency. Please contact the institution where you are providing care during this emergency and/or your professional liability carrier for questions about malpractice insurance coverage.

Summaries are provided for informational purposes, please review actual laws for requirements.

Malpractice Insurance Providers Reference List

Reference list provided for informational purposes only, list is not a Board endorsement and does not include all providers

Medical Protective Company
5814 Reed Rd
Fort Wayne, IN 46835
www.medpro.com, 800-463-3776

The Doctors Company
PO Box 2950
Napa, CA 94558
www.thedoctors.com, 800-421-2368

NORCAL Mutual Insurance
P.O. Box 2080
Mechanicsburg, PA 17055
www.norcal-group.com, 844-466-7225

The Mutual Risk Retention Group
3000 Oak Rd, Suite 600
Walnut Creek, CA 94597
www.tmrrg.com, 925-949-0100

Physicians Insurance (Mutual) Company
PO Box 91220
Seattle, WA 98111
www.phyins.com, 800-962-1399

Western Litigation
1900 W. Loop S., Ste 1500
Houston, TX 77027
www.westernlitigation.com, 800-588-0619

ProAssurance Casualty Company
100 Brookwood Place
Birmingham, AL 35209
www.proassurance.com, 800-282-6242

Willamette Valley Insurance Corp
PO Box 14001
Salem, OR 97309
www.willamettevalleyins.com, 541-466-3689

ProSelect Insurance, Coverys
One Financial Center
Boston, MA 02111
www.coverys.com, 800-225-6168

Citations Reference

Excerpts of citations provided for informational purposes only, please review actual laws from source

Federal: Limitation on Liability for Volunteer Health Care Professionals During COVID-19

CARES Act, H.R. 748, Section 3215.

(a) Limitation On Liability.—Except as provided in subsection (b), a health care professional shall not be liable under Federal or State law for any harm caused by an act or omission of the professional in the provision of health care services during the public health emergency with respect to COVID–19 declared by the Secretary of Health and Human Services (referred to in this section as the “Secretary”) under section 319 of the Public Health Service Act (42 U.S.C. 247d) on January 31, 2020, if— (1) the professional is providing health care services in response to such public health emergency, as a volunteer; and (2) the act or omission occurs— (A) in the course of providing health care services; (B) in the health care professional’s capacity as a volunteer; (C) in the course of providing health care services that— (i) are within the scope of the license, registration, or certification of the volunteer, as defined by the State of licensure, registration, or certification; and (ii) do not exceed the scope of license, registration, or certification of a substantially similar health professional in the State in which such act or omission occurs; and (D) in a good faith belief that the individual being treated is in need of health care services.

(b) Exceptions.—Subsection (a) does not apply if— (1) the harm was caused by an act or omission constituting willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious flagrant indifference to the rights or safety of the individual harmed by the health care professional; or (2) the health care professional rendered the health care services under the influence (as determined pursuant to applicable State law) of alcohol or an intoxicating drug.

(c) Preemption.— (1) IN GENERAL.—This section preempts the laws of a State or any political subdivision of a State to the extent that such laws are inconsistent with this section, unless such laws provide greater protection from liability. (2) VOLUNTEER PROTECTION ACT.—Protections afforded by this section are in addition to those provided by the Volunteer Protection Act of 1997 (Public Law 105–19).

(d) Definitions.—In this section— (1) the term “harm” includes physical, nonphysical, economic, and noneconomic losses; (2) the term “health care professional” means an individual who is licensed, registered, or certified under Federal or State law to provide health care services; (3) the term “health care services” means any services provided by a health care professional, or by any individual working under the supervision of a health care professional that relate to— (A) the diagnosis, prevention, or treatment of COVID–19; or (B) the assessment or care of the health of a human being related to an actual or suspected case of COVID–19; and (4) the term “volunteer” means a health care professional who, with respect to the health care services rendered, does not receive compensation or any other thing of value in lieu of compensation, which compensation— (A) includes a payment under any insurance policy or health plan, or under any Federal or State health benefits program; and (B) excludes— (i) receipt of items to be used exclusively for rendering health care services in the health care professional’s capacity as a volunteer described in subsection (a)(1); and (ii) any reimbursement for travel to the site where the volunteer services are rendered and any payments in cash or kind to cover room and board, if services are being rendered more than 75 miles from the volunteer’s principal place of residence.

(e) Effective Date.—This section shall take effect upon the date of enactment of this Act, and applies to a claim for harm only if the act or omission that caused such harm occurred on or after the date of enactment.

(f) Sunset.—This section shall be in effect only for the length of the public health emergency declared by the Secretary of Health and Human Services (referred to in this section as the “Secretary”) under section 319 of the Public Health Service Act (42 U.S.C. 247d) on January 31, 2020 with respect to COVID–19.

Oregon: Liability for Emergency Medical Assistance

Oregon Revised Statute

30.800

(1) As used in this section and ORS 30.805, “emergency medical assistance” means:

(a) Medical or dental care not provided in a place where emergency medical or dental care is regularly available, including but not limited to a hospital, industrial first-aid station or the office of a physician, naturopathic physician, physician assistant or dentist, given voluntarily and without the expectation of compensation to an injured person who is in need of immediate medical or dental care and under emergency circumstances that suggest that the giving of assistance is the only alternative to death or serious physical aftereffects; or

(b) Medical care provided voluntarily in good faith and without expectation of compensation by a physician licensed under ORS chapter 677, a physician assistant licensed under ORS 677.505 to 677.525, a nurse practitioner licensed under ORS 678.375 to 678.390 or a naturopathic physician licensed under ORS chapter 685 and in the person’s professional capacity as a provider of health care for an athletic team at a public or private school or college athletic event or as a volunteer provider of health care at other athletic events.

(2) No person may maintain an action for damages for injury, death or loss that results from acts or omissions of a person while rendering emergency medical assistance unless it is alleged and proved by the complaining party that the person was grossly negligent in rendering the emergency medical assistance.

(3) The giving of emergency medical assistance by a person does not, of itself, establish a professional relationship between the person giving the assistance and the person receiving the assistance insofar as the relationship carries with it any duty to provide or arrange for further medical care for the injured person after the giving of emergency medical assistance.

Oregon: Limitations on Liability of Health Practitioners Providing Services Without Compensation

Oregon Revised Statute

676.340

(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 chapter 677; (e) A physician assistant licensed under ORS 677.505 to 677.525; ... (k) An acupuncturist licensed under ORS 677.757 to 677.770.

Oregon Revised Statute

676.345

(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, physician assistant or acupuncturist, with the Oregon Medical Board;

(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 biennially. The health professional regulatory boards listed in subsection (1) of this section may not charge a fee for registration under this section.