Oregon State Bar

Testimony before the Senate Judiciary Committee
In support of SB 358
On behalf of the Oregon State Bar
January 30, 2019

Chair Prozanski, members of the committee:

My name is Christine Costantino and I have a family law practice at Samuels Yoelin Kantor in Portland. I am speaking to you today as the 2019 Oregon State Bar President. It is a pleasure to be here today and I welcome the opportunity to talk with you about the Oregon State Bar.

The Oregon State Bar is an instrumentality of the judicial department that is governed by the Board of Governors. The Oregon State Bar supports and ensures public protection, access to justice for all, as well as the administration of justice and a fair and impartial judiciary.

Senate Bill 358 addresses three distinct and important issues related to governance of the Oregon State Bar: creating consistent reporting requirements for lawyers in Oregon, the changing demographics of lawyers in Oregon, and the ability of the bar to work with state agencies.

During the 2015 legislative session, the Legislature passed SB 381 which established new reporting timelines for curing non-payment of licensing fees and the professional liability fund assessment. Section 3 of SB 358 will update ORS 9.675 to ensure that the reporting timelines for confirming compliance with the Interest on Lawyer Trust Accounts (IOLTA) mirrors the reporting timelines put in place through SB 381. This alignment will allow the bar to reap additional system efficiencies.

Second, there has been an increased interest in reviewing the licensing fee structure from the bar's membership. During the most recent House of Delegates meeting held in November 2018, the delegates voted to review the current fee structure. As currently written, ORS 9.191(3) restricts the Oregon State Bar's ability to make comprehensive and system-wide decisions about membership fees by exempting 50-year members from the requirement to pay. This unique exemption hinders a bar wide analysis of member fees, and undermines efforts to consider additional factors to be considered in determining fees.

Streamlining the licensing fee statute will allow the Board of Governors and House of Delegates to respond more fully to the needs of the membership. The restriction in statute makes it difficult for the bar to take a comprehensive approach to setting licensing fees, including looking at difficulties faced by newer members who often have considerable student loan debt and for whom the cost of licensing fees is the greatest burden.

Third, under ORS 9.565 the Oregon Department of Revenue has the authority to disclose confidential tax information to the Oregon State Bar when an attorney prepares a tax return or report "for another" but

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does not allow disclosure of confidential information when an attorney fails to comply with Oregon tax laws personally or as an employer. Last summer the Department reached out to the bar with a proposal to provide the Department with greater latitude to disclose tax information to the Oregon State Bar for regulatory purposes.

As a regulatory entity, one of the bar's core functions is protection of the public. As such, the bar is responsible for the discipline of Oregon's approximately 15,000 active lawyers. Oregon's attorney discipline system rests on a bedrock of due process for both complainants and accused lawyers, accessibility to information, volunteer participation, and seeking outcomes appropriate in each case, taking into consideration both past precedent and the individual circumstances of the matter at hand.

The proposal to allow for information sharing between the Department of Revenue and the Oregon State Bar may increase accessibility to information important to our regulatory function while ensuring that the bar's disciplinary system remains focused on enforcement of the Rules of Professional Conduct.

Thank you for your time. I would be happy to answer any questions you might have.

Christine R. Costantino
2019 Oregon State Bar President