

**Testimony before the House Committee on Judiciary
Subcommittee on Civil Law**

February 1, 2021

Chair Power, members of the committee:

My name is Amber Hollister and I am the General Counsel for the Oregon State Bar. I am here provide some background on the bar and some of the issues we are working on.

Regulatory Oversight

The Oregon State Bar regulates the legal profession and our 15,000 active members in Oregon. Our primary regulatory oversight breaks down into three general areas – Discipline, Minimum Continuing Legal Education, and Admissions.

The Bar’s Client Assistance Office (CAO) fields calls both from attorneys’ clients and from members of the public who have concerns that a lawyer has violated the Oregon Rules of Professional Conduct, which are adopted by the Oregon Supreme Court. If the CAO believes there may be concerns about an attorney’s conduct, the matter is referred to the Disciplinary Counsel’s Office for further investigation and prosecution. After DCO completes an investigation, the State Professional Responsibility Board (SPRB), whose members are appointed by the Oregon Supreme Court, determines whether there is probable cause that a lawyer has engaged in misconduct. If probable cause exists, the SPRB may authorize filing formal charges against a lawyer for ethical misconduct. Disciplinary hearings are held before the Disciplinary Board, whose members are also appointed by the Court. The entire disciplinary system functions according to the Bar Rules of Procedure, which are adopted by the Court. The decisions of the Disciplinary Board may be appealed directly to the Court. As Mr. Wade mentioned in his testimony, Oregon is one of a very small number of states that maintains a very transparent discipline process and which involves members of the public in our discipline system.

Our MCLE Department ensures that Oregon attorneys comply with requirements to earn Minimum Continuing Legal Education credits on a two or three year cycle. The requirements are set in Oregon Supreme Court rules. The purpose of this requirement is to improve the quality of legal services in Oregon by supporting lawyer competence.

Our Admissions Department works closely with the Board of Bar Examiners, which is appointed by the Court, to investigate applicants’ character and fitness, make recommendations to the Oregon Supreme Court regarding admissions, and to administer the Bar exam twice a year. The BBX operates pursuant to the bar’s Rules for Admission, which are adopted by the Court. The Court makes all final decisions regarding whether to admit any applicant. Judge Lucero and Ms. Perini-Abbott are with me today will tell you more about their work with the BBX.

The bar performs additional regulatory functions pursuant to the Bar Act, including the operation of a Client Security Fund, which is designed to reimburse victims of lawyer theft, and the operation of the State Lawyers Assistance Committee, which accepts referrals regarding lawyers whose practice may be impaired. Also, as required by the Bar Act and Bar Rules of Procedure, the bar maintains the rolls of Oregon licensed attorneys, their current license status, and contact information, so that the public can confirm licensed attorneys are in good standing.

The Oregon State Bar's Legal Services Program, established by the Bar Act, is also a key part of Oregon's system for providing civil legal services to the poor. The Bar serves as the pass through entity for all state funding that goes to legal aid providers in Oregon. The Bar provides both technical assistance to providers and fiscal oversight to ensure that money is going where it is most needed and that delivery of legal services is efficient and effective and provides a full spectrum of high-quality legal services.

As you know, Oregon – like most other states – has historically struggled to fund our legal aid system at a level that is commensurate with the need. Based on the Oregon Law Foundation's most recent civil legal needs study, Oregon continues to fund only about 15% of the identified need for legal services, even among those who qualify by being at or below 125% of the federal poverty line.

Paraprofessional Licensing Implementation Committee

Another important area that the Bar is focused on is the possibility of licensing paraprofessionals to provide limited scope legal assistance in areas of the law where there is particularly high and unmet consumer need for assistance. Many licensed professions, including the medical profession, permit the licensure of individuals to perform some limited number functions or services in their area. Historically, however, the legal profession has not done this. Attorneys in a state are licensed to provide legal services in all subjects, and with very few exceptions, non-attorneys are not permitted to provide legal services of any kind. This has the effect of limiting the options available to legal consumers who may be in need of services.

The Bar has recently convened a Paraprofessional Licensing Implementation Committee to develop a proposal that would allow licensure of paraprofessionals to provide limited legal services in landlord/tenant law and family law. Both areas traditionally involve a high percentage of self-represented litigants. Limited licensed paraprofessionals would be regulated by the Oregon State Bar, at the direction of the Oregon Supreme Court, and would likely be subject to ethics and regulatory requirements similar to that of attorneys. It is our hope that the Paraprofessional Licensing Implementation Committee will be able to make a formal recommendation later this year.

The ultimate decision on whether to accept any recommendations to license paraprofessionals will rest with the Oregon Supreme Court. If the Court decides to proceed, we anticipate that limited licensure

will provide legal consumers, who would otherwise be self-represented, with additional options for gaining assistance when resolving some straightforward legal disputes.

SB 179

We look forward to returning to this committee later this spring to talk about SB 179, which contains a number of changes to the Oregon State Bar Act contained in ORS Chapter 9. Some of these issues include OSB governance, the Professional Liability Fund, Client Security Fund, and payee notification.

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

For more information contact:

Susan Grabe, OSB Public Affairs Director - sgrabe@osbar.org

Amy Zubko, OSB Public Affairs Legislative Attorney - azubko@osbar.org