

**Comments on Senate Bill 799**  
**By the Oregon State Bar**  
**Before the Senate Judiciary Committee**

April 8, 2013

Senate Bill 799 would eliminate the current statutory provision that allows attorneys to withdraw from an ongoing case simply by providing notice to the clerk. Under the bill, an attorney could only withdraw upon an order of the court.

After consulting with members of the bar's Judicial Administration and Procedure and Practice Committees, we would like to express the following thoughts and concerns about this proposal.

**Judicial Resources** – A significant amount of judicial resources will need to be expended if judges are to review and approve every attorney withdrawal from an open case. While making these motions may be only moderately time consuming for lawyers, judges will need to dedicate time to each motion if the process is to have any real effect. This bill appears to slow the process down and increase the court's already considerable workload.

**Motions to withdraw contain little information** – In most cases, it is not appropriate for a lawyer to tell the court the specific reason for the lawyer's withdrawal. Often lawyers withdraw from cases because of conflicts with other clients, or because a client has committed some act they would not want to be made public. A lawyer cannot ethically reveal information that would be damaging to their client – even if they intend to withdraw from the case. This lack of information may make it difficult for judges to rule on these motions.

**Lawyers are not permitted to “abandon” clients** – Under the Oregon Rules of Professional Conduct, a lawyer may not withdraw from a case if that withdrawal will be adverse to the interests of the client. If withdrawal is necessary, the lawyer is required to take steps to protect the client's interest, including allowing time for the employment of other counsel. This bill does not appear to change the circumstances under which an attorney may withdraw, but simply adds an additional step to the process. It is unclear whether this change provides any meaningful benefit to clients.

The Oregon State Bar is very interested in ensuring that all clients properly represented. We look forward to working with the committee to ensure that any issues regarding inappropriate attorney withdrawals are adequately addressed.