

**Testimony before Senate Judiciary Committee
SB 274**

On behalf of the Oregon State Bar

March 25, 2015

SB 274 seeks to regulate the practice of law, by narrowing the exception for Oregon lawyers from registration requirements in ORS 697.005.

The Oregon State Bar has strong concerns about the language as drafted. SB 274 as written seeks to regulate the practice of law by requiring lawyers to register with the Oregon Department of Consumer and Business Services if they practice law in a manner other than is specifically listed in the exception.

“Collection agency” is defined at ORS 697.005(1)(a). On page 4, lines 23 through 29 in SB 274, the bill would delete the provision that a collection agency does not include “[a]n attorney-at-law rendering services in the performance of the duties of an attorney-at-law”, ORS 697.005 (1)(b)(D), and replace it with the following more narrow exemption:

(b) “Collection agency” does not include:

An attorney authorized to practice law in this state who:

- (i) Serves, files or conveys formal legal pleadings, discovery requests or other documents in accordance with applicable rules of civil procedure; or
- (ii) At the direction of a client or a court of law or in depositions or settlement conferences, communicates with a debtor in connection with a pending or possible legal action to collect a debt.

It is well-established that the Oregon Supreme Court has the inherent power to regulate the practice of law. *Sadler v. Oregon State Bar*, 275 Or. 279, 285, 550 P.2d 1218, 1222 (1976). Lawyers are licensed by the Supreme Court, and their conduct is regulated by the Court through the lawyer disciplinary system. Lawyers are required to comply with the Oregon Rules of Professional Conduct. The practice of law has been broadly defined by the Supreme Court in case law to encompass many activities not included in the exception as drafted. *See e.g. Oregon State Bar v. Security Escrows, Inc.*, 233 Or 80, 89, 377 P2d 334 (1962).

While the Supreme Court has held that “legislation can affect the practice of law so long as it does not unduly burden or substantially interfere with the judiciary[,]” such an attempt should not be undertaken without due consideration. *Id.* at 285.

For all of these reasons, the Oregon State Bar requests the time and opportunity to work with DCBS to find common ground.