

**Testimony of Amber Hollister before the House Judiciary Committee  
In support of HB 2224 -2**

April 13, 2015

Chair Barker and members of the committee:

My name is Amber Hollister and I am the Deputy General Counsel for the Oregon State Bar. I am here on behalf of the Oregon State Bar Board of Governors in support of HB 2224 with the -2 amendment.

**Mandatory Reporting** - As the Deputy General Counsel, one of my responsibilities is to ensure that Oregon's lawyers are aware of their ethical duties, including their responsibilities as mandatory reporters for child abuse and now for elder abuse. Over the course of a year, the bar prepares and presents approximately 25 continuing legal education seminars, or CLE's, addressing mandatory reporting.

Under HB 2205, which passed during the 2013 legislative session, the list of mandatory reporters of elder abuse was expanded to include a number of professionals, including lawyers. Lawyers' reporting requirements began on January 1, 2015. Since the legislation became law, the bar has reviewed the statutes, case law, and best practices to develop comprehensive and effective training on how to identify and report elder abuse. I have provided this training to hundreds of lawyers throughout the state.

**The Problem** - Under ORS 124.060, if a mandatory reporter has reasonable cause to believe that elder abuse has occurred and the mandatory reporter has had any contact with the elder or with the abuser, then they are required to report the abuse unless an exception to the reporting requirement applies.

Financial exploitation is one form of elder abuse that must be reported. Financial exploitation is defined under ORS 124.050 to include:

*Wrongfully taking the assets, funds or property belonging to or intended for the use of an elderly person or a person with a disability.*

Unfortunately, the term "wrongfully" is not specific enough to always make it clear whether the statute triggers the reporting obligation. As a result, the training that the Oregon State Bar provides to Oregon lawyers on whether conduct constitutes "financial exploitation" relies largely on our best reading of related case law that is not entirely on point.

**What the Bill Does** - The -2 amendments to HB 2224 would add a definition of the term "wrongfully" to the statute. Under the revised law, a wrongful taking would be one "carried out through deceit, trickery, subterfuge, coercion, harassment, duress, fraud or undue influence." The language is based on the definition of Financial Exploitation adopted by the Department of Human Services and found in the

Adult Protective Services administrative rules on Adult Abuse Prevention and Investigations at OAR 411-020-0002(1)(e)(A). This change will help clarify when conduct constitutes financial exploitation, and when a report needs to be made.

Thank you for your time and your consideration. I would be happy to answer any questions that you have.