

**Testimony before the House Committee
on Business and Labor
In support of Senate Bill 180A
On behalf of the Oregon State Bar**

May 5, 2021

Chair Holvey and members of the committee,

Thank you for the opportunity to testify in support of Senate Bill 180A. My name is Amber Hollister and I am the General Counsel of the Oregon State Bar. With me today is Stephanie Thompson, who is the current chair of the bar's Client Security Fund Committee, and serves as a Senior Assistant Attorney General with the Oregon Department of Justice. The Oregon State Bar is an instrumentality of the Judicial Department and is governed by the OSB Board of Governors. The mission of the Oregon State Bar is to serve justice and the public interest by promoting respect for the rule of law and by improving the quality of legal services.

Public Protection. Over 50 years ago, the Oregon State Bar created the Client Security Fund to help reimburse clients who lose money or property as a result of dishonest conduct by their lawyer. Oregon lawyers developed the program and fund it with a mandatory annual assessment paid by all active members of the Bar. The Client Security Fund is just one of the many ways that Oregon's lawyers seek to protect the public.

Payee Notification. When an insurance provider settles a case with a claimant, payment is made to the claimant's attorney rather than directly to the claimant. In some cases clients are not aware that the case has settled, of settlement amounts, or that the funds are available. Under current practice, there is no direct process to inform a claimant of an insurance settlement.

Senate Bill 180A would establish a process for insurance companies to notify claimants when a payment is made. The bill would provide statutory authority to allow insurance companies to communicate directly with a claimant for the limited purpose of informing them when settlement funds have been distributed to their lawyer. This process, first developed in New York, is now a model rule and has been adopted in fifteen other states. Adopting this change will help reduce the likelihood, scope and extent of consumer harm in the context of third-party payments.

The Oregon State Bar worked with stakeholders from the insurance industry and the Oregon Trial Lawyers Association on the Senate side to develop amendments to strengthen the bill. We

appreciated their feedback and suggestions and these modifications are incorporated in SB 180A.

The bill clarifies that the insurance provider is only responsible for notification when the claimant or claimant's attorney has provided contact information or a mailing address to the insurer. The language clarifies that the bill does not create any new causes of action against the insurer, and does not create a defense for any attorney against any cause of action the attorney might face, based upon the insurer's failure to comply with the new requirements. Senate Bill 180A makes explicit that an insurer's attorney is permitted to communicate directly with the attorney's client for the purposes of providing the notice, either (1) by having the insurance company copy the client on the settlement letter to the attorney or (2) by forwarding specific information to the client. Finally, the language also clarifies that nothing in the bill would affect the validity of any settlement.

Thank you for your consideration and I am happy to answer any questions.