

## 2021 OSB Legislative Concepts

### Oregon State Bar Board of Governors

- **Oregon State Bar Omnibus Bar Act Changes**
  - **Board Bylaws.** Provides for Supreme Court review of Oregon State Bar bylaws. Allows the Board to adopt policies pursuant to Oregon law.
  - **Board of Governor Member Removal.** Creates an additional process to allow the Board of Governors to remove a board member.
  - **Client Security Fund.** Clarifies that ORS 9.657 Client Security Fund immunity applies to both claims and awards, rather than just awards.
  - **Custodianship.** Amends ORS 9.715 to allow any attorney to file the petition to allow the court to appoint an attorney other than the bar to serve as custodian of a lawyer trust account if the bar declines to do so. Further, the proposal would create a new statute clarifying that during probate of a deceased lawyer's estate, the court has jurisdiction to determine to whom property in the lawyer trust account belongs.
  - **Court Facilitators.** Amends ORS 9.160 to clarify that court staff and court volunteers working in a court-sponsored program are not engaged in the practice of law (which will increase access to the court system and facilitate greater procedural fairness).
  - **Electronic Voting.** Amends ORS 9.142 and allows HOD members to vote electronically and have their votes published after the meeting.
  - **Limited License.** Clarifies that Oregon Supreme Court has the authority to allow for limited licenses and the creation of associate bar membership.
- **\*Insurance Code exempt entities.** Includes cross-reference to Professional Liability Fund as an exempt entity under ORS 731.036.
- **Payee notification.** Requires notice to claimant of insurance settlement.

## Section Proposals

### *Consumer Law Section*

- **Inclusion of pro bono/access to justice factors for prevailing party fee applications.** Requires courts to include pro bono and access to justice factors when determining the amount of attorney fees to award to a prevailing party who was represented pro bono, including legal service organizations. Would amend ORS 20.075.

### *Council on Court Procedures*

- **\*Suits Against Deceased Persons.** Allows a personal representative to be substituted for a deceased person as the real party in interest if defendant dies within 60 days of an action being filed.

### *Debtor-Creditor Section*

- **\*Clarify judicial foreclosure cross reference.** Updates and cross-reference ORS 18.946 to mirror Oregon Court of Appeals opinion in *The Bank of New York Mellon v Lash*, 301 Or App 658 (2020).

### *Estate Planning & Administration Section*

- **Estate Planning Changes**
  - **Automatic revocation of power-of-attorney upon divorce.** Creates an automatic revocation of power-of-attorney upon divorce. Adds a new statute.
  - **Extend liability protection for tenants by the entirety with revocable trusts.** Adopts a provision which extends liability protection for tenants by the entirety if a married couple transfers such real estate to a revocable trust. Modifies ORS 93.180.
  - **Finalize asset transfer to a revocable trust when transfer is incomplete.** Allow a petition to be filed requesting a court order authorizing the transfer of assets from the settler's name to the revocable trust when there is evidence of intent that the assets were intended to be held in the trust. Adds a new provision (possibly to ORS 130.245).
  - **Reduction of will retention timeline and allowing will retention to occur digitally.** Reduces the will retention timeline from 40 to 20 years and allows wills to be retained in digital format. Modifies ORS 112.815 and 112.820.

### *Indian Law Section*

- **Full Faith and Credit.** Provides for state court enforcement of tribal orders and judgments.

### *Military and Veterans Law Section*

- Military and Veterans' Preference
  - **Veterans' Preference Statute.** Expands period of time during which the veterans preference in public hiring statute is applicable to include periods immediately prior to discharge.
  - **Veterans' Preference in Public Employment.** Amends ORS 408.230(2) to make "preference point" synonymous with "percentage point." This will remove the current ambiguity and ensure that every veteran or disabled veteran receives the same level of preference regardless of the employer's hiring process or scoring scale. This will also make the application of the preference easier for public employers.

### *Nonprofit Organizations Section*

- **Chapter 65 updates.** Update and clarify statutory language in ORS Chapter 65 which governs nonprofit organizations in Oregon. Statutory changes include allowing both members and directors to take action via email, and clarifying the dissolution process if a quorum is no longer possible.

\* These legislative concepts will be folded into omnibus bills.