

Oregon Law Practice Management

Practice Management Tips for Oregon Lawyers



Sneak Preview: Virtual Practice in Oregon

Excerpted from my upcoming article in the [Oregon State Bar Bulletin](#), *Unbundling Legal Services in the Twenty-First Century*:

Providing limited legal services is not a new concept. Transactional lawyers have long served in the role of document reviewer or preparer. So how is unbundling different? It takes the idea one step further by employing a team approach in which the lawyer and client decide who will do what based on the legal services required by the client's case. The client takes a much more active role in the matter and often assumes responsibility for *pro se* court filings and appearances. Add the twenty-first century twist of delivering unbundled services online, and some issues arise.

Ethics Revisited

Limited-scope representation is expressly permitted in Oregon so long as "the limitation is reasonable under the circumstances and the client gives informed consent." Oregon Rule of Professional Conduct 1.2(b). Whether unbundled services are "reasonable under the circumstances" will require your professional judgment. For a complete discussion of the ethical implications in providing unbundled services, including restrictions on ghostwriting or scripting specific messages for clients engaged in settlement negotiations, see Helen Hirschbiel, [The Ethics of Unbundling: How to Avoid the Land Mines of "Discrete Task Representation."](#)

Screening Clients Just Got Harder

In a virtual or online practice, clients are unseen. You will need to invest extra effort to build rapport and gauge the likely success of your working relationship via e-mail or online contacts. If you intend to practice virtually, checklists, tip sheets, and interview forms crafted around traditional screening criteria will be crucial to your success. Review the resources listed at the end of this article and visit the sites of successful and respected virtual practitioners, like [Stephanie Kimbro](#).

The Bona Fide Office Rule

Oregon has no "bona fide office rule," requiring a brick-and-mortar office space to conduct a law practice. If you practice in other states, the rules may be different. At least one jurisdiction has determined that [virtual offices do not meet that state's bona fide office requirement](#).

With that said, the same considerations involved in unbundling apply to online delivery of legal services. (My forthcoming article analyzes unbundling in detail.)

Any virtual law office must also address:

- Marketing restrictions
- Full disclosure of the jurisdictional limits of practice
- Client confidentiality (Any online portal that permits communication, collaboration, or document exchange with clients must be secure.)
- Publication of terms and conditions identifying when an attorney-client relationship is formed

See Helen Hirschbiel, [Internet Marketing: Rules of the Road](#) and [Odds & Ends: Safeguarding Client Information in a Digital World](#) for more information regarding online marketing, jurisdictional disclosure, and protection of confidential client information in the cloud.

Online Practice and Lawyer Referral

Would a lawyer practicing virtually be eligible to receive referrals from [Oregon's LRS](#), absent a physical office? The answer is no. Clients referred by the LRS are specifically told to expect an "in-office" consultation. See also LRS Policies and Procedures E.(3):

No duplicate registrations shall be made outside of the city where the attorney maintains his or her practice unless: a) the attorney maintains a second physical location where attorney-client meetings may take place; or b) the attorney's office is located within two (2) miles of the border between two locations.

Online Practice and Professional Liability Fund (PLF) Coverage

Only an Oregon attorney engaged in the private practice of law whose principal office is in Oregon is covered by the PLF Claims Made Plan. ORS 9.080(2). But what if the attorney has no office in which he or she meets with clients? PLF Policy 3.180(C) provides:

If an attorney has no office as defined in subsection (B) above, the attorney's principal office as defined by ORS 9.080 (2)(a) will be defined as the attorney's principal residence if the attorney is an active member of the bar association of the state of residence; otherwise, the attorney's principal office will be deemed to be in Oregon unless the attorney affirmatively demonstrates to the PLF that the attorney does not engage in the private practice of law in Oregon. (Emphasis added.)

PLF Policy 3.180 is available on the [PLF Web site](#). Select Policies and Forms under Primary Coverage. If you have questions regarding PLF coverage, call Jeff Crawford or Kimi Nam at (503) 639-6911 or (800) 452-1639.

Resources for Online Delivery of Unbundled Services

For additional information regarding virtual office practice, visit the [ABA eLawyering Task Force](#) and [Stephanie Kimbro's Virtual Law Practice Blog](#). [Delivering Legal Services Online](#), Stephanie Kimbro's upcoming book, should be available soon. Also see [The Virtual Law Firm: Benefits, Costs, and Ethical Pitfalls to Avoid](#) from the [ABA](#). Find more [ABA](#) Products related to virtual practice by searching the [ABA Web store](#). ABA products can be purchased at a discount through the [Professional Liability Fund](#). For more information, visit the [PLF Web site](#). Select ABA Products under Loss Prevention. Vendors of online platforms for virtual offices include [Virtual Law Office Technology, LLC](#) and [Direct Law](#).

Conclusion

If you are a brick-and-mortar lawyer, the potential traps of providing unbundled legal services are well known. If you are one of the pioneers providing legal services online, the roadmap is a work in progress. Stay tuned.

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