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Testimony of the Ohio State Bar Association in Support of a proposed amendment to House Bill
251 – Statute of Repose for Legal Malpractice
Senate Judiciary Committee
Mike Jones, Esq.
May 20, 2020

Chair Eklund, Vice Chair Manning, Ranking Member Thomas, and members of the Senate Judiciary Committee. Thank you for the opportunity to appear in front of the committee to provide testimony on a proposed amendment to House Bill 251 that would provide for a statute of repose for legal malpractice claims. I currently serve as chair of the Senior Lawyers Section of the Ohio State Bar Association.

The amendment would require that an action for legal malpractice be brought within four years of the legal act. Current law allows for a claim of legal malpractice to be made against a lawyer any time after he or she retires for the rest of his or her life, and up to one year after he or she dies. A Statute of Repose puts an absolute end to a lawyer's exposure to a legal malpractice claim.

Other Ohio professionals have a Statute of Repose – architects, engineers, doctors, podiatrists, registered nurses, dentists, orthodontists, optometrists, chiropractors, among others. Lawyers in other states have a Statute of Repose, especially other states with the discovery rule, where statute of limitations for malpractice are based on discovery of a problem.

A statute of repose did exist for lawyers but the omnibus tort reform bill it was enacted in was found to be unconstitutional for violating the single-subject rule in 1999. The reasons for finding that bill unconstitutional had nothing to do with the statute of repose, nevertheless, a statute of repose has not been reenacted for lawyers even though it has been reenacted and found constitutional for other professionals.

Thank you for the opportunity to testify and I am available to answer questions.