



## MY OPINION

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## Doing the Right Thing

The time is always right to do what is right.

— Martin Luther King, Jr.

eferendum 2011 kicks off on January 18. It is time for every member of the State Bar of Texas to vote on proposed amendments to the Texas Disciplinary Rules of Professional Conduct.

You know the history: A lot of lawyers worked hard to get us to this point. Lawyers and the public had numerous opportunities to weigh in. Significant changes were made as a result of that feedback.

The Supreme Court of Texas has been instrumental in getting the rules to this point. Now it is our opportunity — and our responsibility — to vote.

As members of the legal profession, it is incumbent on each of us to know the issues and to vote our conscience. It is imperative that we prioritize self-regulation, which means asking ourselves:

- Are these rules good for our profession, our clients, and our system of justice?
- Do they, on balance, ensure that Texas lawyers are bound to a level of professionalism and ethics we can be proud of and that others can trust?

Some say the rules are not broken. Maybe they are not broken, but the practice of law has changed significantly over the past 20 years — the last time the rules underwent comprehensive review. For example, we did not use technology to the degree we do now. We did not

practice across state and national boundaries to the extent we do now. There were many fewer lawyers and many fewer legal malpractice cases. It is our responsibility as a profession to look at the rules under which we practice and ensure that they live up to the high standards we set for ourselves.

Some have suggested that the cost of learning and implementing new disciplinary rules is prohibitive. We study new laws passed by our local, state, and feder-



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al government whenever those changes affect our practices and our clients. We have to keep up with case law and new rules and regulations or we become ineffective. Our clients and critics are not going to worry about how much time it takes us to learn our ethical duties. In many cases, these rules will make it easier for lawyers to stay out of trouble during their relationships with clients. While this will doubtless be good for lawyers and hopefully reduce the number of legal malpractice suits, it will be even better for clients. Clients want to get their issues resolved. Period.

There are lawyers who believe the

State Bar should adopt the American Bar Association's model rules lock, stock, and barrel. Others can't believe Texas lawyers would even care what the ABA says. Clearly those are divergent views, but it is fair to say that over the past eight years — and especially over the past 12 months — those issues have been vetted time and again. Particularly with respect to conflicts of interest, there are disagreements about how the proposed rules will affect our law practices. I trust the many Texas lawyers who have looked closely at these rules — and who have paid close attention to the input and comments those rules generated — and declared the proposed amendments to be solid. (For more information about the rules, please visit www.texasbar.com/rulesupdate.) I am a Texas lawyer who will never believe we should fall in lock-step with the ABA, an organization that never has to implement the model rules it suggests.

The State Bar of Texas is responsible for reviewing the rules under which we practice and updating them as needed. Twenty years is too long. I know Texas lawyers are leaders in all areas of law. I fully expect that the proposed amendments to the disciplinary rules will help guide us into the 21st century. Our future is bright. Letting the public and our elected officials know that we are taking care of business will help ensure we are prepared for any challenges ahead.

I urge you to do what is right: *Know the issues and vote!* •

Ferry