

**State Bar of Texas Board of Directors**  
**Professional Liability Insurance Disclosure**  
**Consideration Process 2009-2010**

**OBJECTIVE:** As requested by the Texas Supreme Court, the State Bar Board of Directors will review the report of the Task Force on Insurance Disclosure and will make final recommendations on these issues to the Court before February 5, 2010. The recommendations to the Court will include whether such disclosure should be required and, if so, how the disclosure should be made.

**I. Background**

- In June 2008, the Task Force on Insurance Disclosure submitted their report to the Board of Directors and made the following recommendations:
  1. The Task Force recommended by a vote of 6-5 that no professional liability insurance (PLI) disclosure be required of Texas lawyers.
  2. If disclosure were required of Texas lawyers, the Task Force recommends by a vote of 6-4 that any required PLI disclosure be set forth in an administrative rule as opposed to a disciplinary rule, and that each Texas lawyer state in his or her disclosure whether the attorney does, or does not, carry PLI, and that this information be made available to the public only on the State Bar of Texas' website.
- The Board accepted the report without taking action on whether to approve the Task Force's recommendations, and approved submission of the report to the Court.
- The Court has now requested the Board to review the Task Force report and make a final recommendation on these issues to the Court no later than February 5, 2010.

**II. Brief Overview of the Process**

- By way of this process, the State Bar will:
  - Provide information and education to attorneys and the public about these issues, the objective and the timeline;
  - Solicit input from the members and the public;
  - Collect information from other state bars around the country regarding their consideration, decisions and implementation surrounding these issues;

- Provide a summary of comments and information for the Board, including information from the Task Force on Insurance Disclosure;
- These issues will then be submitted to the Board as an action item at its January 29, 2010 meeting.
- The State Bar will report its recommendation to the Court no later than February 5, 2010.

### **III. Communication and Input**

- Communication packets about PLI disclosure will be developed for distribution to Board members, committees, sections, and local, specialty and minority bars.
- Board members will be encouraged to help educate and solicit feedback from attorneys in their district (via targeted blast emails and local bar meetings). Presentation materials will be provided to Board members for their use.
- Attorneys and the public will be encouraged to visit the State Bar website to provide additional comments through an informal online survey developed by Bar staff.
- Information will be published in the October Bar Journal, State Bar website, State Bar social media, and other State Bar related communications. Pro and con position articles will be published detailing both positions related to professional liability insurance disclosure.
- Blast emails will be sent to all attorneys giving them information about the subject and requesting their feedback through the State Bar website.
- Public Hearings will be held in Austin, Dallas, Houston, San Antonio, El Paso, Lubbock, and Harlingen to obtain the opinions of the public and local attorneys. State Bar Officer will introduce these issues. Jonathan Smaby, Executive Director of the Texas Center for Legal Ethics and Professionalism will moderate the proceedings. These hearings will be recorded and reports summarizing the hearings and the comments received will be prepared and made available.

### **IV. Timeline**

- *September 25, 2009 Board Meeting*
  - Board members will be updated on this process. The Board will be given background information and the communications packet.
- *October through December*
  - The communication plan will be implemented as described above, including:

- public hearings
- informal website survey on Bar website
  
- The information and input will be compiled (from surveys, public hearings, other bar associations, etc.) and distributed to Bar Board in January.
  
- *January 29, 2010 Board Meeting*
  - The Board will take action in accordance with the Court's request.
  
- *Before February 5, 2010*
  - The Board will submit its recommendation to the Court.

## **V. Board Action**

At its January 2010 meeting, the State Bar Board will take action on these issues as requested by the Court.

During this meeting, extensive public comment should be expected.