

**Questions to Consider**

Do you believe it is the duty of an attorney to disclose professional liability insurance?  
Why or why not? \_\_\_\_\_

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If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled? \_\_\_\_\_

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Please return to State Bar of Texas, Attention Ray Cantu, P.O. Box 12487, Austin, TX 78701

PRACTICE CRIMINAL LAW ONLY -  
don't have as need -  
How do we fit IN?

Leslie G.  
Hardy

## Handout Questions regarding Professional Liability Insurance Disclosure

1) Do you believe it is the duty of an attorney to disclose professional liability insurance? Why or why not? No, no other profession is required to make

such a disclosure. Additionally, and more importantly,

I believe in less regulation rather than more.

It would also seem to increase litigation and unfairly

2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled? I believe that non-insured

attorneys should have a footnote in all advertisements

and on the Texas bar website if this

practice is implemented. If you are going to

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do it, you should highlight the uninsured, not the insured.

prejudice  
solo practitioners  
and certain  
areas of  
law.

## Handout Questions regarding Professional Liability Insurance Disclosure

1) Do you believe it is the duty of an attorney to disclose professional liability insurance? Why or why not? No. If asked, I would gladly disclose

that I have it, though. Doctors don't disclose their liability insurance, so why should we?

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2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled? \_\_\_\_\_

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## Handout Questions regarding Professional Liability Insurance Disclosure

1) Do you believe it is the duty of an attorney to disclose professional liability insurance? Why or why not? No. Whether or not an attorney maintains PLI

does not alter the obligations and duties an attorney has with respect to his/her client. It is the consumer's obligation to inquire whether an attorney maintains PLI.

2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled? By some sort of indicator on the State Bar of Texas website.

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## Handout Questions regarding Professional Liability Insurance Disclosure

1) Do you believe it is the duty of an attorney to disclose professional liability insurance? Why or why not? No — In my opinion this opens the door to

more malpractice litigation and may prevent a lot of solo  
practitioners from making a living.

2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled? If there is disclosure it should be full

disclosure of exactly what is covered not simply whether or not  
you have professional liability insurance or not.

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## Handout Questions regarding Professional Liability Insurance Disclosure

1) Do you believe it is the duty of an attorney to disclose professional liability insurance? Why or why not? \_\_\_\_\_

*No. This would create significantly more problems and inequities than it would resolve.*

2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled? \_\_\_\_\_

*In the least invasive manner possible, without the possibility of arising to the level of a grievance. Preferably, the duty would arise only after inquiry from a client.*

Please send all thoughts to State Bar of Texas, Att. Ray Cantu, P.O. Box 2487, Austin, TX 78711-2487, or email [ray.cantu@texasbar.com](mailto:ray.cantu@texasbar.com).

**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance? Why or why not? No. Insurance is for the protection

of the insured. Further, policy coverage is so narrow that disclosure is more likely to be misleading. Of course, if a client asks, there is a duty to disclose.

2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled? \_\_\_\_\_

on the SBOB web site, administrative only

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**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance? Why or why not? \_\_\_\_\_

*Yes. If the lawyer commits malpractice causing loss to the client, the client has no financial remedy.*

2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled? \_\_\_\_\_

*In the contract, disclose ~~the~~ if there is no coverage.*

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**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?  
Why or why not? NO, IT IS NOT NEEDED

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2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled? \_\_\_\_\_

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**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?

Why or why not? No. BECAUSE THE ABA THINKS

ITS A GOOD IDEA. FROM WHAT WOULD

THAT DUTY ARISE? I HAVE NO RELATIONSHIP

WITH THE PUBLIC FROM WHICH A DUTY COULD  
ARISE. OTHER PROFESSIONS ARE NOT REQUIRED TO.

2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled? N/A

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**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?  
Why or why not? ABSOLUTELY NOT. COSTS OF PRACTICE ARE

HIGH ENOUGH. IT IS AN ECONOMIC DECISION OF THE LAWYER - THIS  
WOULD STIGMATIZE THOSE STRUGGLING ATTORNEYS TO TAKE ON COSTS  
THEY CAN LITTLE AFFORD. THE POLICY IS TO PROTECT THE ATTORNEY  
NOT THE CLIENT USUALLY. ALSO THE INSURANCE MARKET WILL DICTATE  
IF AN ATTORNEY CAN EVEN GET COVERAGE - FURTHER WORSENING  
THE 2ND CLASS STATUS OF ATTY. WHO WANT, BUT CANNOT GET

2) If it is an attorney's duty to disclose professional liability insurance, how would  
disclosure be best fulfilled? \_\_\_\_\_

INSURANCE!  
THE ONLY  
INCREASES  
THE ATTORNEY'S  
FEES + MAKE  
LEGAL SERVICES  
LESS AVAILABLE  
TO THE  
NEEDY  
PUBLIC!

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**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?  
Why or why not? Only if asked.

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2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled? Advise potential or actual clients

to check w/ state BOT about grievances and/or  
prof. liability insurance (SBOT require data on insurance  
to be disclosed to them)

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## Handout Questions regarding Professional Liability Insurance Disclosure

1) Do you believe it is the duty of an attorney to disclose professional liability insurance? Why or why not? No, not unless he's asked. Because

it will impact only the solo guys; there is no duty by most professionals to have insurance, so why us?

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2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled? on the web -- the bar website could

list if as having, not having, or not reported.

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## Handout Questions regarding Professional Liability Insurance Disclosure

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?

Why or why not? No, no duty known in the law requiring disclosure of insurance; unless, perhaps, asked.

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2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled?

On letterhead under disclosure certification

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3. No one addresses cost. Should pass additional expense for coverage to client. Nobody wants additional expense.

**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?  
Why or why not? No. If asked by the client or potential  
client the attorney should <sup>answer</sup> ~~answer~~ truthfully.

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2) If it is an attorney's duty to disclose professional liability insurance, how would  
disclosure be best fulfilled? If asked, answer the questions.

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**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?  
Why or why not?

*Asked - yes. If not - No. It is hard  
enough to understand one's own policy  
without covering it with a client. Mere presence of  
a policy guarantees nothing to the client.*

2) If it is an attorney's duty to disclose professional liability insurance, how would  
disclosure be best fulfilled?

*Administrative notice to Bar - with  
name of carrier only & date of expiration &  
whether or not a "claims made" policy.*

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**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?  
Why or why not?

No. Other professionals do not  
have to disclose such up front - why lawyers  
Our duty is to do our best for our clients - not mess  
up the relationship by injecting doubt or malpractice.

2) If it is an attorney's duty to disclose professional liability insurance, how would  
disclosure be best fulfilled?

online thru listing by name  
as it is listed for other items - administratively

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TX 78711-2487, or email [ray.cantu@texasbar.com](mailto:ray.cantu@texasbar.com).

## Handout Questions regarding Professional Liability Insurance Disclosure

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?

Why or why not? *No, this is the purchase & maintenance of prof liability insurance should be left to the professional & the insurance. Physicians are not required to divulge this information. Why lawyers?*

2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled?

*If it must be it should be in writing along with initial collection of client information prior to formation of a professional relationship.*

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**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?

Why or why not? No. It will unfairly impact solo attys. It will stigmatize

uninsured attys. It will adversely impact access to justice b/c attys will

limit the # of cases they take or represent. Solo attorney might choose to

self insure. Stating that one does not have ins. has a chilling effect on atty-client  
relationship. Other professionals are not required to state this fact.

2) If it is an attorney's duty to disclose professional liability insurance, how would

disclosure be best fulfilled? it should only be posted or listed on the

state Bar of Texas web site.

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**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?

Why or why not? \_\_\_\_\_

No, because I cannot see how any of the  
pros outweigh the cons.

2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled? \_\_\_\_\_

on the state bar website

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**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance? *No*  
Why or why not? *Disparate impact on solo practitioners &*

*small firms;*

*Other professions don't do this*

2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled? *Admin. Rule / website info*

*NOT a D.R.*

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**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?

Why or why not? \_\_\_\_\_

*No! I do not feel this is a relevant part of zealously representing my client. In fact, this would put me on the defensive w/ my client*

2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled? \_\_\_\_\_

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\_\_\_\_\_  
\_\_\_\_\_  
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## Handout Questions regarding Professional Liability Insurance Disclosure

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?  
Why or why not? Until other professions have to

do the same I do not believe it is a  
duty. I have difficulty saying this however  
in today's environment this is my answer.

2) If it is an attorney's duty to disclose professional liability insurance, how would  
disclosure be best fulfilled? If there is a duty let

the State Bar listing for lawyers make  
that disclosure just like the  
active status of your law license.

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**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?  
Why or why not? ~~Not sure~~ There does not currently

appear to be a duty to disclose. However,  
it would appear to be in the best interest of  
the public to require disclosure.

2) If it is an attorney's duty to disclose professional liability insurance, how would  
disclosure be best fulfilled? Disclosure on state bar

web site along with information  
relative to status of attorney's license

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**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?  
Why or why not? \_\_\_\_\_

Yes.

SUNSHINE IS GOOD!

2) If it is an attorney's duty to disclose professional liability insurance, how would  
disclosure be best fulfilled? \_\_\_\_\_

RESPOND WHEN ASKED OR ADMIN. WEB SITE.

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**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?  
Why or why not? \_\_\_\_\_

NO. None of my clients  
have ever asked in 13 yrs.

2) If it is an attorney's duty to disclose professional liability insurance, how would  
disclosure be best fulfilled? \_\_\_\_\_

Notation on contract of employment  
or on Bar web site

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**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?

Why or why not? Only if asked by the client to  
disclose.

2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled?

Obvious sign in the office  
with lettering of sufficient size to be read  
within 10 feet.

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## Handout Questions regarding Professional Liability Insurance Disclosure

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?

Why or why not? No: No duty currently exists, and such a  
duty should not be created. Other Texas professionals  
are not under a duty to do so. I fear such a duty will  
increase malpractice litigation.

2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled?

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**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?  
Why or why not? \_\_\_\_\_

Not until physicians and other professionals are required to disclose.

2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled? \_\_\_\_\_

as administrative rule; posted on attorney profile on State Bar website.

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## Handout Questions regarding Professional Liability Insurance Disclosure

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?

Why or why not? No. It is not required of other professions.

It could lull public into false security that professional liability insurance will cover their claims when that might not be the case due to coverage caps, exclusions, etc.

2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled?

as an administrative rule on the bar web pages. This should not be made into a disciplinary rule. Another option would be posting a notice in each attorney's office.

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## Handout Questions regarding Professional Liability Insurance Disclosure

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?

Why or why not? No. There is no duty to have the insurance, why would there be a duty to disclose it? Insurance agency/brokers are required to have E&O, but not us.

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2) If it is an attorney's duty to disclose professional liability insurance, how would disclosure be best fulfilled? If there were a duty, the administrative

notice on the website w/ State Bar. Disciplinary action should be reserved for substantial, substantiated issues, not a reporting of ~~issue~~ insurance issue.

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**Handout Questions regarding Professional Liability Insurance Disclosure**

1) Do you believe it is the duty of an attorney to disclose professional liability insurance?  
Why or why not? \_\_\_\_\_

*No, no other profession thinks it has such  
a duty. Disclosure would be misleading because  
many coverage issues would still exist - such as claims  
made problems that would also have to be discussed as well.*

2) If it is an attorney's duty to disclose professional liability insurance, how would  
disclosure be best fulfilled? \_\_\_\_\_

*Place a notice in the attorney's office.*

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