



MY OPINION

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Listening to Understand

The New Year started with taking the new pup outside at 1:45 a.m. Earlier in the evening, the sky had been wet and soupy. The recipe to keep the fire going was one dry log for every wet log. But now, just a few hours later, the calendar had ushered in crystal-clear, crystal-still heavens.

If you listened, you could hear the dripping from the pine needles. If you listened, you could almost hear the moon cast shadows through the trees and splash the lake. If you listened, you could almost hear the frosted breath roll out and disappear into the air. But listening was easy — all was quiet.

FOCUS

By the time you read this, your State Bar Board of Directors will have voted to recommend to the Supreme Court of Texas whether or not lawyers should be required to disclose to clients if they carry professional liability insurance. (To learn more about the Board's vote, go to www.texasbar.com.) When the Supreme Court asked the Board for its recommendation, the Board commenced a multi-pronged strategy to educate Texas lawyers and the public about the issues involved and to gather as much input as possible. You should have received a letter from your district directors outlining the issue and alerting you to public hearing dates. The November issue of the *Texas Bar Journal* presented "Pro/Con" articles setting forth the major arguments. We set up a web page at www.texasbar.com/plidisclosure that included all of the information Board

members would have before them when it came time to vote, including task force and committee reports and recorded testimony from the public hearings that took place around the state. Texas lawyers and members of the public were encouraged to provide input by writing or emailing or posting to the Texas Bar Blog. We also commissioned a survey of the public. Ultimately, the Board received the comments and suggestions of thousands of Texans.

One of the most illuminating parts of our information-gathering process was a series of focus groups we conducted with citizens in Dallas, Lubbock, Houston, and San Antonio. Irrespective of how the Board votes, I want to share with you what happened as the focus group participants learned more about the issue of professional liability insurance. This information may help our law practices and provide a better understanding of Texans' perspectives on our profession.

At the outset of the focus group sessions, participants were asked to name the five most important things they would want to know when hiring an attorney. The factors they selected were *experience, price, success rate, specialty, and integrity*. Participants were then shown a list of 10 considerations (including professional liability insurance coverage) and each concept was briefly explained. Again, participants were asked to list the most important factors they would consider when hiring an attorney. Professional liability insurance was then explained in greater detail. Afterward, participants were once again asked the most impor-

tant factors they would consider. The final responses? *Success rate, honesty, experience, price, and reputation.*

CHANGE

Lawyers are trained to listen and then to quickly formulate a rebuttal argument. In writing or oral argument, lawyers are often rewarded for a quick analysis or retort. But it is just as important to our skill set that we take time to understand what is being said.

Lawyers with reasonable minds have differed on the professional liability insurance disclosure issue. We have sought and listened to the public's response. We should be open to understanding what is important to clients when forming the attorney/client relationship and make sure that we address any concerns or questions that potential clients have, even if it means change.

As a part of our self-governance responsibility, I am proud that citizens, lawyers, and sections of the State Bar engaged on this issue. There will be more issues to come. Fortunately, we have a template to handle the processing of tough questions well.

Regardless of which way the insurance disclosure issue progresses for the public and the profession, I am concentrating on being a better lawyer by listening, even when there is plenty of noise.

The Board is appreciative of being asked to give its recommendation to the Supreme Court. Your Board has listened and responsibly dealt with this important issue. It stands ready and looks forward to the upcoming task of educating and conducting a referendum on proposed changes to the Texas Disciplinary Rules of Professional Conduct. ✪