

Handwritten signature

STATE BAR OF TEXAS



RECEIVED
JUN 20 2008
DGW

June 16, 2008

Mr. Gib Walton
Vinson & Elkins, LLP
1001 Fannin St., Ste. 2500
Houston, TX 77002-6760

Dear Mr. Walton,

The purpose of this letter is to inform the State Bar Board of Directors of the Law Practice Management Committee's position on the issue of Malpractice Insurance Disclosure.

The State Bar of Texas has charged the Law Practice Management Committee to concern itself with: (1) programs, publications and other activities conducive to the efficient, ethical management of the delivery of legal services; (2) the delivery of legal services at reasonable prices, with sufficient return to ensure the viability of the professional; (3) increasing the management knowledge and skills of the members of the Bar.

During the last two meetings of the Law Practice Management Committee members have discussed the charge of the Malpractice Disclosure Task Force and its activities as we are aware of, specifically: a written survey proposed by the members of the Task Force and posted on the State Bar Website for electronic response, follow up telephone survey conducted in conjunction with the University of North Texas, and an executive summary comparing the results of these two surveys with a "Pro Bono Survey," the content of which has not been reviewed by the Committee. Being concerned with Law Practice management issues that affect the efficient and ethical delivery of legal services and the delivery of legal services at reasonable prices with sufficient return to ensure the viability of the profession, the Committee is compelled to make known our opposition to mandatory disclosure of malpractice insurance.

Mandatory disclosure inverts the intention and beneficiary of coverage. Insurance, particularly liability and casualty coverage, is the sharing of risk among individuals who are similarly situated. While the type and consequences of a particular risk are statistically predictable, the impact of a particular event on a particular individual is not. Thus, the purpose of insurance is to protect the insured against a loss. For example, a homeowner carries insurance to protect the homeowner in the event a claim is brought against the owner of the home. A homeowner is not required to maintain insurance nor are they required to publicly disclose the fact that they carry or do not carry homeowners insurance prior to any invitee coming upon the property. Similarly, malpractice insurance recognizes that professionals make mistakes and some will be taken to task. We just don't know which ones will be taken to task. Those inclined may insure against the risk, but the only legitimate beneficiary of that decision (to carry or not) is the insured. Mandatory disclosure inverts the purpose of insurance. Legal malpractice insurance is not for the protection of clients or the public but rather the protection of the insured lawyer.

Disclosure of the existence of malpractice insurance promotes litigation. Malpractice lawyers will not accept cases where there is not a substantial indemnity pool to insure recovery. Forced disclosure does not benefit the appropriate beneficiary of the insurance; it benefits primarily the insurance companies and the malpractice lawyers. Moreover, a potential client who gives primary consideration to the existence of liability insurance in

legal representation is not looking for personal service but a result-indemnity.

Forced disclosure of the insurance coverage creates a bargaining imbalance. If it were a legitimate concern of a client whether an attorney carried liability insurance, it would be just as legitimate a concern for a lawyer to know whether a client considers insurance a criterion for choice of a lawyer. No one is suggesting that clients be required to disclose whether they use insurance coverage as a criterion of legal representation.

The result of the imposition of such a rule would be inherently unpredictable. Imposition of a rule requiring disclosure will result in some lawyers purchasing malpractice insurance for competitive or other reasons, while other lawyers will cease carrying malpractice insurance recognizing that they become targets for litigation by virtue of the disclosure.

The impact of the rule is unfair. Recognizing the clear principle that the only legitimate beneficiary of malpractice insurance is the insured, no other "learned profession" is required to disclose the existence of malpractice insurance. It is self evidently clear that there is no valid principle that would require disclosure by lawyers and not other professions.

A disclosure rule denotes bias. Requiring disclosure that a lawyer should disclose insurance carries with it the implication of a judgment by the State Bar that a lawyer should carry malpractice insurance for the benefit of the "public" or the client, which again is counterintuitive to the purposes of insurance. The decision to maintain insurance is a judgment appropriately left to the individual lawyer or firm based upon their assessment of their risk. But this implicit judgment by the State Bar creates a form of inappropriate market discrimination that the discredited "Not Board Certified" warning label formerly did. It took years to remove the "Not Board Certified" warning label. The bar should not be moving in this direction of branding lawyers as "lesser" or "of lesser quality" by its rules and regulations of the practice.

Requiring mandatory disclosure establishes an improper principle of legal practice. There is no basis for the imposition of the rule without accepting as an underlying principle that the purpose of insurance is the protection of third parties rather than the protection of the insured. The only place in this society in which that has taken root is the requirement of liability insurance for the privilege of driving. Once the principle that malpractice insurance is for the benefit of the client or "the public" and not the insured, the next logical implication of that principle is that malpractice insurance should be mandatory for protection of the client.

Thus the Law Practice Committee is opposed to the mandatory disclosure of malpractice insurance on any level.

Sincerely,

A handwritten signature in black ink that reads "Philip Mack Furlow". The signature is written in a cursive, flowing style.

Philip Mack Furlow
Chair, Law Practice Management Committee

THE WEBB FAMILY LAW FIRM
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Brian L. Webb

Board Certified Family Law
Texas Board of Legal
Specialization

Fellow, American Academy
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Fellow, International Academy
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Natalie L. Webb
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Kay Redburn

Paralegal*
Board Certified Paralegal-
Family Law - Texas Board of
Legal Specialization

Lupe Hall

Paralegal*

Karen Garibay

Legal Assistant*/
Office Administrator

*not licensed to practice law

August 10, 2009

Mr. Roland Johnson
President, State Bar of Texas
Harris, Finley & Bogle, P.C.
777 Main St., Ste. 3600
Fort Worth, TX 76102

Mr. David Fisher
Chair of the Board, State Bar of Texas
560 S 4th St
Silsbee, TX 77656

Dear Roland and David:

On August 2, 2009, I addressed the Council of the Family Law Section of the State Bar of Texas at their regularly scheduled meeting regarding the issue of whether lawyers should be mandated to post a notice of whether they do or do not carry malpractice insurance. The Family Law Council voted unanimously to oppose any such requirement.

Subsequently I addressed the Section business meeting on August 5, 2009 to relay the recommendation of the Council as well as to entertain any discussion or input from the membership. The membership in attendance at that regularly scheduled business meeting of the Family Law Section also voted unanimously to oppose any requirement that such information be posted.

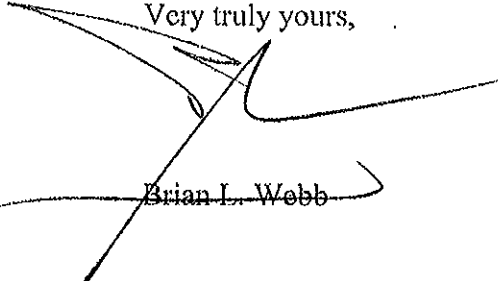
I've had the opportunity to speak with leaders of several other Sections and anticipate that other Sections will take similar action. By copy of this letter I am also notifying Bar Board Members and Section Chairs of this action by the Family Law Section. Obviously input from the Sections is vital to our consideration of this issue as we prepare to make recommendations to the Supreme Court. As a Section Representative I will continue to try to provide this sort of information to the Board for consideration.

Mr. Roland Johnson
Mr. David Fisher
August 10, 2009
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And on a personal note to Roland, we greatly appreciate your attendance at the Advanced Family Law Course in Dallas and your remarks sharing your vision for the State Bar of Texas. It is obvious that you have prepared well for your year of leadership and have hit the ground running. All of us in the Family Law Bar anticipate a great year of working together with you.

With warmest personal regards, I remain

Very truly yours,



Brian L. Webb

BLW/kr

cc: All Members of the State Bar of Texas Board of Directors *(via e-mail)*
All State Bar of Texas Section Representatives *(via e-mail)*
Michelle Hunter, Executive Director, State Bar of Texas *(via e-mail)*

Ray Cantu

From: Judge Doug [108judge@gmail.com]
Sent: Monday, November 09, 2009 8:55 AM
To: Tracy Nuckols
Subject: Malpractice Insurance Issue
Attachments: Malpractice Coverage Resolution.doc

Tracy—

It was expressed to me that our former resolution was somewhat ambiguous in that it merely stated the family lawyers were opposed only to notice by posting, which is inaccurate. Therefore please see to it that the Board is provided a copy of this resolution, or if you prefer, please let me know who I should send it to. Thanks. doug

The Family Law Council as the elected representatives of the Family Law Section of the State Bar of Texas unanimously supports the following resolution:

Resolved:

Attorneys of this state should not be required to provide notice to the public in general, nor to prospective or actual clients, whether they carry legal malpractice insurance, the terms of coverage, the limits thereof, or any other matter relating to malpractice insurance, if any, the attorney chooses to carry.

Tracy Nuckols

From: Tracy Nuckols
Sent: Monday, November 16, 2009 3:06 PM
To: 'Womenlawsection@mailman.io.com'
Subject: Input Sought on Public Liability Insurance Disclosure Issue

Dear Members of the Women and Law Section of the State Bar of Texas,

The Council for the Woman and the Law Section of the State Bar of Texas wanted to bring to your attention an important issue for all attorneys - related to possible mandatory disclosure of professional liability insurance.

As a little background, current law in Texas (and in most states) does not require that attorneys carry professional liability insurance. Nevertheless, the Supreme Court of Texas, working with the State Bar of Texas Board of Directors, has been considering whether Texas attorneys should be required to disclose in writing to the public (*i.e.*, prospective clients) as to whether they have or do not have such liability insurance. In addition to determining whether any disclosure must be made, the Texas Supreme Court and the Board are also reviewing the nature of any such disclosure, if required, and the possible form of such disclosure - *e.g.*, through client contract or letter or on the State Bar website. The Board of Directors will be making a recommendation to the supreme court early next year on this subject.

The WAL Council is not making a specific recommendation on the issue, as it is not precisely within our section's mission statement and there are strong and logical opinions on both sides. Further, Bar-related committees/task forces have split on their recommendations about the topic. Nevertheless, we feel that the issue is an important one for all Texas lawyers to consider. We urge you to visit the State Bar of Texas website, <http://www.texasbar.com/> and review the materials and express your opinion on the subject, which has implications for the Bar as a whole and for lawyers on a personal and individual level. Please see the Bar's blog on the topic also: <http://blog.texasbar.com/2009/09/articles/state-bar/input-sought-regarding-professional-liability-insurance-disclosure/>.

The time is now for your opinions to be made; the Board will make its recommendations to the Texas Supreme Court on February 5, 2010.

As issues of importance arise, we hope to bring them to your attention in the future. Our next WAL newsletter will issue by year's end. Please email any article you wish to publish to Patricia Blackshear, a WAL Vice-chair, by November 20th. phb@fol.com.

Your input and interests are important to us. Please see the WAL website <http://www.txwomenlawsection.org/>, and, if you have any questions, comments or interest, we would like to hear from you. Please contact any WAL Council members for information.

My best regards,

Andrea M. Johnson
Chair, Women and the Law Section



CONSUMER & COMMERCIAL LAW SECTION

December 11, 2009

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TERMS EXPIRE 2012

Melante Phipps, San Antonio
Fablola Flores, Laredo
Richard McElvaney, Houston

To the Texas Supreme Court and State Bar of Texas Board of Directors

RE: *Mandatory PLI Disclosure*

The Consumer and Commercial Law Section Council has a unique perspective on PLI disclosure. Rather than focusing on disclosure's impact on Texas lawyers, our discussion has focused on how disclosure would affect the Texas consumers we so often represent. We are concerned about what we believe would be adverse effects of mandatory PLI disclosure on those consumers.

Before taking a position, we solicited input from our section membership. A very few members expressed support for mandatory disclosure. But the overwhelming consensus of our membership—along with our entire Council—opposes it. Both our Council and our section are comprised principally of lawyers who practice in solo or small-firm settings, representing Texas consumers in a wide range of consumer transactions and claims ranging from auto and home purchases to debt collection issues—and, yes, legal malpractice claims.

Our practices engender in us a special sensitivity to consumer issues and a deep commitment to consumer protection. We are gravely concerned that mandatory PLI disclosure will not only fail to *advance* consumer protection, it may actually *undermine* it. Consumers may already obtain PLI information by asking for it—the same way they may obtain information about an attorney's education, experience, similar clients, and past results. By singling out PLI as meriting mandatory disclosure above information like education and experience, the Texas Supreme Court would signal to unsophisticated consumers that the presence of professional liability insurance is the most important consideration in retaining a Texas lawyer. One can easily foresee relatively uninformed consumers concluding that hiring a lawyer inexperienced in the area of retention but possessing (what appears to be) a substantial insurance policy would be wiser than retaining an uninsured or lesser-insured lawyer with years of experience and accomplishment in the area of retention. That consumer, after all, would simply be following the Texas Supreme Court's implicit advice in singling out this particular piece of information for mandatory disclosure.

Independently, numerous issues inherent in professional liability insurance are almost certain to make disclosure misleading. Setting aside issues like post-disclosure cancellation or coverage changes, few consumers are likely to understand

the implications of claims-made coverage, wasting policy limits, intentional acts exclusions, or policy limit reduction provisions based on declined settlement offers. As a result, consumers will make decisions believing they are protected when in fact they are not. Ironically, then, PLI disclosure will lead to exactly the *opposite* result of its goal. When consumers find out they do not have the coverage they believed they did, they are likely to pursue claims against their lawyers. The most likely result of PLI disclosure will be to spur increased litigation and provide a new basis for claims of negligent misrepresentation and fraud—even in cases where the lawyer properly and honestly disclosed coverage.

Finally, we are concerned about the effect mandatory PLI disclosure might have on the Texas legal marketplace and the ability of less-affluent Texans to obtain access to our justice system. These less-affluent citizens frequently depend on solo practitioners—who often perform services at reduced rates, on a contingent or blended fee basis, or even pro bono—for representation. Many of these solo practitioners do not carry liability insurance, both because of cost and because they do not believe it provides any meaningful benefit to their clients. Making the existence of coverage the central consideration in retention of a Texas lawyer will likely cause many solo practitioners to purchase coverage. The increased cost of insurance and need to generate additional income to cover it may cause some of these lawyers to cut back on their pro bono and reduced-fee work—or eliminate it entirely. The result could be diminished access to justice for the poorest Texans.

Overall, we believe that mandatory PLI disclosure would damage the very Texas consumers it purports to help, and would diminish access to justice for the poorest Texans. We urge the State Bar of Texas Board of Directors and the Texas Supreme Court to reject the proposal.

Respectfully,



Evin Dugas, Council Chair
*State Bar of Texas Consumer &
Commercial Law Section*



**STATE BAR OF TEXAS
CORPORATE COUNSEL SECTION**

OFFICERS

Chair
TODD H. SILBERMAN
Law Offices of Todd H. Silberman
13409 NW Military Hwy, Ste 350
San Antonio, TX 78231
(210) 253-3994

January 5, 2009

Via Email: rolandjohnson@hfbllaw.com

Chair-Elect
ALMA REYES
Houston, TX
(832) 647-4006

Mr. Roland Johnson
President
State Bar of Texas

Vice Chair
STEPHEN E. STEIN
Thompson & Knight LLP
1700 Pacific Avenue, Ste 3300
Dallas, TX 75201
(214) 969-1209

Re: Proposed Mandatory Disclosure of Professional Liability Insurance

Dear Mr. Johnson,

Secretary
ALICE R. L. GINSBURGH
Kinder Morgan, Inc.
500 Dallas St., Ste 1000
Houston, TX 77002
(713) 369-8837

On behalf of the Council of the Corporate Counsel Section of the State Bar of Texas and the members whom we represent, we would like to express our thoughts on the proposed mandatory disclosure of professional liability insurance. In-house corporate counsel are in a unique position with respect to this issue as they act as both attorneys on behalf of their client as well as customers of the services provided by law firms. As a result, the members of the council hope our views and thoughts on this very important issue will be seriously considered by both the State Bar of Texas as well as the Supreme Court of Texas.

Treasurer
REXR. ROGERS
5914 Stones Throw Road
Houston, TX 77057-1444
(832) 630-9056

The proposed rule purports to protect the consuming public from attorneys who may not have professional liability insurance. Indeed this is an important issue. The Corporate Counsel Section spent significant time discussing this issue at our council meeting in the fall. The minutes of the meeting reflect a unanimous opinion from the council that the proposed rule is not in the best interest of Texas attorneys or the clients whom they represent.

Immediate Past Chair
LUIS G. GARCIA
McLane Company, Inc.
4747 McLane parkway
Temple, TX 76504

COUNCIL MEMBERS:

For Terms Expiring 2010
Walter Earl Bissex, Austin
Diane M. Hirsch, San Antonio
Jane Mallor McBride, Plano
Jeffrey J. Walker, Ft. Worth

In its consideration, we hope the Court will consider the amount of legal services purchased by Texas and foreign business entities. Businesses are huge consumers of legal services in Texas. In fact, although we are unaware of the exact statistics, we suspect that various business entities may in fact be the largest consumer group of legal services in the state, both in terms of monies paid as well as number of attorneys retained for legal matters. As a result, we feel it is incumbent on the Corporate Counsel Section to express our concerns.

For Terms Expiring 2011
John J. Eikenburg, Jr., Houston
Michael D. Marin, Austin
Clay B. Scheitzach, Dallas
Laney M. Vazquez, Houston

The rule will have impact on all non-governmental attorneys in Texas. One group affected will be in-house attorneys who are employees of their client. The second group affected work in law firms or may be solo practitioners throughout the state.

ADVISORY MEMBERS:
Pat E. Allison, Houston
Dean D. Hunt, Houston
Jay G. Martin, Houston
Mark L. Murdock, Austin
Prof. Val D. Ricks, Houston
Shelby R. Rogers, Driftwood

First, in-house counsel represent their one client, the company. As such, these in-house counsel are full time employees of the company. Some companies have vast bureaucracies while others are leaner and more efficient. We suspect that most in-house counsel do not have professional liability insurance as their clients do not require such. The client, as the employer, is not interested in spending the additional funds to have their in-house attorneys have such coverage. Having discussed this in great detail, we believe an overwhelming number of legal employers will react with indifference to the issue when their employees advise they do or do not have malpractice coverage. As the employer, located in a right to work state, they can terminate employees at will for any reason. In fact, as general counsel for a company, I was told that if my employer suspected I had committed malpractice, they would not sue me, they would simply terminate my

**STATE BAR BOARD
ADVISORS:**
David W. Copeland, Midland
L. Bradley Hancock, Houston

employment. The Council agrees most businesses in the state will react similarly. Additionally, businesses are, for the most part, sophisticated consumers able to consider this issue and its importance to the operation on its own without government involvement. Therefore, the requirement for in-house counsel to advise their clients of professional liability insurance is a non-issue that will only require businesses to spend valuable time and resources responding to the disclosures, considering or reconsidering the issue up and down the management chain, consuming funds that could be spent more constructively.

Second, and more importantly, business entities are huge consumers of legal services. Legal services are frequently purchased on behalf of the company by in-house counsel or a sophisticated business person with authority. These consumers know our law firm colleagues are aware and concerned with the possibility of legal malpractice claims and what it can mean to the firm and the individual attorneys involved in a claim. The Council suspects most firms serving business clients do have malpractice coverage. However, in-house counsel generally use the following formula for choosing law firm representation:

- Have I worked with this attorney and/or firm previously and what is my experience?
- If I have not worked with the attorney and/or firm, does either come well recommended from respected colleagues and/or business associates?
- Is the attorney and/or firm willing to meet the client's requirements for representation and do they understand the goals associated with the matter assigned?

If these questions are answered affirmatively, the attorney/firm is hired to represent the business. Please note that malpractice coverage is not a consideration here. The only time we believe malpractice coverage is a consideration is in specific cases, including securities and patent litigation, in which case the firm must provide a certificate of insurance to the client prior to beginning their representation. Otherwise, the business client is not concerned about the presence of professional liability insurance. There is either a historical relationship between the two parties or the business client is not concerned with the specifics of professional liability insurance, but rather is focused on the individual attorney or the firm's ability to handle the matter assigned in an efficient manner consistent with business objectives.

The disclosure requirement appears to be directed at solo practitioners and very small firms who are not retained by businesses. It would certainly have the largest impact on this demographic as some certainly do not carry professional liability insurance for one reason or another, many of which are very good, logical reasons. As discussed in the Council of Chairs meeting in the fall, many have practiced for decades, with insurance, without a claim ever being filed. The insurance companies collected premiums for those decades. If a claim is filed and the attorney wins the case, the insurance company will increase their rates, even though there was no malpractice involved. This assumes the insurance company does not force the practitioner to settle. Although individual liability is an important issue to the practitioner, an insurance company does not consider settlement based on the liability, but rather makes a business decision based on the costs of defense versus the costs of settling. Either way, the practitioner may be faced with an increase in premium regardless of the claim's merit.

Required disclosure will give the insurance companies even greater power in this unequal relationship. Requiring disclosure will more likely make consumers uneducated on this issue wary of any attorney who must disclose they do not have any professional liability insurance, even though they may not understand associated coverage issues.

Please note the disclosure does not require disclosure of the amount or quality of coverage, which varies policy to policy. The disclosure also does not consider the practitioner who self insures. While the consideration of this issue is important and clearly meant to protect the individual consumers who are uninformed of the legal profession and may need protection in some manner, the enactment of the disclosure will have an impact on firms, in-house counsel, and businesses that reach much further than may be intended or anticipated.

On behalf of the Corporate Counsel Section of the State Bar of Texas, which is opposed to the mandatory disclosure of professional liability insurance, I thank you for including this information in your consideration. If you require any additional information, please feel free to call me at (210) 253-3994.

Very truly yours,



Todd H. Silberman
Chair, Corporate Counsel Section
State Bar of Texas

Cc: David W. Copeland, Board Advisor-Via Email: dcopeland@conchoresources.com

L. Bradley Hancock, Board Advisor-Via Email: hancockb@qllaw.com

Bert Jennings, Board Advisor-Via Email: jenningslawgroup@yahoo.com

STATE BAR OF TEXAS

Council of the General Practice, Solo and Small Firm Section

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Ladies and Gentlemen of the State Bar Board of Directors:

This letter states the position of the General Practice, Solo, and Small Firm Section of the State Bar of Texas on the issue of mandatory disclosure of malpractice insurance.

The Council of the General Practice, Solo and Small Firm Section discussed this issue at length in regular meetings in January and April of 2008, and June and September of 2009, as well as during two special meetings called for the singular purpose of considering this issue in October and November, 2009. Council members reviewed: (1) materials submitted to the Task Force by its various members; (2) surveys conducted by the Task Force and their results; (3) the Supreme Court Grievance Oversight Committee proposal; (4) the reports and responses submitted by other State Bar sections; and (5) reports regarding public response at public meetings held across the state. The council also made these materials available to our membership at large.

Individual council members attended the public hearings organized by the State Bar of Texas, and reported their observations to the entire council. The Council has twice polled its section members, seeking opinions and statements of position on the issue, and council members have made concentrated efforts to speak in their respective communities spanning the State to other persons – including licensed attorneys and members of the general public – to obtain a broader understanding of opinions on the issue. We believe the Section, its Council, and its over 2000 members constitute a representative cross-section of the 60+% of licensed attorneys in the state of Texas who practice in solo or small firm environments.

For a variety of reasons, the Council and the Section members responding to our inquiries overwhelmingly oppose mandatory disclosure. The Council called this matter for a vote on November 14, 2009, after having specifically considered the following: (1) information cited above, (2) the realities of the solo and small firm practice of law in Texas, (3) the quality of legal services provided by members of the profession, and (4) the goals of (a) fostering high standards of ethical conduct for lawyers, (b) assuring all citizens of equal access to justice, (c) providing efficient and effective delivery of quality legal services to clients, (d) protecting the public interest, and (e) improving the reputation of the legal profession as a whole.

By unanimous vote of the Council-members, the General Practice, Solo, and Small Firm Section of the State Bar of Texas opposes the mandatory disclosure of the existence, nonexistence, or extent of a lawyer or law firm's malpractice insurance coverage, in any form.

Our reasons follow.

The Council approves of and adopts the reasons enumerated in the article written by Bill Miller and published in Vol. 72, No. 10, pp. 824-826 of the Texas Bar Journal, November 2009 edition. We furthermore hereby incorporate the initial response of the Section, submitted in May of 2008, and adopt all of the arguments raised by our Council at that time in opposition to mandatory disclosure. The 2008 response is attached hereto. Please take a moment to read that attached letter, as those comments form an important part of the basis for the opinion of our Section. The concept of mandatory disclosure inverts the intention and beneficiary of insurance coverage. The purpose of insurance is to protect the insured against a loss, and the only legitimate beneficiary of a decision to carry insurance is the insured. While the Council strongly supports the arguments addressed in those documents, we choose not to elaborate on them herein, so as not to duplicate or echo the well-reasoned explanations. Instead, we hereafter focus on issues of particular importance to attorneys in a solo or small firm practice.

The percentage of solo and small firm practitioners among Texas attorneys is on the rise. Law students are graduating without jobs, and large firms are downsizing and eliminating entire departments. In 2008, solo and small firm practitioners accounted for approximately 60% of practicing attorneys. That number has undoubtedly increased during the recent economic downturn. The number of practicing attorneys is on the rise, while the number of available jobs is declining. As a result, competition for clients, and more particularly clients with the ability to fund litigation, grows more fierce. Lawyers are streamlining their practices and cutting overhead, in an attempt to remain financially viable, or in some cases solvent. As a result, stipulations imposed upon Bar membership as a whole may have a more meaningful and profound negative effect on solos and small firm attorneys than on Bar membership at large.

We believe that disclosure will have a negative impact on lawyers – individually and as a profession – and if imposed, will go against the collective will of a vast majority of Bar members. Disclosure will plant the seed in the minds of clients that there is a guarantee of results or an alternate avenue of recovery – a belief that lawyers are taught to expressly disabuse. Lawyers and law firms are also financially impacted by the downturn of the economy – solos and small firm practitioners (who often rely on personal monthly income for survival) disproportionately so. Any proposal that results in a decreased ability to generate income or collect receivables, or increase in monthly overhead, puts their financial survival at risk. And, because malpractice cases will likely increase, and insurance premiums typically increase in relation to the number of claims, the impact on solo and small firm practitioners will grow, over time.

Mandating public disclosure will serve to denigrate, and not improve, the reputation of the profession as a whole. Realistically, there are few scenarios where a lawyer can portray his decision not to carry insurance as anything but a negative when he is forced to disclose his “failure” to provide it. As a result, the general public will know, if they don’t already, that lawyers have been forced to disclose this “failure” against their will, or put another way, that they would choose to hide this fact from their clients. The logical inference is thus that lawyers are not honest unless forced to be so. In addition, the increase in malpractice cases that will likely result from mandatory disclosure (discussed below) may be interpreted by the media or general public as evidence of an increase in the frequency of wrongful conduct, thus further depressing public faith in the justice system. This will serve to validate the negative stereotypes of lawyers, not combat or undermine them.

Despite what some may describe as a negative public perception of the legal profession, there has been no public outcry for mandatory disclosure. Anecdotal evidence gathered from our members indicates that rarely, if ever, do potential clients ask prior to retaining counsel whether malpractice insurance coverage is available. Consumers are more concerned with the skills, experience, education, reputation, and character of an attorney, than whether he or she has insurance. Indeed,

mandatory disclosure of whether coverage exists may distract members of the public from the more important issues in selecting counsel, resulting in poor selection decisions, and leading to more malpractice claims. While it may be true that, when prompted, a majority of the general public supports mandatory disclosure by attorneys, it is most likely also true that a majority of the general public would, if offered, support a rule that requires the losing attorney to pay the prevailing side's legal fees, or even a rule that disbars an attorney after 5 consecutive unsuccessful trial verdicts. In today's economy, where the legal profession is being blamed for everything from the failure of the automotive industry to the necessity for universal healthcare, it seems unlikely that a majority of the general public would oppose any proposal that punishes lawyers. Accordingly, public approval alone should not be enough to justify imposing such a far reaching and important dictate on the legal profession of this state.

Logically, the public would not actually benefit from the imposition of mandatory disclosure, unless either: (1) the disclosure discourages potential clients from retaining unscrupulous or less skilled attorneys, or (2) the disclosure is intended to compel attorneys to obtain malpractice insurance in an amount sufficient to cover all potential malpractice claims. The mandatory disclosure of not having insurance creates a stigma upon the disclosing lawyer, and would likely tend to discourage the hiring of the non-carrying attorney. (This appears to be the intended result of the Grievance Oversight Committee, which expressly labels this choice a "failure.") There is no evidence yet brought to light that supports a correlation between greater legal skill or ethical conduct and malpractice insurance coverage. Thus, the result to the client is impossible to determine, as discouraging a potential client from hiring an attorney without malpractice insurance is just as likely to drive them to a less skilled or unscrupulous attorney as to a better one. However, the result to the attorney is easily determined: either the loss of the potential client (irrespective of his or her level of expertise), or the decision to obtain insurance to protect his or her ability to compete.

In the ranks of solo and small firm practitioners, mandatory disclosure will likely lead to more lawyers purchasing malpractice insurance, which will subject the lawyers to control of the insurance industry. Premiums generally vary depending on the type of cases taken, the total damages sought, and the geographic region served. As a result, attorneys may choose to eschew certain types of cases in the hopes of keeping their premiums low, leaving the public largely unrepresented in those legal areas of practice. Policies often forbid litigation in pursuit of fees from nonpaying clients. Failure to comply with policy terms and conditions can result in increased premiums, denial of claims, or cancellation of policies. As a result, the terms and conditions imposed by the insurance industry in malpractice policies may have a direct and palpable effect on solo and small firm practitioners. At a time when the Federal government is completely reconstructing the health care industry because of the abuses and mismanagement of the insurance industry, it seems illogical and dangerous to contemporaneously subject the legal profession to the insurance industry's oversight and control.

Questions of practicality make the proposal unworkable, and oversight would require voluminous new regulations as to "acceptable" coverage, minimum policy limits, applicability to pro bono representation, applicability to representation by court appointment, retroactive penalties for denied or cancelled coverage, and specific verbiage for disclosure of claims-made versus occurrence policies, among others. The Bar would further be continually measuring these levels to ensure sufficient and appropriate limits. Simply put, for disclosure to be meaningful, the Bar would be forced into the insurance regulation business. This would constitute a strain on the Bar leadership and its resources, and divert it from its stated Mission, one element of which is to assure all citizens equal access to justice.

The plan may actually denigrate, rather than improve, public access to justice. Attorneys who feel compelled to obtain malpractice insurance to remain competitive would likely pass this expense on

to their clients, along with the burden of lost income and collections as described above. This may result in fewer citizens being capable of affording qualified legal representation. The ability of solo and small firm practitioners to provide free or low-cost legal services to the poor may be negatively impacted by a decrease in the lawyer's income stream, or increase in monthly overhead. This would result in an increased burden on legal aid services, which are also suffering in this economic downturn. At a time when the Bar is calling on all attorneys to increase their pro bono hours, a plan such as this may result in a crisis of access to justice in Texas.

It bears mentioning that the proposal advanced by the Grievance Oversight Committee goes far beyond their stated goal of informing the public. We consider the comparison of malpractice insurance to automobile insurance to be a fundamentally flawed argument. The Grievance Oversight Committee report states, in relevant part:

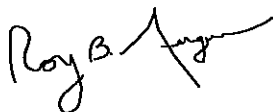
"From the public perspective, the question is asked why the public is mandated to maintain insurance for public protection if they own and drive a car and why lawyers should not be held to the same standard...."

The same argument could be made for all types of insurance, in every conceivable context. By that logic, every person in America should be required by law to insure against every conceivable potential injury, no matter how remote. Although the issue at hand is mandatory *disclosure*, these comments, as well as the Grievance Oversight Committee's definition of the decision not to obtain malpractice insurance to be a "failure" on the part of the lawyer, seem to expose the Grievance Oversight Committee's true agenda – using disclosure as an "foot in the door" to ultimately require mandatory malpractice insurance for all Texas attorneys. The somewhat draconian measures proposed by the Grievance Oversight Committee (including verbal pronouncement, written acknowledgement by the client which must be kept by the lawyer for a number of years, and technical violation by the lawyer of the rule even if disclosure was given and no claim was made) could be interpreted as attempting to make it so difficult to comply that "mandatory disclosure" will intimidate uninsured attorneys into obtaining coverage, thus accomplishing the same goal as mandatory insurance. We specifically oppose the proposal advanced by the Grievance Oversight Committee, and the concept of mandatory malpractice insurance, as well.

In conclusion, the mandatory disclosure of malpractice insurance will likely have a *de minimus* effect on the quality of services provided by Texas lawyers, will likely not protect the public, may denigrate the collective reputation of the profession, and may adversely impact public access to justice in Texas. For these reasons, as well as those in the attached 2008 response and those enumerated in Bill Miller's article in the November 2009 Texas Bar Journal, the General Practice, Solo and Small Firm Section of the State Bar of Texas is opposed to the mandatory disclosure of malpractice insurance on any level.

We appreciate your detailed and thoughtful consideration of this crucial issue, and thank you in advance for your studied consideration of the comments in this letter.

Very truly yours,



Roy B. Ferguson
Chair – General Practice, Solo and Small Firm Section
of the State Bar of Texas

STATE BAR OF TEXAS

Council of the
General Practice, Solo, and Small Firm Section

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The purpose of this letter is to inform the State Bar Board of Directors of the position of the General Practice Solo and Small Firm Section on the issue of Malpractice Insurance Disclosure.

The Council of the General Practice, Solo and Small Firm Section has discussed this issue at length in its meetings in January and April and has reviewed the materials submitted to the Task Force by its various members, the surveys conducted by the Task Force and their results, as well as reports from two Council members who sit on the Task Force.

Having due regard to quality of practice by members of the profession as well as the efficient and effective delivery of quality legal services to clients, the Council takes strong exception to the adoption of any rule requiring disclosure by a lawyer in any manner of existence or extent that lawyer's coverage by malpractice insurance. Our reasons follow.

Mandatory disclosure inverts the intention and beneficiary of coverage. Insurance, particularly liability and casualty coverage, is the sharing of risk among individuals who are similarly situated. While the type and consequences of a particular kind of risk are statistically predictable, the impact of a particular event on a particular individual is not. Thus, the purpose of insurance is to protect the insured against a loss. For example, a homeowner carries insurance to protect himself or herself if a claim is brought against that owner. A homeowner is not legally required to maintain insurance nor are they required to publicly disclose the fact that they carry or do not carry homeowners insurance prior to any invitee coming upon the property. Similarly, malpractice insurance recognizes that professionals make mistakes and also that

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General Practice, Solo and
Small Firm Section

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some will be taken to task whether they have made a mistake or not. We just don't know which ones will be taken to task. Those inclined may insure against the risk, but the only legitimate beneficiary of that decision (to carry or not) is the insured. Mandatory disclosure inverts the purpose of insurance. Legal malpractice insurance is not for the protection of clients or the public but rather the protection of the insured lawyer.

Disclosure of the existence of malpractice insurance promotes litigation in principle. Malpractice lawyers will not accept cases where there is not a substantial indemnity pool to insure recovery. Forced disclosure does not benefit the appropriate beneficiary of the insurance; it benefits primarily the insurance companies and the malpractice lawyers. Moreover, a potential client who gives primary consideration to the existence of liability insurance in legal representation is not looking for personal service but a result-indemnity.

Forced disclosure of the insurance coverage creates a bargaining imbalance. If it were a legitimate concern of a client whether an attorney carried liability insurance, it would be just as legitimate a concern for a lawyer to know whether a client considers insurance a criterion for choice of a lawyer. No one is suggesting that clients be required to disclose whether they use insurance coverage as a criterion of legal representation.

The result of the imposition of such a rule would be inherently unpredictable. Imposition of a rule requiring disclosure will result in some lawyers purchasing malpractice insurance for competitive or other reasons, while other lawyers will cease carrying malpractice insurance recognizing that they become targets for litigation by virtue of the disclosure.

The impact of the rule is unfair. Recognizing the clear principle that the only legitimate beneficiary of malpractice insurance is the insured, no other "learned profession" is required to disclose the existence of malpractice insurance. Other than the self interest of those pushing the rule

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Page 3

requiring disclosure, it is self evidently clear that there is no valid principle that would require disclosure by lawyers and not other professions or trades.

A disclosure rule denotes bias. Requiring disclosure that a lawyer should disclose insurance carries with it the implication of a judgment by the State Bar that a lawyer should carry malpractice insurance for the benefit of the "public" or the client, which again is counterintuitive to the purposes of insurance. The decision to maintain insurance is a judgment appropriately left to the individual lawyer or firm based upon their assessment of their risk. But this implicit judgment by the State Bar creates a form of inappropriate market discrimination that the discredited "Not Board Certified" warning label formerly did. It took years to remove the "Not Board Certified" warning label. The bar should not be moving in this direction of branding lawyers as "lesser" or "of lesser quality" by its rules and regulations of the practice.

A disclosure rule implies a negative judgment on the profession. The clear implication of a mandatory disclosure rule is that the Bar or the Supreme Court assumes that clients should be protected from lawyers.

Requiring mandatory disclosure establishes an improper principle of legal practice. There is no basis for the imposition of the rule without accepting as an underlying principle that the purpose of insurance is the protection of third parties rather than the protection of the insured. The only place in this society in which that has taken root is the requirement of liability insurance for the privilege of driving. Once the principle that malpractice insurance is for the benefit of the client or "the public" and not the insured the next logical implication of that principle is that malpractice insurance should be mandatory for protection of the client.

Thus the General Practice, Solo and Small Firm Section is opposed to the mandatory disclosure of malpractice insurance on any level.

STATE BAR OF TEXAS

General Practice, Solo and
Small Firm Section

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Page 4

Sincerely,

A handwritten signature in black ink that reads "Wendy Busler". The signature is written in a cursive, flowing style.

Chair Elect

Subject: FW: ** IMIS Email Marketing Test ** Professional Liability Insurance Disclosure Issue

Date: Friday, January 8, 2010 3:09 PM

From: Tracy Nuckols <Tracy.Nuckols@TEXASBAR.COM>

To: Judy Marchman Judy.Marchman@TEXASBAR.COM

Conversation: ** IMIS Email Marketing Test ** Professional Liability Insurance Disclosure Issue

I don't think you have th is either. All their information went directly the bar president email address.

Tracy Nuckols

Project Manager - Sections Dept.

Communications Division - State Bar of Texas

(512) 427 - 1710 (Austin)

(800) 204 - 2222 x1710

tnuckols@texasbar.com

From: Entertainment and Sports Law Section - State Bar of Texas [mailto:sections@texasbar.com]

Sent: Friday, January 08, 2010 3:07 PM

To: Tracy Nuckols

Subject: ** IMIS Email Marketing Test ** Professional Liability Insurance Disclosure Issue



January 8, 2010

Dear TESLAW Members:

The Supreme Court has asked the State Bar Board of Directors to make a recommendation at its January Board Meeting regarding the advisability of requiring Texas attorneys to disclose to clients and potential clients whether or not they carry professional liability insurance. The Bar is interested in procuring input on the topic from Bar members. To that end, the State Bar has created a [PLI Dislosure page](#) on the [TexasBar.com](#) website that provides significant information on the topic.

Please make time to the visit the website, become educated, and voice your thoughts on the issue, either directly to the State Bar by emailing statebarpresident@texasbar.com, or through the [TESLAW Website](#) to any Council member, and we'll make sure the comments get to the Board of Directors for consideration.

D'Lesli Davis

Chair, Texas Entertainment & Sports Law Section

Subject: Fw: PLID

Date: Tuesday, January 12, 2010 8:19 AM

From: Tracy Nuckols <Tracy.Nuckols@TEXASBAR.COM>

To: Judy Marchman <Judy.Marchman@TEXASBAR.COM>

Below is the military law's resolution. That should be it from me. If you want to send me a list of what you've got I'll doublecheck...

Tracy Nuckols

Manager, Sections Department

tnuckols@texasbar.com

(512) 427-1710

Sent from my blackberry wireless device.

From: Fluke, Randall (USATXE)

To: Kay Perry ; Tracy Nuckols

Cc: gary.manuele@amedd.army.mil ; Manuele, Gary M Mr CIV USA MEDCOM CRDAMC ; Gary Manuele

Sent: Tue Jan 12 00:30:23 2010

Subject: RE: PLID

Tracy-

I am sorry that this fell through the cracks. I was called to trial unexpectedly on 4 Jan after a fellow AUSA took severely ill....I am still in trial....

Please communicate the following to the Board, unless you hear otherwise from Gary or Kay:

"At the Fall Meeting of the Military Law Section of the State Bar of Texas on 17 October 2009, the Professional Liability Insurance (PLI) Disclosure issue was fully discussed and it was resolved by the unanimous vote of the members present to oppose any mandatory disclosure requirement."

Let me know if you need anything further.

Thank you.

Randy

From: Kay Perry [mailto:perryjk@sbcglobal.net]

From: Bill Connolly [<mailto:wbc@conlawfirm.com>]
Sent: Tuesday, January 26, 2010 9:59 AM
To: Tracy Nuckols; Ray Cantu; 'Kristy Almager'
Subject: Professional Liability Insurance Disclosure

The Juvenile Law Section of the State Bar of Texas considered the pending professional liability insurance proposal at its November Council meeting. An e-mail was sent to the membership requesting input from section members on the issue which stated as follows:

Members of the Juvenile Law section of the State Bar of Texas:

In late November, 2009 the Section Council considered the issue of whether the Texas Rules of Disciplinary Conduct should be amended to require the disclosure by counsel to clients whether or not counsel has professional liability insurance. The Task Force on Insurance Disclosure of the State Bar of Texas voted 6-5 against disclosure and recommended that if the Supreme Court ordered disclosure that it be in the form of an administrative rule rather than a disciplinary rule.

The Juvenile Law Section Council voted to place this issue before the membership for comments and is prepared to forward a council position to the State Bar of Texas Task Force after an abbreviated comment period by Section Members. Accordingly, we are seeking comments on this proposal from section Members until **5:00 p.m. on Tuesday January 19, 2010.**

Additional Information on the proposed rule changes are available through the Texas Bar Journal and the State Bar of Texas.

Questions or comments may be forwarded to myself at wbc@conlawfirm.com <<mailto:wbc@conlawfirm.com>> <<mailto:wbc@conlawfirm.com>> <<mailto:wbc@conlawfirm.com>> > or to Chris Hubner Chair-Elect at chris.hubner@tjpc.state.tx.us <<mailto:chris.hubner@tjpc.state.tx.us>> <<mailto:chris.hubner@tjpc.state.tx.us>> <<mailto:chris.hubner@tjpc.state.tx.us>> >. Thank you for your prompt attention to this matter.

With the exception of one self-contradictory response that was unable to be clarified, the Section membership that responded and the Council were unanimous in opposition to any disclosure requirement relative to professional liability insurance. The Council's resolution is attached.

"Resolved that the Juvenile Law Section of the State Bar of Texas, after submitting the issue to the membership and considered the issue through its duly elected Council, opposes any proposed disciplinary or administrative rule that would require Texas attorneys to disclose to client's or prospective clients whether they carry professional liability insurance."

Please forward this input to the State Bar for consideration in its upcoming vote.

Best regards,

Bill Connolly
Chair, Juvenile Law Section, State Bar of Texas

William B. Connolly *

Connolly & Shireman, LLP

2930 Revere, Suite 300

Houston, Texas 77098

713. 520.5757 (Phone)

713. 520.6644 (Fax)

e-mail: wbc@conlawfirm.com

www.connollyshireman.com <<http://www.connollyshireman.com/>>

** Board Certified - Family Law - Texas Board of Legal Specialization*

** Board Certified - Juvenile Law - Texas Board of Legal Specialization*

----- End of Forwarded Message

From: apisection-bounces@mailman.io.com [<mailto:apisection-bounces@mailman.io.com>] **On**
Behalf Of State Bar of Texas Asian Pacific Interest Section
Sent: Friday, January 15, 2010 12:32 PM
To: APIS Listserv
Subject: [Apisection] Voice Your Opinion!!

**LAST CHANCE to voice your opinion about
Mandatory Disclosure of Professional Liability
Insurance through the Professional Liability Insurance
On-Line Survey.**

The deadline is January 22, 2010 at 5pm.

The State Bar of Texas and the Supreme Court of Texas are considering whether lawyers should be required to disclose if they have professional liability insurance. The State Bar of Texas Board of Directors will be voting on this issue on January 28, 2010!

This is a very important and controversial issue that may affect you and your practice. Please take a few minutes to complete an on-line survey. To complete the survey, go to:

<http://www.surveymonkey.com/s/Q7WPZNZ>

In addition, lawyers and members of the public may send emails to statebarpresident@texasbar.com or written comments to State Bar of Texas, c/o Ray Cantu, P.O. Box 12487, Austin, TX 78711-2487. More information can be found at www.texasbar.com/plidisclosure <<http://www.texasbar.com/plidisclosure>> .

--

Asian Pacific Interest Section
State Bar of Texas
<http://www.texasapis.org/>
apistexas@gmail.com

2009-2010 Officers:

Cindy Lin, Chair, Curtis, Mallet-Prevost, et.al <<http://et.al>>
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Albert Lin, Treasurer, Brown McCarroll L.L.P.
Zeena Angadicheril, Secretary, Winstead

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Asian Pacific Interest Section
State Bar of Texas
<http://www.texasapis.org/>
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Professional Liability Insurance**

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Response Summary

Total Started Survey: 16

Total Completed Survey: 16 (100%)

Page: Default Section

1. Which of the following applies to you?

[Create Chart](#)

[Download](#)

| | | Response Percent | Response Count |
|--|--------------------------|------------------|----------------|
| I am a solo practitioner | <input type="checkbox"/> | 37.5% | 6 |
| I work for a small firm (1-24 attorneys) | <input type="checkbox"/> | 18.8% | 3 |
| I work for a mid-size firm (25-60 attorneys) | | 0.0% | 0 |
| I work for a large firm (61+ attorneys) | <input type="checkbox"/> | 6.3% | 1 |
| I work in-house | <input type="checkbox"/> | 6.3% | 1 |
| I work for a government agency | <input type="checkbox"/> | 25.0% | 4 |
| I work for a non-profit agency | | 0.0% | 0 |
| Hide replies | Other (please specify) | 6.3% | 1 |

1. not working

Fri, Jan 15, 2010 2:49 PM [Find...](#)

answered question 16


skipped question 0


2. Do you think that Texas lawyers should be

[Create Chart](#)

[Download](#)

required to disclose whether or not they carry professional liability insurance?





| | Response Percent | Response Count |
|--|------------------|----------------|
| Yes <input type="checkbox"/> | 6.3% | 1 |
| No <input type="checkbox"/> | 81.3% | 13 |
| I don't care <input type="checkbox"/> | 6.3% | 1 |
|  Hide replies Other (please specify) <input type="checkbox"/> | 6.3% | 1 |










1. I don't have a strong opinion either way, but lean towards the required disclosure. I think it's important to have professional liability insurance, both for the attorneys and their clients. Fri, Jan 15, 2010 3:19 PM  [Find...](#)

answered question 16
skipped question 0

3. If Texas lawyers are required to disclose whether or not they carry professional liability insurance, what do you think the effects will be? [Download](#)

| | Response Count |
|--|----------------|
|  Hide replies | 13 |

1. More litigation seeking the insurance coverage. Sat, Jan 16, 2010 10:32 AM  [Find...](#)
-
2. The effect will be a spike in frivolous law suits for legal malpractice. Fri, Jan 15, 2010 4:44 PM  [Find...](#)
-
3. It is like an invitation for clients to bring forth lawsuits especially in this economic environment to get out of paying for the lawsuit and know that lawyers have professional liability insurance. Fri, Jan 15, 2010 4:17 PM  [Find...](#)
-
4. Disclosure will put the lawyer on the defensive - and it will create distrust between the client and attorney. Disclosure will also create an adversarial relationship between the client and the lawyer from the outset. Fri, Jan 15, 2010 3:35 PM  [Find...](#)

5. I think potential clients will rely on this disclosure to make their opinion on whether or not they should hire the attorney. I think attorneys could eventually end up getting insurance as sort of a rubber stamp. The public may develop a negative opinion towards or bias against attorneys that opt to not carry liability insurance. Fri, Jan 15, 2010 3:19 PM  [Find...](#)
-
6. Lawsuits will go up for those who are not carrying liability insurance, and those lawyers will then be required to carry liability insurance (an added cost that not everyone can afford right now). Fri, Jan 15, 2010 2:50 PM  [Find...](#)
-
7. more susceptible to malpractice lawsuits. Fri, Jan 15, 2010 2:49 PM  [Find...](#)
-
8. Clients will assume that pli is related to an attorney's competency when in fact, it is not the only indicator on an attorney's ability to represent the client. PLI is nice to have, but it is not affordable for a majority of practitioners. Fri, Jan 15, 2010 2:41 PM  [Find...](#)
-
9. It could cause uninsured lawyers to be ostracized. Tue, Jan 5, 2010 4:44 PM  [Find...](#)
-
10. Negative effect on small firms and solo practitioners; will imply that those who do not carry insurance are less qualified; insurance rates will rise because everyone will be required to get it. Sat, Dec 5, 2009 8:23 PM  [Find...](#)
-
11. Increased suits against attorneys with insurance Thu, Dec 3, 2009 5:32 PM  [Find...](#)
-
12. It would have an adverse impact on my business. I can not afford liability insurance and an inference will be drawn that my services are not of a high quality simply because of the finances. Thu, Dec 3, 2009 12:19 PM  [Find...](#)
-
13. Negative for the discloser. Thu, Dec 3, 2009 9:51 AM  [Find...](#)


25 responses per page **answered question** 13**skipped question** 3


4. Please provide any other comments you would like us to share with the State Bar of Texas on this issue. [Download](#)


Response Count


 [Hide replies](#)


6


1. I see no ethical justification for attorneys to disclose that they have liability insurance. Undoubtedly, it is always the insurance carrying and most ethical of attorneys that would be victimized by any liability disclosure process. Fri, Jan 15, 2010 4:44 PM  [Find...](#)

2. This is a stupid requirement! Doctors are not required to disclose if they carry professional liability insurance, why should lawyers? Fri, Jan 15, 2010 4:17 PM  [Find...](#)

3. I'd be interested in having access to more quantitative information that addresses the number of people that have been sued for malpractice who had/did not have professional liability insurance, and the impact the insurance had on the plaintiffs who filed suit. Fri, Jan 15, 2010 3:19 PM  [Find...](#)

4. Clients who are interested in knowing this information can ask their attorneys when they interview/hire their attorneys. Tue, Jan 5, 2010 4:44 PM  [Find...](#)

5. Requiring insurance disclosure is like finding a solution for which there is no problem. There is no such requirement for any other profession in Texas, so this sounds like needless singling-out of lawyers w/ no real public benefit. Sat, Dec 5, 2009 8:23 PM  [Find...](#)

6. If lawyers are required to disclose whether or not they carry liability insurance, it will have a great adverse impact on small firms and solo practitioners who provide quality services in all respects but who can not afford insurance. Clients will draw an inference that the service is inferior and it is not. Thu, Dec 3, 2009 12:19 PM  [Find...](#)

answered question

6

skipped question

10

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