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Should Lawyers Be Required to Carry Malpractice Insurance?

Washington State Bar Board of Governors will take comments during a special hearing April 22

SEATTLE, WA [April 16, 2019] — The Washington State Bar Association (WSBA) Board of Governors is holding a hearing to take comments before deciding whether to ask the Washington Supreme Court to make malpractice insurance a mandatory condition of licensing for lawyers in private practice. Public input is welcomed and encouraged.

Currently, rules adopted by the Washington Supreme Court require Washington lawyers to disclose to the WSBA whether they carry malpractice insurance when they renew their license each year. Potential clients may then verify a lawyer's insurance status on the [WSBA legal directory](#).

In September 2017, the Board of Governors created a task force to evaluate the nature and consequences of uninsured lawyers in the state. The task force gathered information throughout 2018—including looking at other licensing jurisdictions' rules, studying data, and hearing from more than 550 lawyers—and found:

“Because 14% of Washington lawyers in private practice do not carry malpractice insurance ... those lawyers pose a significant risk to their clients. Further, when lawyers lack insurance that means that from a practical standpoint, their clients do not have access to the legal system to seek compensation. These clients are often unable to seek compensation because plaintiffs' lawyers are generally unwilling to pursue cases when the defendant lawyer is uninsured and may therefore be effectively 'judgment proof.' Lack of malpractice insurance is, fundamentally, an access-to-justice issue, and the task force has concluded that it is more than appropriate for lawyers to ensure their own financial accountability.”

The [task force's recommendation](#) now in front of the WSBA Board of Governors is for all Washington lawyers in private practice to maintain malpractice insurance purchased on the open market in the minimum amount of \$250,000 per occurrence/\$500,000 total per year. Several categories of lawyers would be exempt, including in-house government lawyers and certain nonprofit legal-aid or public defense lawyers.

“The question is, will mandatory malpractice insurance for lawyers better serve clients and improve access to justice, is it a solution in search of a problem, or could it increase the cost of legal services?” said WSBA President Bill Pickett. “We have heard many perspectives, and I encourage anyone with an opinion to participate in the upcoming hearing.” Information about the special hearing:

- 1-5 p.m., Monday, April 22, at the WSBA office, 1325 Fourth Ave., Suite 600, Seattle, WA 98101
- Call in participation: 1-877-331-7677 (no access code needed)
- Check the [board webpage](#) the day of the meeting to view a live webcast
- Comments can also be made to the board via insurancetaskforce@wsba.org

The Board of Governors, likely at its May business meeting, will decide whether to forward the task force recommendation or a modified version to the Washington Supreme Court; the Court has the final authority to amend [Admission to Practice Rules \(APR\) 26](#) to require insurance as a condition of licensing.

More information is at wsba.org/insurance-task-force.

About the Washington State Bar Association

The WSBA operates under the delegated authority of the Washington Supreme Court to license the state's nearly 40,000 lawyers and other legal professionals. In furtherance of its obligation to protect and serve the public, the WSBA both regulates lawyers and other legal professionals and serves its members as a professional association — all without public funding. The WSBA's mission is to serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice. For more information, visit www.wsba.org.

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