

WASHINGTON STATE BAR ASSOCIATION

MANDATORY MALPRACTICE INSURANCE TASK FORCE

MEETING MINUTES

January 24, 2018

Members present were Chair Hugh Spitzer, John Bachofner, Dan Bridges, Christy Carpenter, Gretchen Gale, P.J. Grabicki (by phone), Lucy Isaki, Mark Johnson (by phone), Rob Karl, Kara Masters, Evan McCauley (by phone), Brad Ogura, Suzanne Pierce, Brooke Pinkham (by phone), Todd Startzel, and Stephanie Wilson. Excused were Annie Yu and Stan Bastian.

Also present were Douglas Ende (WSBA Staff Liaison), Thea Jennings (Office of Disciplinary Counsel Disciplinary Program Administrator), Rachel Konkler (Office of Disciplinary Counsel Legal Administrative Assistant), and Sara Niegowski (WSBA Chief Communications and Outreach Officer).

The meeting was called to order at 1:00 P.M.

A. INTRODUCTION AND PRESENTATION

Welcome and introductions were made around the table, including over the telephone.

Chief Disciplinary Counsel Doug Ende gave a presentation on current trends in malpractice insurance requirements among different jurisdictions, including in Washington State, other U.S. jurisdictions, and non-U.S. jurisdictions. Mr. Ende discussed two U.S. jurisdictions that currently require malpractice insurance, Oregon and Idaho, as well as various regulatory models in other states, including Washington where lawyers are, as part of the annual licensing process, required to disclose to the WSBA whether they maintain malpractice insurance.

B. DISCUSSION RE WSBA REIMBURSEMENT POLICY

Information regarding WSBA Reimbursement Policy was provided and a copy of the WSBA 2017-2018 Expense Report was distributed to the members.

C. REVIEW OF TASK FORCE CHARTER, MISSION AND TIMELINE

The Task Force members reviewed the Charter and discussed their purpose and timeline. They emphasized the need for input from bar members and the public going forward. They also clarified the WSBA's purpose of protecting the public while considering mandatory malpractice insurance for Washington lawyers.



The Task Force members agreed to continue to meet once a month. The members discussed plans to gather more information and research through April, and host up to three guest speakers at each meeting. Starting in May, the Task Force expects to have enough information to begin considering options and to report its recommendations to the WSBA Board of Governors by December 2018.

D. WORK PLAN

The Task Force discussed the information it will need in order to make a recommendation to the Board of Governors, and which experts it will need to contact to collect this information. This information includes but is not limited to:

- Evidence of current problems for consumers in the insurance market,
- Public perception of malpractice insurance coverage for lawyers,
- Demographics of Washington State Bar Association members,
- Possible correlations between grievances against lawyers and lack of insurance coverage,
- Trends in coverage limits,
- Reasons why some lawyers do not purchase malpractice insurance, and
- The array of possible options for addressing problems identified by the Task Force.

The Task Force discussed putting together a panel of industry professionals who would be able to offer insight on current malpractice insurance models, as well as tapping into other resources such as studies and surveys. The Task Force would like to hear from representatives from the Oregon, Idaho, Illinois, and Nevada bar associations or regulatory entities, from ALPS, and also from an insurance underwriter and an insurance broker. A representative from the WSBA's Regulatory Service Department will be invited to attend the next meeting in February. Staff will reach out to other potential guest speakers to present to the Task Force.

Finally, the Task Force discussed communications strategies regarding how to best elicit comments from both bar members and the public. Prior to the next meeting, staff will categorize the comments the Task Force has received thus far, as well as continue to collect additional feedback from members for the Task Force's consideration.

E. COMMENTS SUBMITTED TO THE TASK FORCE

The Task Force discussed the written comments received from WSBA members, which had been compiled and distributed to the Task Force in advance of the meeting. A number of Task Force members noted that some of the comments had influenced their perspective on the issue and would be taken into account as the work of the Task Force progressed.

F. ADJOURNMENT

There being no further business, the meeting adjourned at 3:30 P.M.