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Subject: FW: Comment in Opposition to Proposed Amendment to APR 26 - mandatory malpractice insurance
Date: Monday, September 14, 2020 8:04:45 AM

From: Mark J. Koslicki [mailto:Mark@Koslicki.com]
Sent: Saturday, September 12, 2020 9:25 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment in Opposition to Proposed Amendment to APR 26 - mandatory malpractice insurance

Dear Madam Clerk:

As an active member of the Washington State Bar, I submit the following comment in opposition to the proposed amendment to Admission and Practice Rule (APR) 26 which would require mandatory malpractice insurance for most active WA bar members.

Mandating required malpractice insurance would severely burden solo-practitioners such as me. In fact, if malpractice insurance was to become mandatory, I (and likely many others) would find it economically necessary to leave active status.

Rather than requiring mandatory malpractice insurance, I support proposed rule RPC 1.4(c) currently under consideration by the WSBA. That proposed rule would require disclosure to clients if the attorney does not have malpractice insurance. Because I am also a member of the California State Bar (inactive) where such disclosure is required it is my practice to include such a disclosure in all of my engagement letters.

As you know, the WSBA Board of Governors considered and rejected requiring mandatory malpractice insurance for a number of good reasons and I support that outcome. Unsatisfied with that outcome, the promoters of mandatory malpractice insurance have now made their pitch to the Washington State Supreme Court. Similar to a young child not getting the desired answer from mom, the child now goes to dad with the same question in hopes of a different answer. I urge the court to consider the many hours of public hearings and comments provided to the WSBA Board on this topic and come down with the same answer: mandatory malpractice insurance should not be imposed on the bar.

I urge the Court to reject the proposed amendment to APR 26.

Thank you for considering my comments.

Sincerely,

Mark J. Koslicki
WA Bar #31640