



State Bar of Georgia

PROFESSIONAL LIABILITY INSURANCE COMMITTEE MEETING

Monday, January 7, 2019
12:00 Noon
YLD Presidents Board Room
State Bar Headquarters
Atlanta, Georgia

MINUTES

I. Call to Order

At approximately 12:05 p.m. Chair Linley Jones called the meeting to order.

II. Roll Call & Introductions

The following Committee members were present: Linley Jones; William T. Clark; Peter Werdesheim; Warren R. Hines; Christine Lupo Mast; Shannon M. Sprinkle; and Executive Committee Liaison, David S. Lipscomb. Committee members William T. Mitchell, William T. Davis; Michael Glenn Frick; and David N. Lefkowitz participated via teleconference.

Committee Member Sarah B. Akins was not in attendance.

Also present were the following State Bar of Georgia staff members: Executive Director Jeff R. Davis; General Counsel Paula J. Frederick; Deputy General Counsel Jenny K. Mittelman; Deputy General Counsel William D. NeSmith, III and Paralegal Betty Ross Derrickson.

III. Approval of the December 13, 2018 Meeting Minutes

The December 13, 2018 Professional Liability Insurance Committee meeting minutes were presented to the Board prior to the meeting. Hearing no objections, the December 13, 2018, meeting minutes were approved by unanimous consensus.

IV. Unfinished Business

The committee discussed the following items in an effort to craft proposed rules to be submitted and recommended to the Board of Governors. The committee's objective is to have something for the Board's review and possibly a vote by the 2019 Spring Board of Governor's meeting in March 2019.

1. Proposed Rule A - Mandatory professional liability insurance.

i) Category of lawyers to be included/excluded from mandatory insurance: The committee determined that all active members of the State Bar of Georgia will be included with the following exceptions: inactive and emeritus members; mediators and arbitrators who work exclusively as mediators/arbitrators; lawyers whose sole client is a nonprofit organization; and government/public entity employees. Language used by the State Bar of Nevada may be adopted.

ii) Minimum limits of liability: The committee determined that diminishing policy limits should not be permissible and the aggregate limit should be more than (double or more) the per/claim minimum.

iii) Maximum deductible: The committee determined that information from an insurance broker and a professional in the insurance industry may be helpful in determining this item. It was determined that a broker will be invited to the next meeting to provide this information.

Also, an informal subcommittee was formed to obtain information from various insurance professionals and other state bars that have considered this matter to obtain historical information. Christine Mast, Linley Jones, Shannon Sprinkle and Bill Davis were appointed to the subcommittee. Paula Frederick and Jeff Davis will also speak with other Bar executives and presidents to obtain information at the upcoming ABA National Association of Bar Executive midyear meeting.

iv) Diminishing/eroding policy limits - The committee determined that diminishing/eroding policy limits will not be permitted.

v) Enforcement by administrative suspension? Discipline reserved for affirmative misrepresentation or harm caused? The committee determined that any affirmative misrepresentation should be covered by Georgia Rule of Professional Conduct Rule 8.4.

2. Proposed Rule B - Mandatory disclosure of professional liability insurance by lawyers to clients.

The committee decided not to recommend or draft a proposed rule for this option.

3. Proposed Rule C - State Bar requirement for Georgia lawyers to report professional liability insurance coverage.

i) Should the State Bar of Georgia's website list insurance status as yes/no/exempt?

By majority vote the committee approved this option. Other options will be considered and possibly implement in the future.

ii) Should the State Bar of Georgia disclose to clients upon request?

The committee determined that specific information regarding the coverage should be disclosed to the client upon request.

4. Should the State Bar of Georgia conduct a voluntary survey for members to determine the levels of professional liability insurance coverage?

By majority vote, the committee recommended that the above-referenced study/survey not be conducted because it will undermine the efforts and credibility of the committee.

V. New Business

1. Spring Board of Governors Meeting

All committee members are invited to attend the 2019 Spring Board of Governors meeting on March 30, 2019, from 9:00 a.m. to 12:00 p.m. at the Ritz Carlton Lake Oconee Lodge. It was determined that the committee will not meet in conjunction with the Spring Board of Governors meeting. It is the committee's intention to submit its work product at this meeting in advance of the Board voting on this matter.

2. Next Committee Meeting – January 16, 2019, at 12:00 noon. The meeting will include the viewing of an ABA Webinar: Mandatory Professional Liability Insurance, Disclosure and Other Efforts to Insure Attorneys and Product Public beginning at 1:00 p.m.

Committee members should be prepared to present their reports at this meeting (prior to the webinar).

There being no further business, the meeting was adjourned at approximately 1:27 p.m.