



State Bar of Georgia

Professional Liability Insurance Committee

AGENDA

July 23, 2021

Zoom meeting

		Page Nos.
<u>I. Welcome & Introductions</u>	(Twyman)	1
<u>II. Approval of Minutes from January 8, 2021 meeting</u>	(Twyman)	2
<u>III. Action Item</u>	(Twyman)	3-13
a. PLI Options		
<i>(The committee will vote on the recommendation that will go to the Board of Governors)</i>		
b. Presentation to the Board		
<u>IV. Adjourn</u>		

Professional Liability Insurance

Name	Position	Term Expires
Mr. Christopher Paul Twyman	Chairperson	2022
Ms. Sarah Brown Akins	Member	2022
Ms. Kimberly Cofer Butler	Member	2022
Mr. Gregg Jarvis Conley	Member	2022
Mrs. Stephanie Kirijan Cooper	Member	2022
Mr. J. Hamilton Garner	Member	2022
Mr. Brandon Cory Goldberg	Member	2022
Mr. Warren Raymond Hinds	Member	2022
Mr. Kenneth B. Hodges, Jr.	Member	2022
Ms. Linley Jones	Member	2022
Mr. Herman Maddox Kilgore	Member	2022
Mr. David Neal Lefkowitz	Member	2022
Mr. Daniel James O'Connor	Member	2022
Mr. Dennis C. Sanders	Member	2022
Ms. Toronda Michelle Silas	Member	2022
Mr. R. Gary Spencer	Member	2022
Ms. Shannon McKenzie Sprinkle	Member	2022
Ms. Meredith Wilson Sutton	Member	2022
Mr. David S. Lipscomb	Executive Committee Liaison	2022
Ms. Paula J. Frederick	Staff Liaison	2022

Professional Liability Insurance Committee
Meeting of January 8, 2021
Via Zoom

MINUTES

The meeting was called to order at 1:30 p.m.

Attendance:

Committee members: Christopher P. Twyman, Kimberly Butler, Gregg Conley, Stephanie Cooper, J. Hamilton Garner, Warren Hinds, Kenneth Hodges, III, Linley Jones, David Lefkowitz, Denis C. Sanders, Toronda Silas, R. Gary Spencer, Shannon Sprinkle, and Meredith W. Sutton.

Executive Committee Liaison: David S. Lipscomb

Staff: Paula J. Frederick, Jenny K. Mittelman, William NeSmith, Andreea Morrison, and Kathya S. Jackson.

Guest: Lee Davis and Martin Cowen

Approval of Meeting Minutes:

The Committee approved the Minutes from the August 26, 2020 meeting.

Discussion Items:

The committee reviewed and discussed the information provided by the ABA Lawyers Professional Liability Committee regarding defining disclosure. By majority vote, the committee voted to leave the current options as is and not make any changes to the current options. (9-4).

The next meeting will be before the Spring BOG meeting.

The meeting adjourned at 2:00 p.m.

1 OPTION 1A

2 Mandatory Disclosure Requirement

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4 **Rule 1-210. Professional Liability Insurance**

5 (a) Each active member of the State Bar of Georgia engaged in the private practice of
6 law in Georgia shall disclose on the annual license fee statement whether the member has
7 professional liability insurance.

8 (b) The following members shall be exempt from the requirements of this rule:

9 (1) Members who are employed by a governmental entity or other
10 organization and whose practice is limited to matters concerning the entity or
11 organization;

12 (2) Members whose practice consists solely of serving as an arbitrator or
13 mediator; and

14 (3) Members who are not actively engaged in the practice of law or who do
15 not represent clients.

16 (c) Each member who has previously reported being covered by professional liability
17 insurance shall notify the State Bar of Georgia in writing in such form and manner as the
18 Board may designate within 30 days if the insurance policy providing coverage lapses,
19 terminates, or is no longer in effect for any reason.

20 (d) The information required by this Rule shall be publicly available and included in the
21 member's listing in the Member Directory on the official website of the State Bar of
22 Georgia. Each lawyer's insurance status shall appear in the State Bar Member Directory
23 as "covered," "not covered," or "exempt."

24 (e) Each member shall provide the State Bar of Georgia with confirmation of coverage
25 upon request.

26 (f) The information required by this Rule is due on July 1 of each year. A member
27 who does not comply with the requirements of the Rule by September 1 shall cease to be
28 a member in good standing. A member deemed not to be in good standing under this
29 Rule shall be returned to good standing upon making the disclosure required in subpart
30 (a) to the Membership Department of the State Bar of Georgia.

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OPTION 1B

Mandatory Disclosure Requirement (without publication)

Rule 1-210. Professional Liability Insurance

(a) Each active member of the State Bar of Georgia engaged in the private practice of law in Georgia shall disclose on the annual license fee statement whether the member has professional liability insurance.

(b) The following members shall be exempt from the requirements of this rule:

(1) Members who are employed by a governmental entity or other organization and whose practice is limited to matters concerning the entity or organization;

(2) Members whose practice consists solely of serving as an arbitrator or mediator; and

(3) Members who are not actively engaged in the practice of law or who do not represent clients.

(c) Each member who has previously reported being covered by professional liability insurance shall notify the State Bar of Georgia in writing in such form and manner as the Board may designate within 30 days if the insurance policy providing coverage lapses, terminates, or is no longer in effect for any reason.

(d) Each member shall provide the State Bar of Georgia with confirmation of coverage upon request.

(e) The information required by this Rule is due on July 1 of each year. A member who does not comply with the requirements of the Rule by September 1 shall cease to be a member in good standing. A member deemed not to be in good standing under this

57 Rule shall be returned to good standing upon making the disclosure required in subpart
58 (a) to the Membership Department of the State Bar of Georgia.

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OPTION 2
Mandatory Disclosure Requirement with Voluntary Assessment

Rule 1-210. Disclosure of Professional Liability Insurance

- (a) Each year, every member of the State Bar of Georgia shall certify:
 - 1) Whether the member is engaged in the private practice of law; and
 - 2) Whether the member is currently covered by a policy of professional liability insurance.
- (b) The following members shall be exempt from the requirements of this rule:
 - (1) Members who are employed by a governmental entity or other organization and whose practice is limited to matters concerning the entity or organization;
 - (2) Members whose practice consists solely of serving as an arbitrator or mediator; and
 - (3) Members who are not actively engaged in the practice of law or who do not represent clients.
- (c) Each member who has previously reported being covered by professional liability insurance as set forth in paragraph (a)(2) of this Rule shall notify the State Bar of Georgia in writing in such form and manner as the Board may designate within 30 days if the insurance policy providing coverage lapses, terminates, or is no longer in effect for any reason.
- (d) The information required by this Rule shall be publicly available and included in the member’s listing in the Member Directory on the official website of the State Bar of Georgia. Each lawyer’s insurance status shall appear in the State Bar Member Directory as “covered,”

85 “not covered,” or “exempt.” Each member shall provide the State Bar of Georgia with
86 confirmation of coverage upon request.

87 (e) The State Bar of Georgia encourages those members who do not have a policy of
88 professional liability insurance to complete the Bar’s voluntary online self-assessment of the
89 operation of their law practice and to avail themselves of the resources which it recommends to
90 address any deficiencies identified by the self-assessment.

91 (f) The information required by part (a) of this Rule is due on July 1 of each year. A member
92 who does not comply with the requirements of the Rule by September 1 shall cease to be a
93 member in good standing. A member deemed not to be in good standing under this Rule shall be
94 returned to good standing upon making the disclosure required in subpart (a) to the Membership
95 Department of the State Bar of Georgia.

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OPTION 3

Mandatory Disclosure Requirement with Mandatory CLE for Lawyers Without Insurance
(Proactive Management-Based Assistance)

Rule 1-210 Disclosure of Professional Liability Insurance.

(a) Each active member of the State Bar of Georgia who is engaged in the private practice of law in Georgia shall disclose on the annual license fee statement whether the member is covered by a policy of professional liability insurance.

(b) The following members shall be exempt from the requirements of this rule:

- (1) Members who are employed by a governmental entity or other organization and whose practice is limited to matters concerning the entity or organization;
- (2) Members whose practice consists solely of serving as an arbitrator or mediator;
and
- (3) Members who are not actively engaged in the practice of law or who do not

represent clients.

(c) Every other year, beginning with registration for 2022-2023, each lawyer covered by paragraph (a) who discloses that he or she is not covered by a policy of professional liability insurance shall complete a self-assessment of the operation of his or her law practice or shall obtain malpractice insurance and report that fact on the annual license fee statement for the following year.

(d) The Proactive Management-Based Assistance program is a free interactive online educational program provided by the Bar. It requires the lawyer to assess his or her law office and operations based upon the requirements of the Georgia Rules of Professional Conduct and best-practices for the operation of a law office. Lawyers may earn one hour of Ethics CLE credit for

120 each module of the self-assessment completed. Upon completion of each module in the
121 Proactive Management Based self-assessment program, the lawyer will receive the results of the
122 self-assessment and suggested resources to help the lawyer address any deficiencies identified by
123 the self-assessment. All information related to the self-assessment shall be confidential and not
124 shared with the Office of the General Counsel, except for the fact of completion of the self-
125 assessment. Neither the Bar nor the lawyer may offer this information into evidence in a
126 disciplinary proceeding. The Bar may report self-assessment data publicly in the aggregate.

127 (e) The information required by this Rule is due on July 1 of each year. A member who
128 discloses that he or she is not covered by a professional liability insurance policy remains in
129 good standing for one year in order to complete the Proactive Management-Based Assistance
130 Program or to obtain insurance. If the member neither completes the self-assessment required at
131 parts (c) and (d) nor obtains insurance, he or she goes out of good standing on July 1 of the
132 following year. A member deemed not to be in good standing under this Rule shall be returned to
133 good standing upon making the disclosure required in subpart (a) to the Membership Department
134 of the State Bar of Georgia and, if not covered by a policy of malpractice insurance, by
135 completing the self-assessment course.

136 (f) Each member shall provide the State Bar of Georgia with confirmation of coverage upon
137 request.

138 (g) The Bar will provide the information required by part (a) of this rule upon request from any
139 person but will not publish it as part of the member's listing in the Member Directory on the
140 official website of the State Bar of Georgia.

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OPTION 4
Mandatory Insurance Requirement

Rule 1-210. Professional Liability Insurance

(a) All active members of the State Bar of Georgia engaged in the private practice of law in Georgia must be covered by a policy of professional liability insurance, in an amount no less than \$100,000 per claim and \$300,000 in the aggregate (“Minimum Limits”). For any Minimum Limits policy the expenses of defense must be outside the policy limits so that the Minimum Limits stated above are not reduced by payment of attorney’s fees or claims expenses incurred by the insurer for the investigation, adjustment, defense, or appeal of a claim.

(b) The following members shall be exempt from the requirements of this rule:

(1) Members who are employed by a governmental entity or other organization and whose practice is limited to matters concerning the entity or organization;

(2) Members whose practice consists solely of serving as an arbitrator or mediator; and

(3) Members who are not actively engaged in the practice of law or who do not represent clients.

(c) Each lawyer who is required by this rule to have professional liability insurance shall notify the Membership Department of the State Bar of Georgia in writing within 30 days if coverage lapses, is no longer in effect, or terminates for any reason. Each lawyer’s insurance status shall appear in the State Bar Member Directory as either “covered,” “not covered,” or “exempt.” Each member shall provide the State Bar of Georgia with confirmation of coverage upon request.

167 (d) The information required by this Rule is due on July 1 of each year. A member
168 who does not comply with the requirements of the Rule by September 1 shall cease to be
169 a member in good standing. A member deemed not to be in good standing under this
170 Rule shall be returned to good standing upon providing the Executive Director of the
171 State Bar of Georgia with proof of professional liability insurance coverage.

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OPTION 5

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Take no action