



State Bar of Georgia

Professional Liability Insurance Committee

AGENDA

August 10, 2020

Zoom meeting

		Page Nos.
<u>I. Welcome & Introductions</u>	(Twyman)	1
<u>II. Approval of Minutes from July 17, 2020 meeting</u>	(Twyman)	2
<u>III. Discussion Items</u>	(Frederick)	
a. Committee's survey results		3-4
b. PLI revised Option 1		5-12
c. Next steps		
<u>IV. Adjourn</u>		

2020-2021

Professional Liability Insurance

This special committee will study and make recommendations to the Executive Committee and Board of Governors on issues concerning lawyers' professional liability insurance.

Chairperson

Christopher Paul Twyman, Rome 2021

Member

Sarah Brown Akins, Savannah 2021

Kimberly Cofer Butler, Savannah 2021

Gregg Jarvis Conley, Atlanta 2021

Stephanie Kirijan Cooper, Birmingham 2021

J. Hamilton Garner, Moultrie 2021

Brandon Cory Goldberg, College Park 2021

Warren Raymond Hinds, Roswell 2021

Kenneth Bryant Hodges, III, Atlanta 2021

Linley Jones, Atlanta 2021

Herman Maddox Kilgore, Marietta 2021

David Neal Lefkowitz, Athens 2021

Daniel James O'Connor, Vidalia 2021

Dennis C. Sanders, Thomson 2021

Toronda Michelle Silas, Atlanta 2021

R. Gary Spencer, Atlanta 2021

Shannon McKenzie Sprinkle, Atlanta 2021

Meredith Wilson Sutton, Marietta 2021

Executive Committee Liaison

David S. Lipscomb, Lawrenceville 2021

Staff Liaison

Paula J. Frederick, Atlanta 2021

Professional Liability Insurance Committee
Meeting of July 16, 2020
Via Zoom

MINUTES

The meeting was called to order at 10:05 a.m.

Attendance:

Committee members: Christopher P. Twyman, Gregg Conley, J. Hamilton Garner, Brandon Goldberg, Warren Hinds, Linley Jones, Herman Kilgore, Daniel J. O'Connor, Shannon Sprinkle, and Meredith W. Sutton.

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

Approval of Meeting Minutes:

The Committee approved the Minutes from the January 10, 2020 meeting.

Discussion Items:

The committee decided to take a yes/no vote on each option. Once all the votes are submitted, the committee will meet to discuss the results. The committee will decide on one option to recommend to the Board of Governors for an up or down vote.

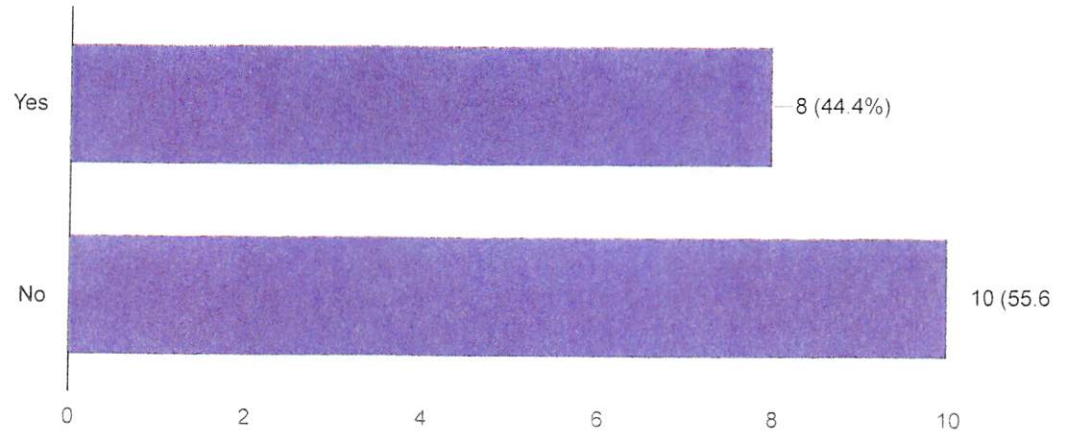
The recommendation will go to President Jones after our next meeting. She can inform the full Board of the recommendation to provide time for consideration by the Board and a vote at the Fall meeting.

The next meeting will be via Zoom within the next two weeks.

The meeting adjourned at 10:35 a.m.

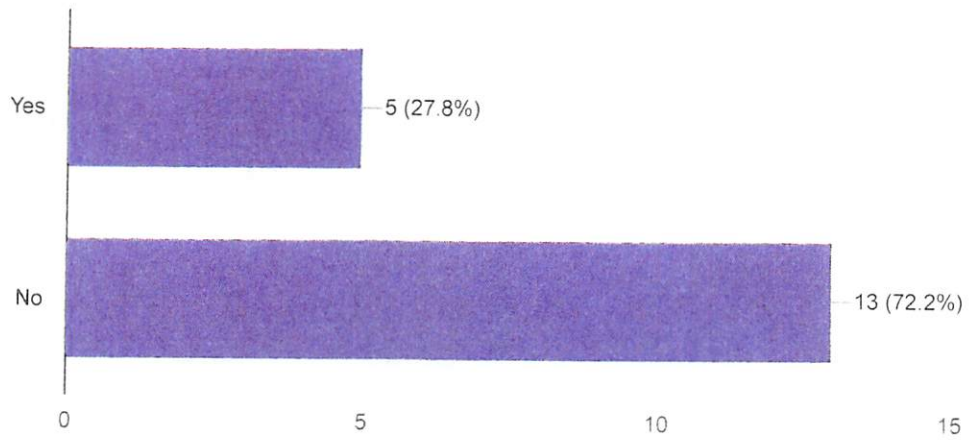
Mandatory Disclosure Requirement (Option 1)

18 responses



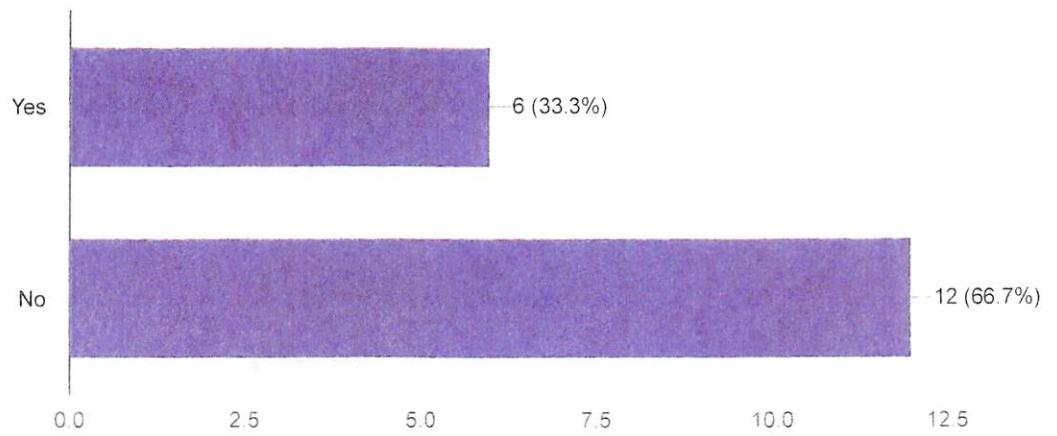
Mandatory Disclosure Requirement with Voluntary Assessment (Option 2)

18 responses



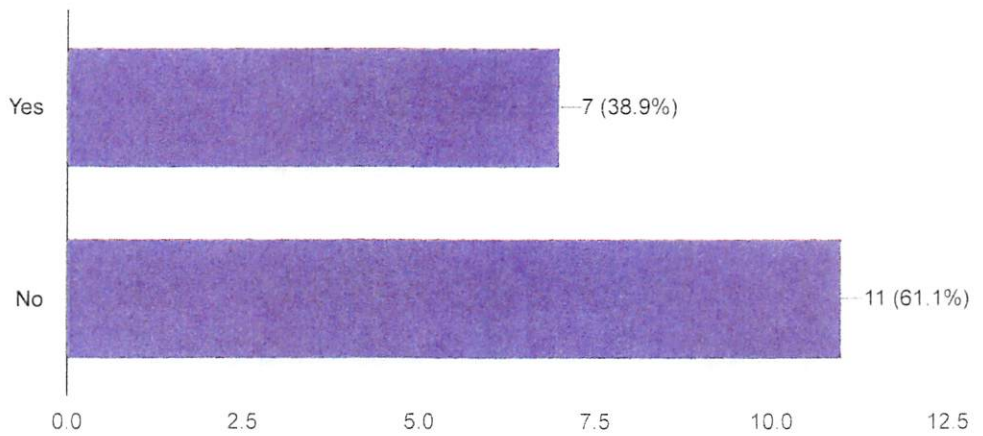
Mandatory Disclosure Requirement with Mandatory CLE for Lawyers Without Insurance (Option 3)

18 responses



Mandatory Insurance Requirement (Option 4)

18 responses



1 OPTION 1

2 Mandatory Disclosure Requirement

3
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.

31

32

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,"

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

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

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

68

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 2020-2021, 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

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

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

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

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

113

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.

Revised Option 1—CPIPLI options as of July 2020

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