



Dear Fellow Bar Member:

I am honored to serve as the chair of the Professional Liability Insurance (PLI) Committee. This year's committee has taken a fresh look at the issue of mandatory insurance coverage and has considered the feedback that you and other Bar members have provided. We have modified the draft rule that was presented to the Board last spring, but we also want to present three other options for discussion and feedback:

**Option One** would require all lawyers in private practice to disclose on their dues statement whether they are covered by a malpractice insurance policy. The information would be published in the member's listing in the online Member Directory. Lawyers in private practice who fail to disclose would go out of good standing on Sept. 1 of the Bar year, which is the same date that members who do not pay their license fees cease to be in good standing. To return to good standing the member would need to make the disclosure to the Membership Department of the Bar. Lawyers who do have coverage would not be required to provide information about the insurance company, policy number or policy limits.

**Option Two** would include all of the provisions of Option One, with an additional provision encouraging lawyers who are not covered by a PLI policy to take a free voluntary self-assessment course provided by the Bar online and designed to evaluate the lawyer's practice for the risk of malpractice. The assessment would be modeled on one used in Colorado. Members could receive CLE credit upon completion of the course. The results would be confidential and members would receive information about resources to help reduce the risk of a malpractice claim.

**Option Three** would include all of the provisions of Options One and Two, with two changes: 1) the self-assessment course (Proactive Management-Based Assistance) would be mandatory for all lawyers who are not covered by a PLI policy, and 2) the information would not be published on the website. If the lawyer failed to make the disclosure or, if not covered, to either complete the assessment or to obtain coverage within one year of the required disclosure date, he or she would go out of good standing.

**Option Four** is the proposal that requires lawyers in private practice to be covered by a PLI policy. We have amended the provision that required the coverage to be non-eroding so that it would only apply to policies with minimal limits. This option would require lawyers to obtain or be covered by a PLI policy and to report that fact to the Bar on the dues statement. Members who do not comply would go out of standing as of Sept. 1 of the Bar year.

The draft language for each of the options is attached.

The committee will be hosting multiple Town Hall meetings over the next few months. These meetings will be announced on [www.gabar.org](http://www.gabar.org) under News and an email will be sent to members in the nearby circuits. Please attend if you can. Committee members will be present to hear your thoughts on the current proposal and other options or to answer any questions that you have.

As always, the committee welcomes your comments as we continue with this important work.

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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) 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.
- c) 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.
- d) The State Bar of Georgia encourages those members who are not covered by a policy of professional liability insurance to complete the Bar's voluntary online self-assessment of the operation of their law practice and to avail themselves of the resources which it recommends to address any deficiencies identified by the self-assessment.
- e) The information required by part (a) of 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 Rule shall be returned to good standing upon making the disclosure required in subpart (a) to the Membership 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. Members whose practice consists solely of serving as an arbitrator or mediator and members who do not represent clients are exempt from the provisions of this rule.

(b) Each lawyer shall maintain, for a period of six years from the date the coverage is reported, documentation showing the name of the insurer, the policy number, the amount of coverage and the term of the policy, and shall produce such documentation at the request of the State Bar of Georgia.

(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

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

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

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

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OPTION 4  
Mandatory Insurance Requirement

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**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 occurrence 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 so certify by providing the name of the insurance company and the policy number on the annual license fee notice, and 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 “yes,” “no,” or “exempt.”

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

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