

Proposed Rule 1.4.1 [3-410]

“Disclosure of Professional Liability Insurance”

(Draft #6, 04/01/10)

Summary: Proposed Rule 1.4.1 is based on rule 3-410, which was adopted by the Supreme Court and became operative on January 1, 2010. Rule 3-410 requires lawyers who do not have professional liability insurance to disclose that fact to clients. Rule 3-410 exempts government lawyers and in-house counsel with regard to the representation of their employer. Proposed Rule 1.4.1 largely tracks rule 3-410 but incorporates the Model Rule format and style conventions, and exempts from the rule court-appointed lawyers as to those matters in which they have been appointed.

Comparison with ABA Counterpart

Rule	Comment
<input type="checkbox"/> ABA Model Rule substantially adopted	<input type="checkbox"/> ABA Model Rule substantially adopted
<input type="checkbox"/> ABA Model Rule substantially rejected	<input type="checkbox"/> ABA Model Rule substantially rejected
<input type="checkbox"/> Some material additions to ABA Model Rule	<input type="checkbox"/> Some material additions to ABA Model Rule
<input type="checkbox"/> Some material deletions from ABA Model Rule	<input type="checkbox"/> Some material deletions from ABA Model Rule
<input checked="" type="checkbox"/> No ABA Model Rule counterpart*	<input checked="" type="checkbox"/> No ABA Model Rule counterpart*

Primary Factors Considered

Existing California Law

Rule	RPC 3-410
Statute	Repealed Bus. & Prof. Code §§ 6147 & 6148.
Case law	

State Rule(s) Variations (In addition, see provided excerpt of selected state variations.)

Other Primary Factor(s)

*NOTE: While there is no ABA Model Rule of Professional Conduct, the ABA has adopted a Model Court Rule which requires a lawyer to certify to the state’s attorney regulatory body (State Bar or Sup. Ct.) whether the lawyer is covered by professional liability insurance.

Rule Revision Commission Action/Vote to Recommend Rule Adoption

(13 Members Total – votes recorded may be less than 13 due to member absences)

Approved on 10-day Ballot, Less than Six Members Opposing Adoption

Vote (see tally below)

Favor Rule as Recommended for Adoption 9

Opposed Rule as Recommended for Adoption 1

Abstain 0

Approved on Consent Calendar

Approved by Consensus

Commission Minority Position, Known Stakeholders and Level of Controversy

Minority Position Included. (See Introduction): Yes No

No Known Stakeholders

The Following Stakeholders Are Known:

Very Controversial – Explanation:

Moderately Controversial – Explanation:

Not Controversial

COMMISSION FOR THE REVISION OF THE RULES OF PROFESSIONAL CONDUCT

Proposed Rule 1.4.1* Disclosure of Professional Liability Insurance*

April 2010

(Draft rule following consideration of public comment.)

INTRODUCTION:

Proposed Rule 1.4.1 is based on rule 3-410, which was adopted by the Supreme Court in July 2009 and became operative on January 1, 2010. Rule 3-410 requires lawyers who do not have professional liability insurance to disclose that fact to clients. Rule 3-410 exempts government lawyers and in-house counsel with regard to the representation of their employer.

Proposed Rule 1.4.1 largely tracks rule 3-410 but incorporates the Model Rule format and style conventions, and exempts from the Rule court-appointed lawyers as to those matters in which they have been appointed. See Explanation of Changes for paragraph (c) and Comment [5].

* Proposed Rule 1.4.1, Draft 6 (04/01/10).

RRC - 3-410 [1-4-1] - Compare - Introduction - DFT4.1 (04-15-10).doc

<p align="center">No Comparable ABA Model Rule (Text provided is current California Rule 3-410)</p>	<p align="center">Commission's Proposed Rule* (Redline/strikeout showing changes to the current California Rule 3-410)</p>	<p align="center"><u>Explanation of Changes to California Rule 3-410</u></p>
<p>(A) A member who knows or should know that he or she does not have professional liability insurance shall inform a client in writing, at the time of the client's engagement of the member, that the member does not have professional liability insurance whenever it is reasonably foreseeable that the total amount of the member's legal representation of the client in the matter will exceed four hours.</p>	<p>(Aa) A member-lawyer who knows or should know that he or she does not have professional liability insurance shall inform a client in writing, at the time of the client's engagement of the memberlawyer, that the member-lawyer does not have professional liability insurance whenever it is reasonably foreseeable that the total amount of the memberlawyer's legal representation of the client in the matter will exceed four hours.</p>	<p>The word "member" is changed to "lawyer" throughout the Rule to conform to the format and style of the proposed Rules, which is based upon that of the Model Rules.</p> <p>Paragraph "(A)" has been changed to paragraph "(a)" to conform to the format and style of the proposed Rules.</p>
<p>(B) If a member does not provide the notice required under paragraph (A) at the time of a client's engagement of the member, and the member subsequently knows or should know that he or she no longer has professional liability insurance during the representation of the client, the member shall inform the client in writing within thirty days of the date that the member knows or should know that he or she no longer has professional liability insurance.</p>	<p>(Bb) If a memberlawyer does not provide the notice required under paragraph (Aa) at the time of a client's engagement of the memberlawyer, and the memberlawyer subsequently knows or should know that he or she no longer has professional liability insurance during the representation of the client, the memberlawyer shall inform the client in writing within thirty days of the date that the memberlawyer knows or should know that he or she no longer has professional liability insurance.</p>	<p>See Explanation of Changes to Paragraph (a).</p>

* Proposed Rule 1.4.1, Draft 6 (04/04/10). Redline comparisons are to current rule 3-410.

<p align="center">No Comparable ABA Model Rule (Text provided is current California Rule 3-410)</p>	<p align="center">Commission's Proposed Rule* (Redline/strikeout showing changes to the current California Rule 3-410)</p>	<p align="center"><u>Explanation of Changes to California Rule 3-410</u></p>
<p>(C) This rule does not apply to a member who is employed as a government lawyer or in-house counsel when that member is representing or providing legal advice to a client in that capacity.</p>	<p>(C) This rule<u>Rule</u> does not apply to a member<u>lawyer</u> who is employed as a government lawyer or in-house counsel when that member<u>lawyer</u> is representing or providing legal advice to a client in that capacity. <u>or to a court-appointed lawyer in a criminal or civil action or proceeding with respect to the matter in which the lawyer has been appointed.</u></p>	<p>Paragraph (c) has been modified to include court-appointed lawyers in criminal and civil matters who represent or provide advice to clients in that capacity. The change is recommended in response to concerns raised by criminal defense lawyers and civil lawyers who regularly serve on panels as court appointed counsel for indigent clients. The public policy of encouraging lawyers to serve as court appointed counsel merits including these lawyers along with government lawyers and full time in house counsel in the exception to the rule.</p> <p>"Member" has also been changed to "lawyer." See Explanation of Changes to Paragraph (a).</p>
<p>(D) This rule does not apply to legal services rendered in an emergency to avoid foreseeable prejudice to the rights or interests of the client.</p>	<p>(D) This rule<u>Rule</u> does not apply to legal services rendered in an emergency to avoid foreseeable prejudice to the rights or interests of the client.</p>	<p>See Explanation of Changes to Paragraph (a).</p>
<p>(E) This rule does not apply where the member has previously advised the client under Paragraph (A) or (B) that the member does not have professional liability insurance.</p>	<p>(E) This rule<u>Rule</u> does not apply where the member<u>lawyer</u> has previously advised the client under Paragraph<u>paragraph</u> (A<u>Aa</u>) or (B<u>Bb</u>) that the member<u>lawyer</u> does not have professional liability insurance.</p>	<p>See Explanation of Changes to Paragraph (a).</p>

<p align="center">No Comparable ABA Model Rule (Text provided is current California Rule 3-410)</p>	<p align="center">Commission’s Proposed Rule* (Redline/strikeout showing changes to the current California Rule 3-410)</p>	<p align="center">Explanation of Changes to California Rule 3-410</p>
<p>Discussion:</p> <p>[1] The disclosure obligation imposed by Paragraph (A) of this rule applies with respect to new clients and new engagements with returning clients.</p>	<p>Discussion<u>Comment</u>:</p> <p>[1] The disclosure obligation imposed by Paragraph (Aa) of this rule applies with respect to new clients and new engagements with returning clients.</p>	<p>Comment [1] has been modified to conform to the format and style of the proposed Rules. See Explanation of Changes to Paragraph (a).</p>
<p>[2] A member may use the following language in making the disclosure required by Rule 3-410(A), and may include that language in a written fee agreement with the client or in a separate writing:</p> <p><i>"Pursuant to California Rule of Professional Conduct 3-410, I am informing you in writing that I do not have professional liability insurance."</i></p>	<p>[2] A member<u>lawyer</u> may use the following language in making the disclosure required by Rule 3-410<u>paragraph (Aa)</u>, and may include that language in a written fee agreement with the client or in a separate writing:</p> <p><i>"Pursuant to California Rule of Professional Conduct 3-410<u>1.4.1</u>, I am informing you in writing that I do not have professional liability insurance."</i></p>	<p>"Member" has been changed to "lawyer." The reference to "Rule 3-410(A)" has been changed to "paragraph (a)" to conform to the format and style of the proposed Rules.</p> <p>The reference to "3-410" in the form notice has been changed to "1.4.1" to conform to the rule numbering system the Commission recommends for the proposed Rules, which largely tracks the Model Rule numbering system.</p>
<p>[3] A member may use the following language in making the disclosure required by Rule 3-410(B):</p> <p><i>"Pursuant to California Rule of Professional Conduct 3-410, I am informing you in writing that I no longer have professional liability insurance."</i></p>	<p>[3] A member<u>lawyer</u> may use the following language in making the disclosure required by Rule 3-410<u>paragraph (Bb)</u>:</p> <p><i>"Pursuant to California Rule of Professional Conduct 3-410<u>1.4.1</u>, I am informing you in writing that I no longer have professional liability insurance."</i></p>	<p>See Explanation of Changes to Comment [1].</p> <p>See Explanation of Changes to Comment [2].</p>

<p align="center">No Comparable ABA Model Rule (Text provided is current California Rule 3-410)</p>	<p align="center">Commission’s Proposed Rule* (Redline/strikeout showing changes to the current California Rule 3-410)</p>	<p align="center"><u>Explanation of Changes to California Rule 3-410</u></p>
<p>[4] Rule 3-410(C) provides an exemption for a "government lawyer or in-house counsel when that member is representing or providing legal advice to a client in that capacity." The basis of both exemptions is essentially the same. The purpose of this rule is to provide information directly to a client if a member is not covered by professional liability insurance. If a member is employed directly by and provides legal services directly for a private entity or a federal, state or local governmental entity, that entity presumably knows whether the member is or is not covered by professional liability insurance. The exemptions under this rule are limited to situations involving direct employment and representation, and do not, for example, apply to outside counsel for a private or governmental entity, or to counsel retained by an insurer to represent an insured.</p>	<p>[4] Rule 3-410Paragraph (C) in part provides an exemption for a "government lawyer or in-house counsel when that memberlawyer is representing or providing legal advice to a client in that capacity." The basis of both exemptions is essentially the same. The purpose of this ruleRule is to provide information directly to a client if a memberlawyer is not covered by professional liability insurance. If a memberlawyer is employed directly by and provides legal services directly for a private entity or a federal, state or local governmental entity, that entity presumably knows whether the memberlawyer is or is not covered by professional liability insurance. The exemptions under this rulefor government lawyers and in-house counsels are limited to situations involving direct employment and representation, and do not, for example, apply to outside counsel for a private or governmental entity, or to counsel retained by an insurer to represent an insured.</p>	<p>"Rule 3-410(C)" has been changed to "Paragraph (c)" and "member" has been changed to "lawyer" to conform to the format and style of the proposed Rules, which are based on the Model Rules.</p> <p>The phrase, "for government lawyers and in-house counsel" has been substituted for "under this Rule" because paragraph (c) now also refers to "court-appointed" lawyers and the rationale underlying the extension of the exemption to the latter is not the same as for government lawyers or in-house counsel. See Explanation of Changes for paragraph (c).</p>
	<p>[5] Paragraph (c) also provides an exemption for "a court-appointed lawyer in a criminal or civil action or proceeding with respect to the matter in which the lawyer has been appointed." A lawyer must provide notification in all other actions and proceedings as required by paragraphs (a) and (b).</p>	<p>Comment [5] is new. It has been added to explain the limited scope of the paragraph (c) exemption for court-appointed lawyers. The comment clarifies that such lawyers must comply with the notification requirements of paragraphs (a) and (b) in actions and proceedings where the lawyers are not serving by court appointment.</p>

Rule 1.4.1: Disclosure of Professional Liability Insurance

(Comparison of the Current Proposed Rule to the initial Public Comment Draft)

- (a) A lawyer who knows or should know that he or she does not have professional liability insurance shall inform a client in writing, at the time of the client's engagement of the lawyer, that the lawyer does not have professional liability insurance whenever it is reasonably foreseeable that the total amount of the lawyer's legal representation of the client in the matter will exceed four hours.
- (b) If a lawyer does not provide the notice required under paragraph (a) at the time of a client's engagement of the lawyer, and the lawyer subsequently knows or should know that he or she no longer has professional liability insurance during the representation of the client, the lawyer shall inform the client in writing within thirty days of the date that the lawyer knows or should know that he or she no longer has professional liability insurance.
- (c) This Rule does not apply to a lawyer who is employed as a government lawyer or in-house counsel when that lawyer is representing or providing legal advice to a client in that capacity, or to a court-appointed lawyer in a criminal or civil action or proceeding, ~~but only as with respect to those actions or proceedings~~ the matter in which the lawyer has been appointed.
- (d) This Rule does not apply to legal services rendered in an emergency to avoid foreseeable prejudice to the rights or interests of the client.
- (e) This Rule does not apply where the lawyer has previously advised the client under paragraph (a) or (b) that the lawyer does not have professional liability insurance.

COMMENT

- [1] The disclosure obligation imposed by Paragraph (a) ~~of this Rule~~ applies with respect to new clients and new engagements with returning clients.
- [2] A lawyer may use the following language in making the disclosure required by paragraph (a), and may include that language in a written fee agreement with the client or in a separate writing:

"Pursuant to California Rule of Professional Conduct 1.4.1, I am informing you in writing that I do not have professional liability insurance."
- [3] A lawyer may use the following language in making the disclosure required by paragraph (b):

"Pursuant to California Rule of Professional Conduct 1.4.1, I am informing you in writing that I no longer have professional liability insurance."
- [4] Paragraph (c) in part provides an exemption for a "government lawyer or in-house counsel when that lawyer is representing or providing legal advice to a client in that capacity." The basis of both exemptions is essentially the same. The purpose of this Rule is to provide information directly to a client if a lawyer is not covered by professional liability insurance. If a lawyer is employed directly by and provides legal services directly for a private entity or a federal, state or local governmental entity, that entity presumably knows whether the lawyer

is or is not covered by professional liability insurance. The exemptions for government lawyers and in-house counsels are limited to situations involving direct employment and representation, and do not, for example, apply to outside counsel for a private or governmental entity, or to counsel retained by an insurer to represent an insured.

- [5] Paragraph (c) also provides an exemption for “a court-appointed lawyer in a criminal or civil action or proceeding, ~~but only as~~ with respect to those actions or proceedings ~~the matter~~ in which the lawyer has been appointed.” A lawyer must provide notification in all other actions and proceedings as required by paragraphs (a) and (b).

Rule 1.4.1: Disclosure of Professional Liability Insurance

(Commission's Proposed Rule – Clean Version)

- (a) A lawyer who knows or should know that he or she does not have professional liability insurance shall inform a client in writing, at the time of the client's engagement of the lawyer, that the lawyer does not have professional liability insurance whenever it is reasonably foreseeable that the total amount of the lawyer's legal representation of the client in the matter will exceed four hours.
- (b) If a lawyer does not provide the notice required under paragraph (a) at the time of a client's engagement of the lawyer, and the lawyer subsequently knows or should know that he or she no longer has professional liability insurance during the representation of the client, the lawyer shall inform the client in writing within thirty days of the date that the lawyer knows or should know that he or she no longer has professional liability insurance.
- (c) This Rule does not apply to a lawyer who is employed as a government lawyer or in-house counsel when that lawyer is representing or providing legal advice to a client in that capacity, or to a court-appointed lawyer in a criminal or civil action or proceeding with respect to the matter in which the lawyer has been appointed.
- (d) This Rule does not apply to legal services rendered in an emergency to avoid foreseeable prejudice to the rights or interests of the client.
- (e) This Rule does not apply where the lawyer has previously advised the client under paragraph (a) or (b) that the lawyer does not have professional liability insurance.

COMMENT

- [1] The disclosure obligation imposed by Paragraph (a) applies with respect to new clients and new engagements with returning clients.
- [2] A lawyer may use the following language in making the disclosure required by paragraph (a), and may include that language in a written fee agreement with the client or in a separate writing:

"Pursuant to California Rule of Professional Conduct 1.4.1, I am informing you in writing that I do not have professional liability insurance."
- [3] A lawyer may use the following language in making the disclosure required by paragraph (b):

"Pursuant to California Rule of Professional Conduct 1.4.1, I am informing you in writing that I no longer have professional liability insurance."
- [4] Paragraph (c) in part provides an exemption for a "government lawyer or in-house counsel when that lawyer is representing or providing legal advice to a client in that capacity." The basis of both exemptions is essentially the same. The purpose of this Rule is to provide information directly to a client if a lawyer is not covered by professional liability insurance. If a lawyer is employed directly by and provides legal services directly for a private entity or a federal, state or local governmental entity, that entity presumably knows whether the lawyer is or is not covered by professional liability insurance. The exemptions

for government lawyers and in-house counsels are limited to situations involving direct employment and representation, and do not, for example, apply to outside counsel for a private or governmental entity, or to counsel retained by an insurer to represent an insured.

- [5] Paragraph (c) also provides an exemption for “a court-appointed lawyer in a criminal or civil action or proceeding with respect to the matter in which the lawyer has been appointed.” A lawyer must provide notification in all other actions and proceedings as required by paragraphs (a) and (b).

**Rule 1.4.1 Insurance Disclosure
[Sorted by Commenter]**

**TOTAL = 5 Agree = 5
Disagree = 0
Modify = 0
NI = 0**

No.	Commenter	Position ¹	Comment on Behalf of Group?	Rule Paragraph	Comment	RRC Response
1	Anonymous	A			Although commenter did not specifically reference this rule, she expressed her support for all the rules contained in Batch 6.	No response required.
2	McIntyre, Sandra K.	A			No comment.	No response required.
3	Orange County Bar Association	A			The only change we suggest is the insertion of the word “reasonably” into the first sentence of Section (a), so that it reads: “A lawyer who knows or <u>reasonably</u> should know that he or she does not have professional liability insurance”	The Commission agrees with the commenter and has implement the requested change. The term “reasonably should know” is a defined term in proposed Rule 1.0.1(j) and is used elsewhere in the Rules.
4	San Diego County Bar Association Legal Ethics Committee	A			We approve the new rule in its entirety.	No response required.
5	Santa Clara County Bar Association	A			No comment.	No response required.

¹ A = AGREE with proposed Rule D = DISAGREE with proposed Rule M = AGREE ONLY IF MODIFIED NI = NOT INDICATED

AMERICAN BAR ASSOCIATION
 STANDING COMMITTEE ON CLIENT PROTECTION

STATE IMPLEMENTATION OF
 ABA MODEL COURT RULE ON INSURANCE DISCLOSURE

	Requires Disclosure Directly to Client (7) (AK, CA, NH, NM, OH, PA and SD)	Requires Disclosure On Annual Registration Statement¹ (18) (AZ, CO, DE, HI, ID, IL, KS, MA, MI, MN, NE, NV, NC, ND, RI, VA, WA and WV)	Considering Adoption (4) (ME, NY, UT and VT)	Information Made Available to Public	Other Info (<i>See also, Oregon:</i> Professional liability insurance mandated) (AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule)
AL					
AK Adopted effective 7/15/93; Amended effective 4/15/2000.	Alaska Rules of Professional Conduct, Rule 1.4			N/A	
AZ Effective 1/1/07		Supreme Court Rule 32(c), effective January 1, 2007. http://www.supreme.state.az.us/rules/ramd_pdf/R-04-0025.pdf		Yes. State Bar of Arizona website.	
AR					On January 21, 2006 the House of Delegates of the Arkansas Bar Association voted not to adopt a disclosure rule.
CA Effective 1/1/2010	Rule 3-410. Disclosure of Professional Liability Insurance. California Rules of professional Conduct.  Supreme Ct Order adopting RPC 3-410			N/A	

	Requires Disclosure Directly to Client (7) (AK, CA, NH, NM, OH, PA and SD)	Requires Disclosure On Annual Registration Statement¹ (18) (AZ, CO, DE, HI, ID, IL, KS, MA, MI, MN, NE, NV, NC, ND, RI, VA, WA and WV)	Considering Adoption (4) (ME, NY, UT and VT)	Information Made Available to Public	Other Info (<i>See also, Oregon:</i> Professional liability insurance mandated) (AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule)
CO Effective 1/1/09		X http://www.courts.state.co.us/Media/Press_Docs/attorney%20reg%20insurance%20disclosure%20FINAL.pdf		X C.R.C.P. 227: (c) Availability of Information. The information provided by the lawyer regarding professional liability insurance shall be available to the public through the Supreme Court Office of Attorney Registration and on the Supreme Court Office of Attorney Registration website.	Colorado: Supreme Court requires Colorado lawyers to disclose insurance status <i>Private-practice attorneys must make disclosure in annual registration.</i> DENVER – Beginning Jan. 1, 2009, all
CT					At its February 23, 2009 meeting, the Connecticut Superior Court Rules Committee voted unanimously to deny a proposal to adopt an insurance disclosure rule. http://www.jud.ct.gov/Committees/rules/rules_minutes_022309.pdf

	Requires Disclosure Directly to Client (7) (AK, CA, NH, NM, OH, PA and SD)	Requires Disclosure On Annual Registration Statement¹ (18) (AZ, CO, DE, HI, ID, IL, KS, MA, MI, MN, NE, NV, NC, ND, RI, VA, WA and WV)	Considering Adoption (4) (ME, NY, UT and VT)	Information Made Available to Public	Other Info (See also, Oregon: Professional liability insurance mandated) (AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule)
DE Beginning with 1007 Annual Registration Form.		Registration Form		2007 Registration Form no longer available to public. 2009 Registration Form: http://courts.delaware.gov/forms/download.aspx?id=27968	
DC					
FL					Have declined to adopt the Model Court Rule.
GA					
HI Effective 12/1/07		RSCH 2.17(d) http://www.state.hi.us/jud/ctrules/rsch.htm#Rule_17		N/A	
ID Effective 10/1/06		Idaho Bar Commission Rule 302(7), effective October 1, 2006		Available to the public upon request.	
IL Effective 10/1/04		Amended Illinois Supreme Court Rule 756		Yes http://www.iardc.org/malpracticeinfo.html	
KS Effective 9/6/05		Supreme Court Rule 208A		Yes, by means designated by the Court.	http://www.kscourts.org/rules/Rule-Info.asp?r1=Rules+Relating+to+Discipline+of+Attorneys&r2=281
KY					On or about November 14,

	Requires Disclosure Directly to Client (7) (AK, CA, NH, NM, OH, PA and SD)	Requires Disclosure On Annual Registration Statement¹ (18) (AZ, CO, DE, HI, ID, IL, KS, MA, MI, MN, NE, NV, NC, ND, RI, VA, WA and WV)	Considering Adoption (4) (ME, NY, UT and VT)	Information Made Available to Public	Other Info (<i>See also, Oregon:</i> Professional liability insurance mandated) (AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule)
					2006 the KY Sup. Ct. declined to adopt a disclosure rule.
LA					
ME			X		The Advisory Committee on the Rules of Professional Conduct is studying the proposed rule on insurance disclosure. On Maine's annual registration forms, there is a question regarding insurance. No detail is required. It is merely do you have professional liability insurance, 'yes' or 'no'
MD					
MA Effective 9/1/06		Rule 4:02 Effective Sept. 1, 2006. http://www.massrep.orts.com/courtrules/sjcrules.htm#4:02		Yes.	

	Requires Disclosure Directly to Client (7) (AK, CA, NH, NM, OH, PA and SD)	Requires Disclosure On Annual Registration Statement¹ (18) (AZ, CO, DE, HI, ID, IL, KS, MA, MI, MN, NE, NV, NC, ND, RI, VA, WA and WV)	Considering Adoption (4) (ME, NY, UT and VT)	Information Made Available to Public	Other Info (<i>See also, Oregon:</i> Professional liability insurance mandated) (AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule)
MI Beginning with the notice issued for fiscal year 2003-2004		Administrative Order No. 2003-5, dated August 6, 2003 http://www.icle.org/contentfiles/milawnews/Rules/Ao/2003-27_08-06-03%20_or.html		No.	
MN Effective 10/1/06		Rule 6 of the Rules of the Supreme Court on Lawyer Registration. Annual Reporting of Professional Liability Insurance Coverage (Effective October 1, 2006) http://www.courts.state.mn.us/documents/0/Public/Clerks_Office/July%202006%20Lawyer%20Registration%20Amend.doc		Yes. Rule 7. Access to Lawyer Registration Records	
MO					Not currently being considered.
NE Effective 11/1/03	http://casemaker.nebar.com/pdfs/nsbainfo/rules.pdf	Rules Creating, Controlling, and Regulating Nebraska State Bar Association, Article III, Membership, paragraph (f).		Shall be made available to the public.	
NV Adopted 9/13/05 and effective 11/13/05	http://www.leg.state.nv.us/CourtRules/scr.html	Amended Supreme Court Rule 79 (Adopted September 13, 2005 and effective November 13, 2005)		Yes. It will be part of the lawyer's public record available by phone or email inquiry.	

	Requires Disclosure Directly to Client (7) (AK, CA, NH, NM, OH, PA and SD)	Requires Disclosure On Annual Registration Statement¹ (18) (AZ, CO, DE, HI, ID, IL, KS, MA, MI, MN, NE, NV, NC, ND, RI, VA, WA and WV)	Considering Adoption (4) (ME, NY, UT and VT)	Information Made Available to Public	Other Info (<i>See also, Oregon:</i> Professional liability insurance mandated) (AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule)
NH Effective 3/1/03	New Hampshire Rules of Professional Conduct, Rule 1.19. (Disclosure of Information to the Client) http://www.courts.state.nh.us/supreme/orders/20072507.pdf			N/A	
NM Effective 11/2/09	Rule 16-104 Rules of Professional Conduct http://www.nmcompcomm.us/nmrules/nmruleset.aspx?rs=16				
NY			Under consideration.		
NC Adopted 10/1/03		North Carolina-Rules and Regulations, Subchapter A, Organization of the North Carolina State Bar, Section .0204, Certificate of Insurance Coverage		On the Bar's website: http://www.ncbar.com/home/member_directory.asp and http://www.ncbar.com/InsuranceDisclosures/e.asp	The North Carolina State Bar Association has proposed that the Rule Requiring Certification of Insurance Coverage be eliminated. http://www.ncbar.gov/rules/proprul.asp

	Requires Disclosure Directly to Client (7) (AK, CA, NH, NM, OH, PA and SD)	Requires Disclosure On Annual Registration Statement¹ (18) (AZ, CO, DE, HI, ID, IL, KS, MA, MI, MN, NE, NV, NC, ND, RI, VA, WA and WV)	Considering Adoption (4) (ME, NY, UT and VT)	Information Made Available to Public	Other Info (<i>See also, Oregon:</i> Professional liability insurance mandated) (AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule)
ND Effective 8/1/09	http://www.court.state.nd.us/rules/Conduct/frameset.htm	Amended Rule 1.15 of the North Dakota Rules of Professional Conduct		Yes	
OH Effective 7/1/01	Ohio Rules of Professional Conduct, Rule 1.4(c) http://www.sconet.state.oh.us/Atty-Svcs/ProfConduct/rules/default.asp#Rule14			N/A	Lawyers who hire themselves out to do research and writing for other lawyers need not comply. (Ohio Supreme Court Bd. of Commissioners on Grievances and Discipline, Op. 2005-1, 2/4/05).
OR					All lawyers required to maintain professional liability insurance.
PA Effective 7/1/06	Pennsylvania adopted RPC 1.4(c), effective 7/1/2006. http://www.aop.org/OpPosting/Supreme/out/50drd.1attach.pdf			N/A	
RI Effective 4/15/07		Rule 1(b) of Article IV "Periodic Registration of Attorneys". (Effective April 15, 2007)		http://www.courts.state.ri.us/supreme/pdf-files/ORDER_Amendments_to_RI_Supreme_Court_Article_IV_Rule_1_(Attorney_registration).pdf	

	Requires Disclosure Directly to Client (7) (AK, CA, NH, NM, OH, PA and SD)	Requires Disclosure On Annual Registration Statement¹ (18) (AZ, CO, DE, HI, ID, IL, KS, MA, MI, MN, NE, NV, NC, ND, RI, VA, WA and WV)	Considering Adoption (4) (ME, NY, UT and VT)	Information Made Available to Public	Other Info (<i>See also, Oregon:</i> Professional liability insurance mandated) (AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule)
SC					
SD Effective 1/1/99	South Dakota Model Rules of Professional Conduct, Rule 1.4 (Communication)	(SD also requires lawyers to disclose on their annual registration statements.) http://www.sdbar.org/memberspublic/Information/2007_Certificate.pdf		N/A	SD has 7 years of certification to the Supreme Court - 97% have at least \$100,000 in coverage, together with name and policy number of the policy. Over the past 7 years, the percentage has never dropped below 96% nor been higher than 97.5% in any given year.
TX					By letter dated April 14, 2010 to the President of the State Bar of Texas, the Supreme Court of Texas declined to adopt an insurance disclosure rule. http://www.supreme.courts.state.tx.us/advisories/pdf/WBJ_Letter_Mandatory_Insurance_Disclosure_041410.PDF
UT			Rule 1.4 Proposed Amendment - Disclosure of Malpractice Insurance Rule 1.4. Communication. http://webster.utahbar.org/news/2005/07/		Required to disclose on registration statement but no Rule enacted. Bar will collect date on coverage for a 2-year period (2009-2011).
			On December 28, 2006 the Civil Rules		

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VT			Committee proposed that the Vermont Supreme Court consider adoption of a rule requiring insurance disclosure, not in the Vermont Rules of Professional Conduct, but as part of the Rules for Licensing of Attorneys. In adopting the rule, consideration should be given to requiring disclosure of the liability limits and deductibles of the coverage.		
VA Amended effective 7/1/89; 1/1/90; 4/1/90.		Rules of the Virginia Supreme Court, Part 6 § 4 Paragraph 18. Financial Responsibility		Yes, on Bar's website: (See, www.vsb.org , under the headings Public Information, Attorney Records Search, Attorneys without Malpractice Insurance). Total Members Answering PL Questions: 25,921 - FY2005 Private Practice – No Insurance: 1,892 (11%) Private Practice – With Insurance: 14,703 (89%)	Virginia State Bar is seeking comments on a proposed Rule requiring legal malpractice insurance. Comments are due by September 26, 2008. http://www.vsb.org/site/news/item/proposed-insurance-requirement/
WA Effective 7/1/07		Admission to Practice Rule 26 - Insurance Disclosure.		Yes.	

	Requires Disclosure Directly to Client (7) (AK, CA, NH, NM, OH, PA and SD)	Requires Disclosure On Annual Registration Statement¹ (18) (AZ, CO, DE, HI, ID, IL, KS, MA, MI, MN, NE, NV, NC, ND, RI, VA, WA and WV)	Considering Adoption (4) (ME, NY, UT and VT)	Information Made Available to Public	Other Info (<i>See also, Oregon:</i> Professional liability insurance mandated) (AR, CT, FL, KY and TX have decided not to adopt the Model Court Rule)
		(Effective July 1, 2007) http://www.courts.wa.gov/court_Rules/proposed/2005Dec/APR26.doc .			
WV Effective 5/6/05		State Bar By-Laws – Article III (A) - Financial Responsibility Disclosure http://www.state.wv.us/wvsca/rules/ArticleIII.htm		Yes. ... shall be made available to the public by such means as may be designated by the West Virginia State Bar.	
WI					
WY					

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