

Proposed Amendments to Part Six, Section IV, Paragraph 18

The Virginia State Bar's Committee on Lawyer Malpractice Insurance is proposing the following amendments to Part 6, Section IV, Paragraph 18 of the *Rules of the Supreme Court of Virginia*. The changes would add to the existing requirement that active members of the bar report each year on their dues statement whether or not they have malpractice insurance, a further requirement that they notify the bar within 30 days in event their liability insurance coverage lapses or terminates, unless it is simply a situation in which a change in carriers occurs with no lapse in coverage. The reason for the change is to provide something closer to real time information to members of the public about bar members who do not have malpractice insurance, rather than having this information updated only once a year at the time the annual dues statement is returned.

Any individual, business or other entity may submit written comments in support of, or in opposition to, the proposed amendments to Thomas A. Edmonds, the Executive Director of the Virginia State Bar, not later than **February 15, 2005**.

Existing Rule With Amendments Recommended by Lawyer Malpractice Insurance Committee

18. FINANCIAL RESPONSIBILITY.—In order to make available to the public information about the financial responsibility of each active member of the Virginia State Bar for professional liability claims, each such member shall, upon admission to the Bar, and with each application for renewal thereof, submit the certification required herein or obtain a waiver for good cause shown. The active member shall certify to the Bar on or before July 31 of each year: a) whether or not such member is currently covered by professional liability insurance, other than an extended reporting endorsement; b) whether or not such member is engaged in the private practice of law involving representation of clients drawn from the public, and, if so, whether the member intends to maintain professional liability insurance coverage during the period of time the member remains engaged in the private practice of law; and c) the date, amount, and court where rendered, of any unsatisfied final judgment(s) against such member, or any firm or professional corporation in which he or she has practiced, for acts, errors, or omissions (including, but not limited to, acts of dishonesty, fraud, or intentional wrongdoing) arising out of the performance of legal services by such member.

The foregoing shall be certified by each active member of the Virginia State Bar in such form as may be prescribed by the Virginia State Bar and shall be made available to the public by such means as may be designated by the Virginia State Bar.

Each active member who certifies to the bar that such member is covered by professional liability insurance shall notify the Bar in writing within thirty (30) days if the insurance policy providing coverage lapses, is no longer in effect or terminates for any reason, unless the policy is replaced with another policy and no lapse in coverage occurs.

Failure to comply with this Rule shall subject the active member to the penalties set forth in Paragraph 19 herein. An untruthful certification or unjustified failure to notify the Bar of a lapse or termination of coverage shall subject the member to appropriate disciplinary action.

“Good cause shown” as used herein shall include illness, absence from the Commonwealth of Virginia, or such cause as may be determined by the Executive Committee of the Virginia State Bar whose determination shall be final. Any determination by the Executive Committee may be reviewed by the Supreme Court upon request of the member seeking a waiver.