

MODEL COURT RULE ON INSURANCE DISCLOSURE

Adopted by the American Bar Association
House of Delegates on August 10, 2004

AMERICAN BAR ASSOCIATION

STANDING COMMITTEE ON CLIENT PROTECTION

2003-2004

Robert D. Welden, *Chair*
Seattle, Washington

Melissa DeLacerda
Stillwater, Oklahoma

Lori S. Holcomb
Tallahassee, Florida

A. Root Edmonson
Raleigh, North Carolina

Henry A. Kelly
Albuquerque, New Mexico

Gwendolyn Hodge
Little Rock, Arkansas

Lynda C. Shely
Scottsdale, Arizona

Alice E. Richmond, *Liaison*
ABA Board of Governors
Boston, Massachusetts

Carole R. Richelieu, *Liaison*
National Client Protection Organization
Honolulu, Hawaii

G. Fred Ours, *Liaison*
National Organization of Bar Counsel
Baton Rouge, Louisiana

CENTER FOR PROFESSIONAL RESPONSIBILITY

Director
Jeanne P. Gray

Client Protection Counsel
John A. Holtaway

Model Court Rule on Insurance Disclosure

PREFACE

The ABA *Model Court Rule on Insurance Disclosure* requires lawyers to disclose on their annual registration statements whether they maintain professional liability insurance. The Model Court Rule excludes from the Rule's reporting requirement those lawyers who are not engaged in the active practice of law and those who are engaged in the practice of law as full-time government lawyers or as counsel employed by an organizational client and do not represent clients outside that capacity. The Model Court Rule places an affirmative duty upon lawyers to notify the highest court whenever the insurance policy covering the lawyer's conduct lapses or is terminated. This ensures that the information reported to the highest court is accurate during the entire reporting period. Lawyers who do not comply with the Model Court Rule are not unauthorized to practice law until they comply.

The purpose of the Model Court Rule is to provide a potential client with access to relevant information related to a lawyer's representation in order to make an informed decision about whether to hire a particular lawyer. The Model Court Rule is a balanced standard that allows potential clients to obtain relevant information about a lawyer if they initiate an inquiry, while placing a modest annual reporting requirement on lawyers. The information submitted by lawyers will be made available by such means as designated by the highest court in the jurisdiction.

- A. Each lawyer admitted to the active practice of law shall certify to the [highest court of the jurisdiction] on or before [December 31 of each year]: 1) whether the lawyer is engaged in the private practice of law; 2) if engaged in the private practice of law, whether the lawyer is currently covered by professional liability insurance; 3) whether the lawyer intends to maintain insurance during the period of time the lawyer is engaged in the private practice of law; and 4) whether the lawyer is exempt from the provisions of this Rule because the lawyer is engaged in the practice of law as a full-time government lawyer or is counsel employed by an organizational client and does not represent clients outside that capacity. Each lawyer admitted to the active practice of law in this jurisdiction who reports being covered by professional liability insurance shall notify [the highest court in the jurisdiction] in writing within 30 days if the insurance policy providing coverage lapses, is no longer in effect or terminates for any reason.
- B. The foregoing shall be certified by each lawyer admitted to the active practice of law in this jurisdiction in such form as may be prescribed by the [highest court of the jurisdiction]. The information submitted pursuant to this Rule will be made available to the public by such means as may be designated by the [highest court of the jurisdiction].
- C. Any lawyer admitted to the active practice of law who fails to comply with this Rule in a timely fashion, as defined by the [highest court in the jurisdiction], may

be suspended from the practice of law until such time as the lawyer complies. Supplying false information in response to this Rule shall subject the lawyer to appropriate disciplinary action.