

Article III (A) Financial Responsibility Disclosure

§ 1. Purpose The purpose of this By-Law is to require disclosure about the financial responsibility for professional liability claims of each active lawyer admitted to practice law in West Virginia. Each lawyer, upon admission to practice law in West Virginia, and with each subsequent annual membership dues payment, shall submit the disclosure required by this By-Law.

§ 2. Disclosure Every active lawyer shall disclose to the West Virginia State Bar on or before September 1 of each year: (1) whether the lawyer is engaged in the private practice of law; (2) if so engaged, whether the lawyer is currently covered by professional liability insurance with limits of not less than \$100,000 per claim and \$300,000 policy aggregate covering generally insurable acts, errors and omissions occurring in the practice of law, other than an extended reporting endorsement; (3) if the lawyer is so engaged and not covered by professional liability insurance in the above minimum amounts, whether the lawyer has another form of adequate financial responsibility which means funds, in an amount not less than \$100,000, available to satisfy any liability of the lawyer arising from acts or omissions by the lawyer or other persons employed or otherwise retained by the lawyer and that these funds shall be available in the form of a deposit in a financial institution of cash, bank certificate of deposit or United States Treasury obligation, a bank letter of credit or a surety or insurance company bond and describing same with reasonable particularity; (4) whether there is any unsatisfied final judgment(s) after appeal against either the lawyer, or any firm or any professional corporation in which the lawyer 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 the lawyer, including the date, amount and court where the judgment(s) was rendered; and (5) 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 in-house counsel and does not represent clients outside that capacity. It is the duty of every active lawyer to report any changes which occur.

§ 3. Form and Availability to Public The foregoing shall be certified by each active lawyer admitted to practice law in West Virginia on the State Bar's Active Membership Fee Notice and shall be made available to the public by such means as may be designated by the West Virginia State Bar.

§ 4. Non-Compliance After the first day of September of each year, a penalty of \$25 shall be assessed to any active lawyer who has not complied with this By-Law. On or after this date, the Executive Director shall notify all members in non-compliance of their delinquency and that the penalty has attached. Such notice shall be given by United States mail, addressed to such member at his or her last known post office address.

§ 5. Suspension For Non-Disclosure If an active member fails to disclose by sixty days after the date of mailing the notice provided in the preceding Section (4), he or she shall be automatically suspended from active membership in the State Bar and shall not further engage in the practice of law until he or she has been reinstated. The Executive Director shall give notice of such suspension to the judges of the courts of record of the judicial circuit in which such non-compliant member principally practices, the Clerk of the Supreme Court of Appeals and such

other courts, clerks, tribunals or bodies - judicial, administrative or executive - as the Board of Governors may designate, and it shall be the duty of said judges, courts, clerks, tribunals and bodies as are so notified to refuse and deny to such member the privilege of appearing and practicing in said courts, tribunals and bodies until such time as such member shall have been reinstated as an active member. Written notice of such suspension shall be given to such non-compliant member and service thereof shall be completed upon mailing the same addressed to such non-compliant member at his or her last address appearing upon the records of the State Bar.

§ 6. Reinstatement of Members Suspended for Non-Compliance With Disclosure Whenever a member suspended solely for non-compliance with disclosure shall have paid all penalties and shall have shown that the member is in compliance with the disclosure requirements and pertinent CLE rules and requirements, he or she shall be automatically reinstated and the Executive Director shall thereupon give notice thereof to the judges, courts, clerks, tribunals and bodies to which notice has been given of the suspension of such member for the non-compliance with disclosure. In addition to the \$25 penalty authorized by Article III (A) Section 4, a penalty of \$75 shall be added to the fees owed by all members who are suspended for the non-compliance with disclosure.