

STATE OF VERMONT
SUPREME COURT
JULY TERM

Order Amending Administrative Order No. 41

Pursuant to the Vermont Constitution, Chapter II, §§ 30, 37, it is hereby ordered:

1. That Administrative Order No. 41 be amended as follows (new matter underlined; deleted matter struck through):

LICENSING OF ATTORNEYS

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§ 4. Licensing Statement. The following provisions apply to all licensing statements.

(a) *Contents.* The licensing statement must be on a form approved by the State Court Administrator and must include the following:

(1) a certification that the attorney is not obligated to pay child support or is in good standing with respect to any and all child support payable, as defined by § 14;

(2) a signed written declaration under the pains and penalties of perjury that the attorney is in good standing with respect to any and all taxes due to the State of Vermont, as defined by § 13, as of the date such declaration is made;

(3) an option for the attorney to select active, inactive, judicial, or pro bono emeritus status;

(4) current postal addresses for the attorney's office and residence;

(5) a current email address;

(6) a certification that the attorney has registered at least one current email address pursuant to Administrative Order No. 44;

(7) the attorney's pooled interest-bearing trust account number(s) (IOLTA), or an indication of exemption; ~~and~~

(8) the attorney's professional liability insurance disclosure or an indication of exemption;
and

~~(8)~~ (9) any other information deemed necessary by the State Court Administrator.

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§ 18. Professional Liability Insurance Disclosure.

(a) As part of the licensing statement required by § 4(a)(8) or as part of a “change of status” form required by the Attorney Licensing Office, attorneys who select “active status” for their law license must certify whether they are currently covered by professional liability insurance.

(b) The following attorneys are exempt from the disclosure requirement of paragraph (a):

(1) Full-time government attorneys who, but for participating in a pro bono program, do not represent clients outside their official capacity;

(2) Attorneys who are in-house counsel and who, but for participating in a pro bono program, do not represent clients outside their in-house role;

(3) Attorneys on active status and who, but for participating in a pro bono program, do not represent clients; and,

(4) Attorneys who select any license status other than “active status.”

(c) Attorneys who have a law license on active status and who report being covered by professional liability insurance must notify the State Court Administrator or designee in writing within thirty days if the insurance policy providing coverage lapses or terminates for any reason without immediate renewal or replacement with substitute coverage.

(d) The information submitted pursuant to § 18(a), (b), and (c) is publicly available after the second license renewal deadline that follows adoption of this rule.

(e) Knowingly supplying false information in response to § 18(a) or (b) or failing to comply with § 18(c) subjects attorneys to a disciplinary investigation.

Reporter’s Notes—2022 Amendment

Administrative Order 41 is amended to include provisions regarding coverage of malpractice insurance. A joint committee made of members from the Professional Responsibility Board and the Vermont Bar Association met several times, studied the approaches of several jurisdictions, and heard from a variety of individuals, including attorneys involved in attorney discipline and malpractice cases, and representatives of title and malpractice insurers. The committee proposed that the A.O. 41 be amended to require that the annual licensing statement include a section requiring lawyers to disclose their insurance status. New § 4(a)(8) implements that requirement. New § 18 provides details of the required disclosure, exempting government attorneys, in-house counsel, attorneys on active status that do not represent clients, and attorneys not on active status.

Section 18(d) provides that the information regarding insurance coverage will be publicly available from the Judiciary after a full license renewal period has passed. Attorneys renew their licenses every two years and the delay in providing this information publicly through the Judiciary is to avoid any possibility that there will be incomplete or unclear information. For example, if the rule takes effect in 2022 after the July 1 renewal date, then the information will not be publicly available until after July 1, 2024, so that it will not appear that some attorneys are uninsured when, in fact, they have simply not yet had an opportunity to report their insurance coverage. Although this information will not be immediately available from the Judiciary, prospective and current clients are able and encouraged to obtain information from their attorneys regarding malpractice insurance.

2. That this Order, as amended, will become effective September 12, 2022. The Board's Notes are advisory.

3. That the Chief Justice is authorized to report this amendment to the General Assembly in accordance with the provisions of 12 V.S.A. §1, as amended.

Done in chambers at Montpelier, Vermont this 11th day of July, 2022.



Signed by the Vermont Supreme Court

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

William D. Cohen, Associate Justice

Nancy J. Waples, Associate Justice