



## Malpractice Coverage Requirement General Information

### **IDAHO BAR COMMISSION RULE 302. Licensing Requirements.**

Following admission as a member of the Bar, an attorney may maintain membership as follows:

**(a) Active or House Counsel Member.** An Active or House Counsel Member shall:

\*\*\*

(5) Certify to the Bar (A) whether the attorney represents private clients; and (B) if the attorney represents private clients, submit proof of current professional liability insurance coverage at the minimum limit of \$100,000 per occurrence/\$300,000 annual aggregate. Each attorney admitted to the active practice of law in this jurisdiction who is required to have professional liability insurance shall identify the primary carrier and shall notify the Bar in writing within thirty (30) days if the professional liability insurance policy providing coverage lapses, is no longer in effect, or terminates for any reason, unless the policy is renewed or replaced without substantial interruption.

### **When does the Rule take effect?**

Lawyers subject to the rule will be required to report on their professional liability insurance in their 2018 licensing forms (mailed November 2017, due to ISB February 1, 2018).

### **When do I report that I have coverage?**

Lawyers subject to rule will be required to report on their professional liability insurance coverage annually during licensing. Unless there is a lapse or termination in coverage that lasts longer than 30 days, this is the only time that lawyers will be required to report on their coverage.

### **What information must I provide to confirm I have coverage?**

You must provide information from your carrier listing the name of carrier, name of insured, coverage limits and policy expiration date. If you submit your policy declaration page to demonstrate your compliance with this rule, please redact the premium amount and any other information not required by the rule.

### **Can I maintain an active license and not obtain coverage?**

Yes, if you do not represent private clients. You can indicate this on the disclosure form that you will receive in your licensing packet.

### **If I only take a few cases a year, am I required to obtain coverage?**

Yes.

**If I only do pro bono work, do I need coverage?**

Yes. However, if you only plan to take pro bono cases, coverage may be available through the Idaho Law Foundation's Idaho Volunteer Lawyers Program. You can contact the program at 208-334-4500.

**If I practice out of state am I required to obtain coverage?**

Yes, if you practice out of state and represent private clients, under the rule you are required to have malpractice coverage.

**What prompted the rule change?**

A resolution proposing to amend the Bar Commission Rules to require a minimum amount of legal malpractice coverage was submitted to the membership during the 2016 resolution process. The resolution passed by a 51% to 49% vote of bar members. The proposed rule change was submitted to the Idaho Supreme Court. The Court adopted the rule change in an order issued March 30, 2017.

**Who can I contact about getting a policy?**

The Idaho State Bar endorses ALPS, <https://www.alpsnet.com/>. If you have an insurance broker, he or she may be able to provide options. PayneWest in Spokane, Moreton and Company in Boise, and the Hartwell Corporation in Caldwell and Idaho Falls assist lawyers with obtaining legal professional liability coverage and may have other carrier options. In addition to ALPS, a few carriers we know provide coverage in Idaho are; Attorney Protective, Travelers, and Allied World. There are other carriers that offer coverage. If you find a carrier that is not listed above, we recommend that you confirm the carrier has a history of providing legal malpractice coverage in Idaho.

**Questions?**

Please contact Diane Minnich, Executive Director, ([dminnich@isb.idaho.gov](mailto:dminnich@isb.idaho.gov)) or Maureen Ryan Braley ([mryanbraley@isb.idaho.gov](mailto:mryanbraley@isb.idaho.gov)) at (208) 334-4500 if you have any additional questions.