

Leaving private practice?

Don't forget your LawPRO insurance!

If you are planning on leaving private practice, whether to become in-house corporate counsel, employed in government or in education, employed or volunteer in a legal aid clinic, or perhaps to retire, it is important to recognize that this change is likely to have insurance implications.

Under the Law Society's insurance program, this change **may** qualify you for exemption from having to purchase LawPRO insurance. It may also entitle you to basic run-off coverage protection at no cost to you.¹ (See next column)

Because not all lawyers in these types of circumstances qualify for exemption, it is important to consider the actual exemption provisions and your particular circumstances.

For example, after leaving their old practice, some lawyers continue to represent clients on past matters. Others may take on a matter for a friend or family member. Some may opt to provide professional services to members, customers or clients of their new employer, or to organizations outside of the employer group.

Lawyers who find themselves involved in these types of activities are often not eligible for exemption and must purchase the practice coverage under the program. Because many lawyers provide these services on a part-time basis, they may qualify for the part-time practice premium discount (equal to 40 per cent of the base premium).

Implications of a claims-made policy

LawPRO's is a claims-made and reported policy. This means that if a claim is made against you, **it is the policy in force when the claim is first made against you and reported by you to the insurer**

that responds, not the policy in force at the time that the professional services were provided.

This is significant because the **basic run-off coverage protection provided to you while on exemption has limits of just \$250,000 per claim/\$250,000 aggregate**, compared to the \$1 million per claim/\$2 million aggregate limit protection provided to you while in private practice.

Moreover, this **basic run-off limit is a one-time limit. It is not reinstated each year** and applies in respect of all claims made against you while exempt, including when exempt in past and in future years. Also, note that policy limits are inclusive of claim expenses, repair costs and indemnity payments, including interest, so erode (or decline) as costs are incurred.

This makes it particularly important in leaving private practice that you reflect on your insurance coverage and practice exposures.

Consider your potential exposure to claims

Were you involved in areas of practice that can create exposures well above policy limits, such as litigation, corporate, commercial, real estate, tax, securities, pensions or intellectual property? Also consider where the stakes were unusually high, like environmental law or class action suits, or where clients' wealth has grown beyond that contemplated when providing your wills and estate planning or other services.

Of course, there is also the work of former partners, associates, and employees to consider. How well informed were you about other lawyers' work and practice areas? In the more claims-prone areas, was the work focused in the hands of the few with the right expertise or with others under appropriate supervision or guidance?

Consider also your exposure to others, like associated law practices, co-tenants and others with whom you may have shared space or resources, as well as "of counsel", back-up counsel, co-counsel and others retained in relation to files.

Also, think about files where the client relationship has been particularly challenging, or where multiple clients were represented and could each file individual claims, or where advice provided to many clients was based upon the same research or underlying opinion.

As well, consider that claims take time to develop and can grow substantially as damages and interest accrue, potentially exposing you to significant amounts. In fact, up to 10 per cent of claims are not reported until five or more years after the service was provided; claims involving real estate, wills and estates, and family law generally take even longer to surface.

With this in mind, it is important that you consider what insurance protection you are likely to need.

Options to increase insurance protection

Many lawyers consider applying to LawPRO to increase the amount of their run-off coverage protection to \$500,000 per claim/\$500,000 aggregate or to \$1 million/\$2 million aggregate. Others prefer to continue to carry the standard \$1 million/\$2 million aggregate insurance program coverage, because it includes \$250,000 per claim/\$250,000 aggregate sub-limit defence cost protection for claims brought against in-house corporate counsel by their employer.

LawPRO also provides excess insurance coverage to law firms above the Law Society program \$1 million/\$2 million aggregate limit; this excess coverage

¹ Note that lawyers on a Temporary Leave of absence pursuant to Exemption (c) are provided with \$1 million per claim / \$2 million aggregate limit protection at no cost.

usually insures former as well as current partners and employed lawyers of the firm for their work in relation to the firm.

In considering these insurance alternatives, we encourage you to minimize any gaps in coverage. For example, be sure to increase the amount of your run-off protection to the full \$1 million per claim/\$2 million aggregate amount if excess insurance is being carried above that, and consider carrying the optional innocent partner protection to ensure uniform protection against the dishonest acts of others.

There is no uniform excess insurance wording, so review that policy wording with care and know whether you are insured and for what. Consider what limiting provisions apply with respect to your work on behalf of the firm, and whether you are insured for your work with predecessor and other prior law firms. Also, see what notice or assurances may be agreed upon, to ensure that excess insurance continues to be maintained.

These are just some of the basic points discussed on the LAWPRO website and in our various "insurance matters" booklets

available on-line through the LAWPRO website at www.lawpro.ca.

So, give insurance some thought if you plan to leave private practice, and let LAWPRO know 60 days in advance of any planned changes, to ensure that the appropriate insurance protections are then in place based on your instructions.

For more information on run-off coverage, see our website at www.lawpro.ca or contact customer service at service@lawpro.ca or 41-598-5899 or 1-800-410-1013.

sustainability

LAWPRO sustainability update



In our last issue of the magazine, we tried to demonstrate our commitment to a greener workplace and supporting sustainability. To continue this, we will be devoting a small portion of the magazine to bring you updates on what LAWPRO is doing to help the environment as well as tips that you can implement in your workplace.

Online renewals

Our push to have even more lawyers than before renew their insurance coverage online, via our website, is proving to be a great success: By the filing deadline,

about 19,500 lawyers had filed insurance applications electronically – and by the time we take down the site that lets lawyers file via the web, we expect that about 95 per cent of eligible lawyers will have supported our sustainability drive (and saved themselves \$50) by filing online.

LAWPRO's Green Committee

Recently LAWPRO started an internal Green Committee to investigate ways the company and individual employees could be more environmentally conscious. The committee's aim is to be informative and helpful without seeming invasive.

In the past few months the committee has undertaken a number of interesting activities, including a screening of the Al

Gore film, "An Inconvenient Truth." On the drawing boards are an awareness campaign around employees' paper usage and a push to make all office printers capable of double-sided printing.

Sustainability tip: Online party invitations

Next time your firm is sending out invitations to a company event, consider using electronic invites. Online services can keep track of details such as who has RSVP'd, how many guests will be attending and their meal choice.

Online sites such as www.evite.com, www.mypunchbowl.com and www.anyvite.com provide you with an eye-catching and cost effective way to get your information out – and at a fraction of the time it might normally take.