

# Staying current

## Helping lawyers adapt

*Change is said to be the one constant in life. At LAWPRO, we strive to anticipate and adapt to change – and to help lawyers do likewise.*

### Adapting the insurance program

LAWPRO continually updates the insurance program to meet changing circumstances. Here are some changes we made in 2009.

#### MOBILITY WITH QUEBEC

The Barreau du Québec is now authorized to grant special Canadian legal advisor (CLA) permits to members of other Canadian law societies, as full members of the Barreau with restricted practice status. In February 2010, Convocation authorized The Law Society of Upper Canada to sign the Federation of Law Societies of Canada's Québec Mobility Agreement and to make the appropriate by-law amendments to implement that agreement.

Anticipating this development, we adapted the insurance program so that once the mobility agreement between the Barreau and the Law Society is fully implemented, it will cover Ontario's practising insured lawyers for their services as CLAs.

#### LAWYER MISAPPROPRIATION DURING MOBILITY

To satisfy new requirements under the National Mobility Agreement designed to better protect clients and others, we adapted the standard insurance program to provide limited coverage for misappropriation by Ontario's practising insured lawyers when exercising their temporary mobility rights in another Canadian jurisdiction.

#### LOCUMS

The Law Society recently adopted a recommendation to support practice locums, which enable lawyers to take time away from their practices by arranging for other lawyers to provide legal services to their clients in the interim. We revised our program materials to offer guidance on the insurance issues that lawyers

and law firms should consider if hiring or acting as a locum. The policy wording now specifically refers to locum work to ensure that lawyers fully understand the basis on which they are insured for their locum work.

#### OVERDRAFT PROTECTION

During the last couple of years we've seen many counterfeit certified cheque and bank draft frauds that target lawyers.

LAWPRO has provided protection to lawyers who inadvertently paid out trust funds of legitimate clients to fraudsters before discovering that the certified cheque or bank draft received from the fraudsters and deposited in their trust account is counterfeit.

But if the shortfall in the trust account was between the lawyer and the bank only (i.e., no legitimate client funds were taken, or the amount of funds disbursed exceeded that belonging to legitimate clients), LAWPRO took the position under previous insurance policies that there was no coverage.

To improve the protection available to lawyers, we began in 2010 to provide lawyers with some overdraft protection for this exposure, as part of the standard program. Several "best practice" coverage requirements must have been met for this coverage to apply.

Some lawyers felt that these coverage requirements were impractical for residential real estate transactions.

But coverage enhancements potentially increase claims costs, which are generally passed on to insureds through increased premiums. The "best practice" limitations moderate the risk to which the insurance program is exposed and encourage lawyers to actively manage this risk exposure themselves.

We recognize that it may be challenging for the residential real estate bar at times to meet the coverage criteria for the overdraft protection. Residential purchase and sale transactions often have severe time constraints imposed by the clients, their real estate agents and/or their lenders. No one wants to pay (or lose) interest on funds for even one day longer than necessary.

# Tailoring coverage to practice

One of the hallmarks of the LawPRO insurance program is its flexibility. Lawyers have many options to tailor their insurance coverage to their specific needs, often with the added benefit of reducing the actual premium payable to less than the base premium level. As indicated on this chart, the number of lawyers taking advantage of these options continues to increase.

Coverage option	Feature	No. of lawyers participating (as of Jan. 31, 2009)	No. of lawyers participating (as of Jan. 31, 2010)
New call discount	10-40% base premium discount for those called 1-4 years	3,502	3,592
Part-time practice	40% base premium discount for eligible lawyers	1,465	1,442
Restricted area of practice option	40% base premium discount for immigration/criminal law practitioners	1,230	1,320
Innocent Party Buy-Up	Increase in Innocent Party sublimits up to as much as \$1 million per claim/\$1 million aggregate	3,155 (based on \$249/lawyer)	3,193 (based on \$249/lawyer)
Run-Off Buy-Up	Increase limits for past services from \$250,000 per claim/aggregate up to as much as \$1 million per claim/ \$2 million aggregate	760	772
Optional LawPRO Excess Insurance	Add additional layer of protection of up to \$9 million above primary limits of \$1 million per claim/\$2 million in the aggregate	3,724 lawyers (1,422 firms)	3,767 lawyers (1,443 firms)
Real Estate Practice Coverage	Required for all lawyers practising real estate law. Sublimit coverage of \$250,00 per claim/\$1 million aggregate	7,102	7,093

We are working with lawyers to help them reshape their practices to come within the coverage or implement other ways of reducing their risk or avoiding exposure altogether. We have met with the Real Property Section Executive of the Ontario Bar Association. We've had an initial discussion with the Canadian Bankers Association to try to find ways to reduce lawyers' exposure to counterfeit certified cheques and bank drafts.

## Helping lawyers adapt to changing times

LawPRO helps lawyers adapt to changing times by providing practical information on technological developments and practice trends.

The December 2009 "social media" issue of [LawPRO Magazine](#), for example, featured a guide to the many social media tools available, interviews with lawyers from diverse practice settings who use social media, a primer on how to use social media as marketing and networking tools, and a discussion of social media pitfalls to avoid.

But LawPRO also leads by example. We walk the tech talk.

In 2009, we introduced three new electronic newsletters:

- LawPRO Webzine serves as the electronic version of LawPRO Magazine, bringing to your desktop the most current risk and practice information from practicePRO.

- LawPRO Insurance News is used to communicate information about filing deadlines and the insurance program.
- LawPRO Alert is used for urgent messages, such as warnings about imminent deadlines or fraud schemes that have just come to our attention.

The e-newsletters enable us to communicate time-sensitive information to you in a cost-effective way – for a fraction of the cost of producing and mailing a reminder letter or a printed magazine. Our average "read" and click-through rates exceed industry norms.

Through the Avoid A Claim blog ([www.avoidclaim.com](http://www.avoidclaim.com)), launched in November 2009, LawPRO links lawyers to the latest in claims avoidance and law practice management information. Avoid A Claim fraud updates have been picked up by other bloggers across Canada and the U.S. As well, practicePRO director Dan Pinnington is also a frequent contributor to [SLAW.ca](http://SLAW.ca), an award-winning legal blog.

LawPRO is also on Twitter ([twitter.com/lawpro](http://twitter.com/lawpro)). More than 200 "followers" are among the first to learn about breaking risk management-related information and interesting new articles that we've spotted.