

Program changes for 2017

Quick summary:

- Base premium for 2017: \$2,950 (reduced from \$3,350)
- Your coverage while working on secondment
- Lawyers employed by designated government agencies
- Reports to the Law Society of Upper Canada
- Auto-renewed policies to reinstate certain coverage options

Base premium reduced

For 2017, the base premium will be set at \$2,950 per member, a reduction of \$400 from the previous year. The \$2,950 premium has been deemed appropriate in light of moderating claims growth (compared to significant upward projections in earlier years), as well as LAWPRO's overall solid fiscal performance during the last couple of years. LAWPRO is satisfied that this base premium appropriately recognizes any uncertainties in emerging claims experience and economic conditions, and allows the Program to continue to operate on a self-sustaining basis while protecting LAWPRO's overall financial position. It should be noted that a base premium of \$2,950 per lawyer in 2017 is significantly lower than premiums charged at points in the past. In fact, if inflation were removed, this premium would be the equivalent to about \$1,950 in 1995 dollars.

Lawyers working on secondment

Sometimes lawyers (whether members of a traditional firm or associated with an agency) are seconded to a corporate client for

a period. Seconded lawyers face different risks than either employed corporate counsel or lawyers in traditional private practice and the Program requires clarification to reflect this.

For 2017, the Program Policy has been clarified to explicitly exclude claims brought by corporate clients against seconded lawyers for professional services provided while under secondment with them, where notwithstanding the form of the relationship, the claimant meets the definition of a "corporate employer" under the Program Policy. The policy will also now extend the \$250,000 per claim and in the aggregate defence-only coverage under the endorsement for "Claims Brought by CORPORATE EMPLOYERS" to include coverage for seconded lawyers in those circumstances.

On the other hand, if the corporate client does not meet the test for a "corporate employer" and the normal employment laws don't arise that would stop it from recovering against an employee, the normal coverage terms will apply.

Lawyers employed by designated government agencies

Lawyers employed by government in certain agencies provide services to members of the public, typically to enhance access to justice. These lawyers do not qualify for exemption because their practice is not restricted to services provided "for and on behalf of the employer." However, our analysis of the claims history for this work reveals that it is low risk compared to general private practice. Accordingly, for 2017, a new premium discount equal to 75 per cent of the base rate has been introduced to lawyers employed by Designated Agencies where the lawyers only provide professional

services to third parties pursuant to their employment and on a no-fee basis. These lawyers will also be exempt from payment of the civil litigation transaction levy provided the services that would normally give rise to the levy are provided in the course of the lawyer's employment with a Designated Agency.

Reports to the Law Society of Upper Canada

For many years LAWPRO has had the power to report insureds' conduct to the Law Society in certain circumstances set out in the Program policy. Reports of this nature made by LAWPRO lawyers have been infrequent, averaging four or fewer each year in recent years. The reporting terms have not changed in approximately 20 years. Consistent with recent significant changes to Rule 7.1-3 of the *Rules of Professional Conduct*, LAWPRO may notify the Law Society in any circumstances in which a Law Society licensee would be required to report another licensee.

When no renewal application is received

Some lawyers each year fail to submit an application for the renewal of their coverage by the renewal deadline. To ensure that those lawyers continue to be insured as required, LAWPRO will still issue the Program coverage. In the past, this coverage was issued without the reinstatement of non-standard coverage options such as the Real Estate Practice Coverage Option (REPCO), non-standard deductible choices, or premium discounts related to restricted or part-time practice. As of 2017, the Program renewal process will be amended so that LAWPRO is able to reinstate most Program options previously elected by insureds that would otherwise have been removed when no fully completed renewal application for Policy coverage was received when due. ■

Rule 48 Transition Toolkit

There are four tools in the toolkit:

1. A Firm Transition Checklist containing a list of the steps firms should take to update ticklers and other firm systems and processes to ensure Rule 48 requirements are met on all files.
2. An Individual File Checklist containing a list of the steps to be taken and ticklers to be updated for an individual file.
3. A File Progress Plan that can be used to help actively manage and monitor the status and progress of work on an individual file.
4. A Rule 48 Transition Training PowerPoint to help train lawyers and staff on Rule 48 and file management best practices.

Available at practicepro.ca/Rule48

