



Lawyers: (Safely) make your own dent in the affordability barrier

Removing the barriers that stand between ordinary Ontarians and legal remedies will be a complex, long-term exercise. However, setting aside a few hours to do *pro bono* work is one way for lawyers to make a meaningful individual contribution to the bigger picture. LAWPRO eases the decision to offer uncompensated services by offering lawyers special terms within their professional indemnity coverage for *pro bono* work completed in support of a Pro Bono Ontario (PBO) initiative for which LAWPRO has granted special approval. For a summary of those terms, please see the chart on pages 8 and 9 of this issue.

What is PBO?

Founded as a charitable organization in 2001, PBO was created to provide opportunities for lawyers to assist Ontarians who cannot afford legal services and have a legal problem not covered by government funding. PBO is governed by a board comprised of leading members of the judiciary and legal profession. It is funded jointly by the Law Foundation of Ontario and Legal Aid Ontario.

PBO creates and manages volunteer programs that connect lawyers with over 14,000 clients each year, either directly or via partnerships with other charitable organizations.

In 2002, PBO entered into a different kind of partnership, this time with LAWPRO, which provides the program of primary professional indemnity insurance mandated by the Law Society of Upper Canada.

Coverage for *pro bono* supports lawyers' generosity

Regardless of how generous a lawyer's motivations for *pro bono* work might be,

it is just as possible to make errors while working on a charitable basis as it is while charging a fee in the normal course. By offering coverage for risk-aware *pro bono* work, LAWPRO has made it safer for lawyers to dedicate time to supporting access to justice.

Why LAWPRO and PBO?

While LAWPRO is committed to supporting lawyers in working *pro bono*, we must be responsible to the profession as a whole in doing so. There are costs involved in offering malpractice coverage – not only claims costs, but also costs associated with administration and risk-rating. Also, since LAWPRO waives deductibles and claims history levy surcharges for certain claims flowing from *pro bono* work (more on this below), these coverage costs are absorbed by the program and must be monitored carefully. As a licensed insurance company subject to financial industry regulation, LAWPRO is mandated to operate in a commercially reasonable manner. Commercially reasonable operation means we extend coverage only in circumstances

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PBO at SickKids:

PBO at SickKids' is a program that helps families coping with a child's illness to address related legal issues. The program offers referrals to *pro bono* lawyers, in appropriate cases, to provide advice on a diverse range of issues, including immigration, employment, and education law matters.



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519 LGBTQ Advice Clinic:

The 519 describes itself as 'a safe, queer-positive, non-judgmental, anti-oppressive, inclusive and accessible space'. The PBO-sponsored legal clinic located there offers summary legal advice and referrals for clients in a wide range of practice areas, including immigration, landlord/tenant, employment, family, criminal, and health law.



where we can assess and manage risk. Since it would be prohibitively time-consuming for our underwriters to investigate and risk-rate individual *pro bono* files taken on by lawyers, we must limit our coverage to *pro bono* initiatives that incorporate demonstrable risk-management procedures that meet our standards.

The LAWPRO approved programs supported by PBO include quality-control and risk-management strategies – for example: a best practices manual, a computerized case management system, continuing legal education for service providers, and a *pro bono*-specific training curriculum. These features reduce the malpractice risks associated with PBO-sponsored initiatives, and give those programs a risk-managed status, from LAWPRO's perspective, that justifies the establishment of a special relationship between LAWPRO and PBO.

What kinds of *pro bono* work can lawyers do with PBO?

Under the terms of the relationship, LAWPRO has worked with PBO to establish a list of more than 50 approved programs that assist lawyers in addressing the legal needs of low income and disadvantaged individuals. (A list of active projects that qualify as approved *pro bono* programs in accordance with the insurance program policy definition is posted at lawpro.ca/PBolist. A few examples

are highlighted in this article). The list of approved PBO programs has been designed to provide support to a broad cross-section of individuals and groups in need.

What are the terms of the LAWPRO *pro bono* coverage?

LAWPRO-insured, non-exempt lawyers who do *pro bono* work as part of a PBO program approved by LAWPRO have coverage, to the extent of their policy limits, for claims that arise in the course of that work. Where there would normally be a deductible under their policies for claims costs, the deductible is waived for the *pro bono*-related claims, and the claims will not result in a claims history levy surcharge for the insured. The work done under the program will also not count toward the lawyer's working hours for the purpose of part-time eligibility.

Lawyers who have applied for and been granted exemption from the payment of premiums and who are entitled to run-off coverage¹ are covered, to the extent of the run-off limits, for *pro bono* work as part of a PBO program approved by LAWPRO.

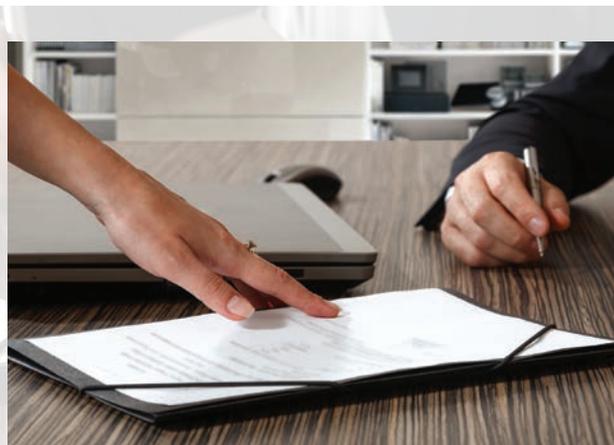
Go to lawpro.ca/probono for further details about how LAWPRO coverage and *pro bono* work together. ■

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Law Help Ontario at Small Claims Court:

Law Help Ontario receives PBO funding to operate centres in Toronto and Ottawa that offer brief services (including in person legal advice and periodic representation in court) to self-represented litigants with civil non-family matters.



¹ For details of Run-off coverage, please see lawpro.ca/run-off