

## Your 2018 insurance program

### Quick summary:

- Base premium for 2018: \$2,950
- Part-time practice billing limit updated
- Innocent Party/Partner levy reduced
- No more civil litigation transaction levies for family law matters
- Civil litigation transaction levy increased to \$100

### Base premium stable

The base premium for 2018 will remain unchanged at \$2,950.

Claims management and cost containment efforts are expected to support our efforts in 2018 to handle projected claims without increasing the base premium.

### Part-time practice criteria updated

The gross billing limit for lawyers in respect of the Part-Time Practice Option is increased by 20 per cent to \$90,000 from \$75,000 per year.

In recognition of claims data demonstrating that lawyers who practise part-time have fewer claims, LAWPRO introduced a premium discount for part-time practice in 1997. To qualify for the discount (which is 50 per cent of the base premium), a lawyer must make an application. For the purpose of LAWPRO coverage, part-time practice is defined as 20 hours per week and 750 hours per year of professional time (including time spent on undocketed work but not including work through LAWPRO-approved Pro Bono

Ontario programs). Qualifying lawyers must also have no claims resulting in indemnity payments reported under the primary insurance program prescribed by the Law Society of Upper Canada within the previous five years.

Finally, eligibility for the discount requires compliance with a gross billings limit. When the discount was first introduced, the limit was set at \$60,000. In 2007, it was increased to \$75,000. For the 2018 premium year, to adjust for inflation and to ensure that the part-time criteria continue to reflect a similar size of practice today as when they were updated in 2007, the gross billing limit for lawyers in 2018 will be increased by 20 per cent to \$90,000.

The part-time practice option remains a risk-rated premium discount to reflect the reduced risk of claims associated with the part-time practice of law by lawyers in Ontario.

### Innocent Party/Partner levy reduced

Beginning with the 2018 policy year, the Innocent Party/Partner levy will be reduced by half to \$125 for the basic \$250,000 per claim/in the aggregate sublimit coverage.

Occasionally, a client who has suffered a loss due to the dishonest, fraudulent, criminal or malicious acts or omissions of a lawyer is successful in advancing a claim against one or more associates, partners or co-shareholders of that lawyer. LAWPRO has developed "Innocent Party" coverage to insure against these claims. Lawyers practising in association, in partnership, or in a law corporation and sole practitioners practising with employed lawyers must purchase at least the basic innocent party coverage, as must all

partners and shareholders (including paralegals) in a combined licensee firm. These individuals also have the option to buy up additional levels of coverage.

Forecasting claims under this coverage is complicated. Some fund years see few to no claims, while others are plagued by a series of high-value claims. Careful actuarial analysis of past experience supports a reduction in the premium charged for all levels of innocent party coverage.

The availability and pricing of the optional coverages remain subject to underwriting of individual risks for the “buy up” categories. Pricing for the optional levels of coverage is generally projected at \$75 to buy up the coverage to \$500,000, and \$50 to further buy up the coverage to \$1 million.

### Civil litigation transaction levies waived for family litigation

Family law matters make up a significant proportion of lawyer files in Ontario each year.

LAWPRO analysis of claims trends has shown that, from a professional indemnity perspective, family law litigation is significantly less risky than other kinds of litigation. In response to this observation,

beginning in the 2018 policy year, lawyers who initiate family law proceedings will no longer be required to pay civil litigation transaction levies. See the article below for further details.

### Transaction levies for non-family litigation matters increased to \$100

Maintaining an effective and responsive insurance program requires a continual process of risk-rating. Risk-rating in the context of insurance simply means striving to have appropriate coordination between the cost of insurance coverage and the likelihood and magnitude of the risks to which that coverage relates. While all insurance programs require a certain amount of cost-spreading across the spectrum of program participants, demanding higher premiums from very high-risk insureds is necessary in the interests of fairness. The results of our risk-rating analysis over the past several years have made it clear that fairness now demands that the civil litigation bar be asked to shoulder more of the costs of the program. On or after January 1, 2018, transaction levies for non-family civil litigation matters will be \$100, an increase from \$50 in 2017. The transaction levy is triggered at the commencement of a proceeding or the defence of a proceeding. The rationale for this increase is presented in the article below. ■

# Civil litigation levies evolve to reflect risks

No lawyer in private practice is immune to professional indemnity claims. However, over 20 years’ experience insuring the Ontario bar has made it clear to LAWPRO analysts that claims risk varies with area of practice. Lawyers who practise real estate or civil litigation face a significantly higher risk of claims than those who practise in other areas.

Like most insurers, LAWPRO strives to promote a reasonable degree of fairness in the setting of premiums. We do this, in part, by offering discounts to lower-risk practitioners (criminal law, immigration, part-time practitioners, new lawyers) and by charging transaction levies for higher-risk work (real estate, civil litigation). Transaction levies offer the additional benefit of tying premium collection to practice volume. These discounts and levies are some of the main tools by which we “risk-rate” coverage.

The analysis that underlies risk-rating is a continual process. Practice habits evolve, the economy changes, and new methods of dispute resolution emerge. These and other factors influence claims trends. Each year, LAWPRO staff track claims patterns and apply actuarial methods to re-evaluate the assumptions underlying risk-rating decisions.

In preparation for the design of the 2018 insurance program, risk-rating analysis confirmed two patterns we have been monitoring: the first is that the rate and cost of civil litigation claims is becoming too high compared to the premiums recovered from those practitioners; and the second is that family law litigation is not a part of that trend.