

## Increased run-off insurance: A critical issue often overlooked in lawyers' estate planning

When a lawyer passes away while still in active private practice, LAWPRO's run-off coverage kicks in. While standard run-off may be enough coverage for lawyers who have been retired for several years (since potential claims will have had time to develop), it may not be sufficient for a lawyer who was practising full-time at the time of his or her death.

Carol's husband, a lawyer, passed away in 2010. When Carol reported her husband's death to LAWPRO customer service, the program coordinator who responded advised her of the option to purchase increased run-off insurance above the standard \$250,000 limit set out in the policy. Carol opted to increase the run-off coverage insurance to \$1 million. Two years later, Carol was served with a Statement of Claim in relation to legal services performed by her husband. Damages in that litigation may well reach \$1 million. LAWPRO is defending the action.

Subject to exclusions or other policy provisions, the LAWPRO policy provides coverage limited to \$1,000,000 per claim and is subject to an aggregate limit of \$2,000,000 per policy period (i.e., per year.). However, upon retirement or death, standard run-off coverage is limited to \$250,000 *in total*, regardless of the number of claims made against the insured or the time period in which they are made. Given that we see claims reported, on average, 2-3 years after legal services have been provided (and nearly half of wills and estates claims take *at least five years* to develop) there is no question that a lawyer or the lawyer's estate remains exposed to liability even after retirement or death. For many lawyers, \$250,000 in coverage, inclusive of defence costs, will simply not be enough.

Unfortunately, few lawyers leave instructions for their spouse or other estate representative to purchase increased run-off insurance after they die – thus leaving the estate with the total maximum coverage of \$250,000 for all future claims against the lawyer. Consider the type of work you do: the subject matter of your litigation files, the transactions you have closed, the wills you have drafted. Would \$250,000 be enough coverage? Unless your estate or next of kin purchases increased run-off insurance, your coverage will indeed be limited to the standard \$250,000 run-off coverage outlined in Endorsement 9 of the policy. We highly recommend that you prepare instructions for your estate representative to ensure that run-off coverage is considered and the estate is adequately protected.

For complete details of the Run-off Buy-up coverage offered by LAWPRO, please visit [lawpro.ca](http://lawpro.ca).

*Martine M. Morin is Senior Claims Counsel at LAWPRO.*

This article first appeared in LAWPRO's April 2015 wills and estates webzine "Ask questions! Have answers." An electronic copy can be found at <http://www.practicepro.ca/information/doc/Run-off-buy-up-to-protect-estates.pdf>

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