

## Base premium unchanged

LAWPRO is once again pleased to report that the base premium will remain unchanged at \$2,950 for 2020.

When LAWPRO was handed responsibility for providing E&O insurance in 1994, the premium was \$5,600. In fact, if inflation were removed, today's premium of \$2,950 would be the equivalent to about \$1,835 in 1995 dollars. Although we continue to see an upward trend in the number of claims against Ontario lawyers, the premiums and levies we collect, together with our cost containment efforts and investment income, continue to cover projected claims costs for Ontario lawyers.

## No change to transaction levy costs

Due to the high rate and cost of claims against lawyers practising in the areas of civil litigation (except family) and real estate, LAWPRO will continue to require levies of \$100 and \$65 respectively in those areas. The civil and real estate transaction levies allow LAWPRO to risk rate the primary program, which means lawyers pay premiums that reflect their claims risk.

We will continue to monitor claims and levy trends in civil litigation, real estate, and other areas to ensure the fair and reasonable pricing of malpractice insurance.

## Clarifying the circumstances in which notice of a claim must be provided

LAWPRO, like most other legal malpractice insurers, provides coverage that is triggered when a claim is made against an insured – a “claims-made” policy. In contrast, some other forms of insurance are occurrence-based, which means coverage is only available if a policy was in place at the time the error or omission is said to have occurred.

LAWPRO's claims-made policy provides greater certainty and allows for more accurate cost projections. This predictability reduces the cost of insurance which can be passed down to Ontario lawyers in the form of reduced premiums and levies.

Even if an actual claim is not made for some time, you must still give notice of any “circumstances” that could lead to a claim. To

help you determine when to provide such notice, we have refined the policy's definition of “circumstances” to be “any circumstances of an alleged, actual, or possible error, omission, or negligent act of which the insured becomes aware, which from the perspective of a reasonable lawyer or law firm could potentially give rise to a claim” under the policy. This obligation is in addition to the requirement to provide prompt notice of all actual claims.

Early notice leads to better results when defending a claim. You should not try to take steps on your own to repair a potential error. If a client asserts that you made a mistake, if you are being asked to give evidence about your work on a file, if a request for production has been made for a file, or if you are aware of any possible mistakes that could lead to a claim, LAWPRO should be immediately notified.

## Additional refinement of definitions

The policy now includes a definition of spouse consistent with s. 29 of the *Family Law Act*, which states that “spouse” includes either of two persons who are not married to each other and have cohabitated continuously for a period of not less than three years, or are in a relationship of some permanence if they are the parents of a child as set out in s. 4 of the *Children's Law Reform Act*.

The definition of “dishonest” conduct has been updated to clarify when a lawyer's actions would be considered dishonest.

## New regulator for LAWPRO

On June 8, 2019, the Financial Services Regulatory Authority (FSRA) assumed responsibility for the regulation of non-securities financial services in Ontario, including LAWPRO. FSRA is an independent and self-funded regulator of financial services, with a mandate to protect the public interest with increased efficiency and responsiveness.

As a regulated institution, LAWPRO is required to reliably manage risk by making prudent investment decisions, reasonable cost projections, and accurate actuarial assessments. This ensures the long-term funding of claims attracted by the Ontario legal profession at a reasonable cost.

This year, LAWPRO received its 18<sup>th</sup> consecutive “A” rating for financial strength and “a” issuer credit rating from A.M. Best Co. This independent rating is provided to companies that have an “excellent” ability to meet ongoing insurance obligations and reflects our long-term financial stability. ■