

LAWPRO

magazine

special
new lawyer
edition

2021 | New Lawyer Issue 9



The Modern Lawyer

Common
practice pitfalls

Student to
lawyer tips

Life after
graduation

What is LAWPRO®

And why should I care

Almost half of Ontario lawyers will experience a malpractice claim in their career. Being a great lawyer isn't always enough. Sometimes there is an honest oversight, or an unfair accusation from a client, but whatever the cause, a malpractice claim should be defended and addressed. That's where LAWPRO comes in.

LAWPRO provides primary errors and omissions insurance coverage to every Ontario lawyer in private practice, as required by the Law Society of Ontario. This coverage protects lawyers from the potentially catastrophic financial consequences of professional malpractice claims. When a potential claim arises, LAWPRO helps lawyers respond to the claim, defend the claim, and, if appropriate, settle the claim or pay damages. This insurance coverage also supports the interests of those who have a legitimate malpractice claim against a lawyer and are hoping there will be funds available to compensate their losses.

In this magazine, you will learn about the primary, excess, and title insurance provided by LAWPRO. You'll also learn what LAWPRO does for Ontario lawyers *before* a claim arises through the practicePRO claims prevention program. The practicePRO team creates and maintains a wide range of practice management resources for lawyers at all stages of practice. For details, see *LAWPRO's best claims prevention tools and resources*.

LAWPRO also offers title insurance via its TitlePLUS program, which protects property purchasers, owners, and mortgage lenders against losses associated with title problems.



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LAWPRO insurance
TitlePLUS Home Buying Guide – Canada



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What can I do to avoid malpractice claims?

Our claims counsel have years of experience defending claims and a detailed understanding of the circumstances that often lead to claims. For example, did you know that problems with lawyer-client communications are the single largest source of claims? Take a look at the rest of the content in this issue and visit practicepro.ca for information on the most common pitfalls in each practice area and tips on how to avoid claims in your practice.

Is LAWPRO part of the Law Society?

LAWPRO is owned by the Law Society of Ontario, but it is an independently operated company governed by its own board of directors and subject to insurance industry regulations. Every year at fall convocation, Law Society Benchers are given an opportunity to review the program. Of course, we welcome comments, questions, and concerns from members of the Ontario bar at any time.

Does every lawyer need insurance from LAWPRO?

Certain categories of lawyers, such as government lawyers, in-house lawyers, or lawyers that are not currently practising, are exempt from the requirement to carry mandatory insurance coverage. For more information, see *What you need to know about LAWPRO's mandatory professional liability insurance* on page 4

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New Lawyer Edition

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LAWPRO Magazine and LAWPRO Magazine's New Lawyer Edition are published by Lawyers' Professional Indemnity Company (LAWPRO) to update practitioners about LAWPRO's activities and insurance programs, and to provide practical advice on ways lawyers can minimize their exposure to malpractice claims. The material presented does not establish, report, or create the standard of care for lawyers. The material is not a complete analysis of any of the topics covered, and readers should conduct their own appropriate legal research.

The comments in this publication are intended as a general description of the insurance and services available to qualified customers through LAWPRO. Your policy is the contract that specifically and fully describes your coverage and nothing stated here revises or amends the policy.

Common practice pitfalls:

How to avoid them

Lawyers' Professional Indemnity Company (LAWPRO) was created to insure lawyers against legal malpractice claims. Most (though not all) claims are brought by a lawyer's own client and include an allegation that the lawyer made a mistake or did not meet the standard of care expected of them when delivering legal services.

Our records suggest that almost half of all lawyers will be the subject of a claim at one point in their career. Malpractice claims can be stressful, can hurt your reputation, and can be costly (even if the only financial consequence to the lawyer is an increase in insurance premiums).

Understanding the most common causes of claims so that you can build risk management skills early in your career is your best line of defence.

What kinds of mistakes lead to claims?

Students in the midst of law school, with its mountain of reading on cases and substantive law, might be surprised to learn that “errors of law” are not the biggest pitfall to watch out for in the world of private practice. In fact, in the last ten years, only about 14 per cent of LAWPRO malpractice claims were caused by lawyers getting the law wrong (except in very complex areas like family or tax law).

So, if knowing the law isn't the problem, what *is* the danger that new lawyers should be on the lookout for? In a nutshell, you could call it “human error”: breakdowns in communication, poor calendaring and procrastination, and not digging deeply enough into a client's matter. These types of errors make up almost 67 per cent of the claims LAWPRO sees.

Students may not yet know what area of law they will ultimately end up practising, but the causes of claims are remarkably similar in all types of practice, firm size and geographic location. Here's an overview of the biggest pitfalls:

Client communication

In almost every area of practice, the number one cause of claims to LAWPRO is a breakdown in lawyer-client communication. This ought to be the easiest type of error to guard against, but it is also the most common. Often these claims arise because the lawyer and

client disagree on what was said or done – or not said or done – sometimes because communications are rushed. This is partly the result of lawyers being busier than ever, and partly due to clients who expect faster replies and more ‘round the clock’ responses from their lawyer.

However, much can be done at every stage of the matter to prevent these types of claims. Right from the outset, a well-drafted retainer letter can set the client's expectations of how the matter will proceed and what the lawyer will (and won't) do for them.

As the matter progresses, it is important to document conversations with the client, your advice, and the course of action the client wishes to pursue. This documentation can be a lifesaver in the event of a malpractice claim. Clients may later say they asked the lawyer to do X and it wasn't done; or the lawyer may have done Y and the client claims they didn't authorize this course of action. If there is no documentation of lawyer-client conversations, the claim then turns on credibility, and LAWPRO's experience has been that courts are more likely to believe the client's more specific recollections over the lawyer's typically vague or non-existent memory.

It's an unfortunate fact that while email and other electronic media provide more ways than ever for a lawyer to interact with clients, all these lines of communication seem to result in even more misunderstandings. Clients or lawyers read things into emails that aren't there, miss the meaning of what was said, or read between the



**communication
breakdown**



**not digging
deeply enough**



**poor
calendaring**



procrastination

67%

14%
errors of law

19%
other

lines and make assumptions. Face-to-face communication is the best way to ensure miscommunications don't happen. If meeting in person isn't possible, at least pick up the phone to avoid misunderstandings when important matters need to be discussed.

Clients whose expectations have been adequately managed are less likely to turn on their lawyers (rightly or wrongly) than those who are taken by surprise by the result of their case or legal fees. Visit practicepro.ca for our resources on managing lawyer-client relationships.

Inadequate investigation

This is a type of error closely related to poor communication and is best described as lawyers not taking the time to uncover all the facts or develop sufficient understanding of a client's matter. It can be considered a symptom of "smartphone legal advice": quick questions and quick answers by lawyers and clients who are both in a rush. These claims go to the very core of what lawyers are supposed to do for their clients – give legal advice based on the client's specific situation – and involve the lawyer not taking extra time or thought to dig deeper and ask appropriate questions about the matter.

These claims can arise in any area of law. We see them most commonly in busy real estate practices, where rushed lawyers miss deficiencies in a condo status certificate, misread a survey, or don't find out what long-term plans a client may have for a property (so that they can ensure those plans are viable). In litigation it could mean not making a reasonable effort to identify all the parties to an action within the limitation period. In wills and estates law it could mean not inquiring into the capacity of an elderly client or failing to ask about the existence of previous wills.

The best way to avoid these claims is to simply slow down. Take the time to read between the lines so you can identify all appropriate issues and concerns. Ask yourself: What does the client really want? Does everything add up? Are there any issues or concerns that should be highlighted for the client? If something doesn't add up, dig deeper.

One way to ensure that the right questions are asked on a matter is to make use of the practicePRO program's articles and checklists. At practicepro.ca/checklists you'll find checklists for domestic contract matters, commercial transactions, and independent legal advice,

as well as claims prevention articles from *LAWPRO Magazine* at practicepro.ca/lawpromag

Time management

It seems to be human nature to put off tasks until the deadline is looming (as any student pulling an all-nighter will attest). It's no different for lawyers, which makes missed deadlines a major source of LAWPRO claims. This is most common in plaintiff litigation, which has strict limitation periods and document filing deadlines to manage.

While every lawyer seems to have a dusty file or two in their office that they never quite get around to, time management claims are not always the result of simple procrastination. In some cases the lawyer fails to ascertain the limitation period on a matter, or even if they do know, fails to properly calendar the limitation period or act when it comes up.

There are a number of things you can do to avoid missing a crucial deadline. Familiarize yourself with the *Limitations Act, 2002* by using the practicePRO program's limitations resources at practicepro.ca/limitations. Use practice management software with tickler systems to alert you to approaching deadlines. Be aware of the danger of the registrar dismissing an action for delay under Rule 48 of the *Rules of Civil Procedure*.

Finally, building in a one- or two-day cushion on deadlines and reminders can help prevent this type of error when there are unexpected problems that stop you from meeting a deadline for a filing (e.g. ice storm; or taxi in an accident on the way to courthouse on last day to file).

These are very general descriptions of the common causes of LAWPRO claims. If you want to learn more about malpractice claims in particular areas of law, you'll find a wealth of articles at practicepro.ca. There are detailed examinations of claims causes in several areas of law, as well as articles featuring advice from LAWPRO's claims counsel on the common mistakes they see lawyers making and how to avoid them. ■

Tim Lemieux is Claims Prevention & Stakeholder Relations and Claims Analyst at LAWPRO.



What you need to know about

LAWPRO's mandatory professional liability insurance

These FAQs answer some of the more common questions we hear from new lawyers. The answers will help you determine if you need insurance coverage (or whether you're exempt) and which steps you need to take to get your LAWPRO insurance coverage in place.



Visit lawpro.ca/newcalls

for more information about insurance requirements

What is professional liability insurance?

Professional liability insurance is designed to indemnify lawyers against the consequences of a lawyer's liability for a client's loss. For this reason, only lawyers in *private practice* are subject to the mandatory insurance requirement.

What is private practice?

Private practice, for the purpose of LAWPRO's insurance program, is the delivery of professional services (including advice) to anybody who is not the lawyer's employer. In general, lawyers in private practice perform professional services for clients for pay. Note as well, providing legal advice or help to family or friends, or providing free legal advice to pro bono clients also falls within the definition of private practice.

Do all members of the Ontario bar have to purchase professional liability insurance?

If you are engaged in private practice in Ontario, you will need to purchase coverage through LAWPRO. See *Going into private practice* on the next page.

If you are not in private practice and meet certain criteria, you are likely exempt from the mandatory insurance requirement. See *Not going into private practice* on the next page.



Going into private practice.

How do I apply?



If you will be working as a sole practitioner, you will need to complete an application online. New lawyers can apply at any time after receiving a Law Society number from the Law Society of Ontario. While it's important to apply promptly for insurance, you do NOT need to delay beginning to practise.

You can begin the practice of law immediately while you wait to receive your number, with one exception: if you intend to practise real estate law, you must wait until your compulsory Real Estate Practice Coverage Option (REPCO) coverage is in place to do so. After the first year, you will be asked, each October, to renew your insurance for the following year.

If you'll be joining a firm, you may want to speak with the firm administrator or office manager before you apply directly, as there may be specific practice or payment options that need to be reflected on your application form.

How much will it cost?

Not every lawyer in private practice pays the same premium. LAWPRO offers discounts to certain categories of lawyers (including part-time practitioners, and lawyers who practise criminal and/or immigration law exclusively). The base premium for the year 2021 is \$3,000 plus PST.



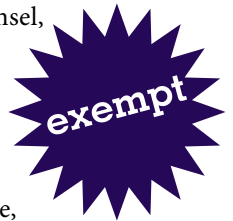
New lawyers receive a discount: Lawyers new to the bar in the current year receive a 50 per cent discount from the standard base rate in their first full year of practice. Additional discounts are available in the second, third, and fourth years (40, 30 and 20 per cent, respectively). New lawyers who practise for less than 200 days in their first year will be eligible for a "first year" discount in both their first and second years of practice. These discounts reflect the risk profile of new lawyers. Because the maximum premium discount for any lawyer is 50 per cent, these discounts cannot be combined with other discounts.

Some lawyers pay more than the base premium. For example, there is additional premium required for the practice of real estate law (a higher-risk practice area, from a claims perspective). Also, lawyers for whom LAWPRO has paid claims within the previous five years may pay more for their insurance because of these prior claims.

Not going into private practice.

What kinds of lawyers are exempt from the mandatory insurance requirement?

In general, lawyers working as in-house counsel, who are employed by the government, who work in education, or who work for a clinic funded by Legal Aid Ontario are exempt from the requirement to buy insurance. Lawyers who do pro bono work that meets certain criteria, or who are on temporary leave, may also be exempt.



If I'm not going into private practice, can I just forget about insurance?



No. The Law Society of Ontario requires that ALL members of the bar (not just those in private practice) confirm their practice status every year. This means that you must either pay for insurance, or file an application for exemption from the insurance requirement. Go to lawpro.ca to complete these steps online.

What happens if...

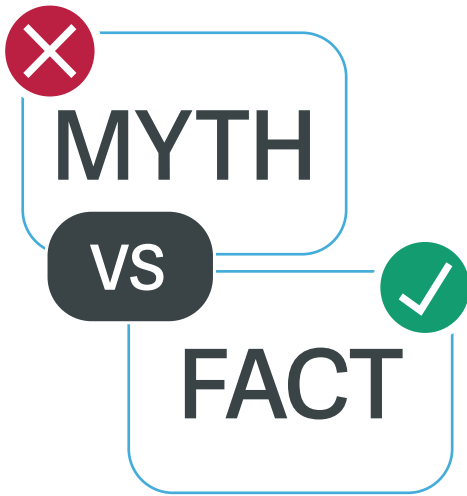
I meet the general criteria for exemption, but later find myself providing legal advice to someone other than my employer, or handling a legal matter for a family member or friend?

Anytime you provide professional services, you expose yourself to a potential claim. Even if you are not in full-time private practice, if you contemplate providing even occasional legal advice or services, you will need to purchase insurance coverage (there are a few narrow exceptions, including one for certain kinds of pro bono work). Visit lawpro.ca for details. ■



HOW DO I FIND OUT MORE?

For more information, visit lawpro.ca/newcalls



LAWPRO is not like your auto insurer

A lawyer dispels common myths about your insurance coverage

In my more than 20 years of defending lawyers on malpractice claims, I continue to be amazed at how little some lawyers seem to know about the “LAWPRO policy” and how a claim is handled. I am also frustrated by how often lawyers have not done even the simplest things that could help them avoid or defend a malpractice claim.


Lawyers often assume that LAWPRO operates like an auto insurance company. This impression is just not correct – LAWPRO is very different from your auto insurer because it:

- Actively works to prevent claims;
- Does not look for ways to avoid providing insurance coverage;
- Appoints repair counsel to fix the mistake and reduce damages if there has been an error;
- Does not settle a claim just because the cost of defending the claim may exceed the amount at issue;
- Takes a principled approach and settles claims where there has been negligence and the client suffered damages;
- Appoints counsel to vigorously defend proceedings if there is no negligence or damages; and
- Works collaboratively with defence counsel and the insured to defend the claim.


From my work defending lawyers, I have found over and over again some common myths about the LAWPRO policy and how claims should be handled. All these comments apply to coverage under the mandatory

insurance program LAWPRO runs on behalf of the Law Society, and may also apply to LAWPRO or other excess insurance coverage, if it is in place.

Myth #1: Only bad lawyers have claims against them.


Fact  Even the best lawyers make honest mistakes or can face a baseless allegation of negligence from a client that is suddenly unhappy due to unexpected events or changed circumstances. LAWPRO's claims stats indicate that almost half of all lawyers can expect to have at least one malpractice claim in the course of their career. Many of the lawyers reading this will have to contact LAWPRO to report a claim at least once in their career.

Myth #2: Lawyers only need to report to LAWPRO when they are served with a statement of claim.


Fact  Lawyers should report to LAWPRO in a variety of circumstances. These include: when a lawyer discovers

or thinks a mistake was made; when a client has asserted that the lawyer made a mistake; when a lawyer is being asked to swear an affidavit or give evidence about their file handling; or, when a request for production or court order has been made for the lawyer's file. When in doubt, report!


Myth #3: If a lawyer can fix their mistake, they should try to do that before contacting LAWPRO.

Fact  A lawyer should never try to fix a mistake or admit to a client a mistake has been made. Instead, LAWPRO should be immediately contacted. Attempting to fix a mistake or admitting an error may jeopardize the lawyer's insurance coverage, especially if it makes the situation worse. LAWPRO claims professionals or defence counsel can coach you on the conversation you should have with a client if there is a potential claim.


Myth #4: A lawyer working at a firm does not have to worry about their LAWPRO policy. It is a firm concern.

 **Fact** The lawyer is individually named as the insured under the LAWPRO policy, not the firm. This is unlike excess policies where the firm is usually the named insured. Any claims should be reported to LAWPRO by the lawyer who made the purported error or is responsible for the file. LAWPRO will look first to the individual lawyer for payment of any applicable deductibles or claims surcharge levies, even if there is an arrangement that the firm will pay these amounts. As well, LAWPRO can look to the partner(s)/shareholder(s) of the law firm the lawyer was at as of the date of the claim for payment of the deductible.

Myth #5: It is better not to take notes or keep your file because it makes it harder to prove you made a mistake.

 **Fact** It makes it harder to defend! While clients remember what was said and done on a file, usually in great detail, in my experience lawyers just do not remember the details. Notes or other documentation in a file that can establish what actually happened can be a lifesaver in the event of a claim.


Myth #6: Reporting a claim will trigger a deductible and claims surcharge levies.

 **Fact** Simply reporting a claim to LAWPRO does not, repeat, does not trigger a deductible. Lawyers have various deductible choices that include a nil deductible option (where you don't pay a deductible at all), a deductible that only applies when there's a

payment further to a judgment, settlement and/or repair ("indemnity payment"), and a third deductible option that applies to indemnity payments and claims expenses. If the third type of deductible applies, 50 per cent of the deductible would be payable when a statement of defence or responding materials are filed, and the remainder would be payable on the earliest of the commencement of discoveries, examinations, or a pre-trial conference is held, or when an indemnity payment is made.


The claims history levy surcharge is only applied if a claim has had an indemnity payment or the entire claim limit has been otherwise exhausted. If a claim is closed without any repair being required or payment made to the other side, then your premiums aren't expected to go up just because you've had a claim reported. Most claims are settled without a finding of negligence. In 2020, 36 per cent of LAWPRO claims were closed with no costs whatsoever, defence costs were incurred on only 52 per cent of the files, and an indemnity payment was paid on only 12 per cent of the files.

Myth #7: Lawyers do not have to worry about obtaining insurance in excess of the amount afforded under the LAWPRO policy.

 **Fact** The LAWPRO policy provides annual errors and omissions coverage of \$1 million per claim, or \$2 million in the aggregate. Keep in mind that this amount erodes with defence costs and expenses – which can sometimes be significant, even when the allegation of negligence has no merit. Consider the matters you handle and the nature of your practice – get excess coverage if you think you have exposure to a claim that would be worth more than \$1 million in terms of indemnity

(including pre-judgment interest) and defence costs. Excess coverage is not very expensive and gives you great comfort. Visit lawpro.ca/excess for information on LAWPRO's excess insurance program.

Myth #8: Lawyers have no insurance coverage after they leave practice.

 **Fact** When lawyers leave private practice (e.g., to retire, go in-house, move to another jurisdiction or take a temporary leave to focus on family) they usually qualify for exemption from payment of the premiums. Whatever the reason, the policy provides for Run-Off coverage that covers the work you did as an Ontario practising lawyer, for free! The standard Run-Off coverage has a sublimit of \$250,000 that covers your work as a lawyer when coverage was carried prior to going on exemption. This basic Run-Off coverage remains in place and lasts as long as you are on exemption. Of course, the limits will be depleted by claims that arise after the lawyer goes on exemption and the coverage may change in future. Lawyers can apply to buy up this sublimit to \$500,000 or \$1 million. It's also worthwhile to check if your current or previous firms have any excess insurance that might also respond to claims made against former members of the firm after they leave and what conditions might apply.

Take the time to learn more about your LAWPRO policy. Visit lawpro.ca for a copy of the policy and coverage. And remember to take steps to reduce your exposure to a claim. practicepro.ca has loads of helpful tools and resources to help you accomplish this. Lastly, please follow the advice I give above to help LAWPRO and your defence counsel defend you in the event you face a malpractice claim. ■

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Frankenstein's lawyer

or, The Modern Themis

How modern lawyers are built from many pieces

The year is 2021. Everyone has a supercomputer in their pocket. Artificial meat is 3D printed in a lab. Somewhere a car is driving itself and a robot is doing a backflip. And, at long last, many courts have finally instituted remote hearings by videoconference.

The legal system may adapt slowly to changing technology, but modernity eventually comes for us all. Today, lawyers must balance a variety of skills that go beyond case note-ups and precedent drafting to grow a successful practice. It is not only necessary to be adept at practice management and have thorough legal knowledge, but lawyers must have a strong understanding of technology; strong communication skills across various mediums to meet their clients' needs; and networking and mentoring skills. All while taking care of their mental and physical health and wellness.

Finding the right balance can be difficult, but you won't be doing it alone. LAWPRO provides resources for lawyers to build their skill-sets in all these areas.

Technology

Whether you are provided equipment by your employer or you invest in computer hardware and software yourself, there are a few basic areas in which technology skills are of particular value, such as email organization and cybersecurity.

Email

When it comes to using your email application, it's a good idea to organize all messages with a standardized format for subfolders. Email folders can be organized by client, with subfolders for distinct matters and files. The format you use for organizing subfolders can then be extended to your email subject lines. A standardized subject format such as "*Client – Matter – Topic*" will help you easily locate what you need when using the application's search function.

To save even more time, you can create a "Rule" that will automatically sort incoming emails from specific senders into the correct

folder and subfolder. You can similarly set your application to sort outgoing messages automatically in the appropriate folder, rather than manually moving them from the default Sent folder.

For more information, see “A place for every email and every email in its place: Improving your inbox organization” from the 2020 Student Issue of *LAWPRO Magazine*.

Cybersecurity

Phishing attacks and other forms of cyberfraud are an increasingly common source of loss for lawyers. To avoid catastrophic loss of information or funds, always use complex passwords along with two-factor authentication (password management software is often a necessary aid). Of course, you should also maintain adequate and updated anti-virus software, use end-to-end encryption when transmitting data over the internet, and regularly back up your data to mitigate ransomware attacks.

Fraudsters often use phishing attacks to target lawyers. Train yourself and staff members to never click on suspicious links and verify any instructions received by email. Additional cyber insurance may be necessary to maintain financial security from these sorts of attacks.

For more information see LAWPRO’s pamphlet on “Cybersecurity and fraud prevention tips.” As well, check out “Taking the gloom out of Zoom” in this issue for more advice on videoconferencing.

Communication skills

Communication breakdowns and misunderstandings cause close to half of malpractice claims. While some lawyers may prefer communicating by email, and others may value face-to-face business lunches, it’s important to meet the preferences and expectations of clients. If a client or third-party usually reaches you by phone, for example, you can assume it’s their preferred method of communication.

Communicating by telephone is a skill that has languished for some lawyers. Often steps such as delivering bad news, addressing outstanding accounts, or putting the brakes on an escalating conflict can be best achieved through a phone call rather than text-alternatives.

While it may seem silly at first, taking steps such as preparing a written outline for important calls, practising active listening techniques while on a phone call, and taking the time to prepare a short, clear voicemail when the recipient is not available, can do much to alleviate telephone anxiety and improve communication with clients, opposing counsel, and other individuals.

For more information, see our article “Communicating like it’s 1876: The continuing importance of telephone skills for lawyers” from the 2020 Student Issue of *LAWPRO Magazine*.



Networking and building relationships

Starting a legal career can be an isolating experience. That’s why it usually takes a deliberate effort to find effective mentors and build relationships with peers.

When navigating the complicated legal profession, new lawyers can benefit from building relationships with other lawyers who can act as *advisors* (someone that can offer assistance in a particular practice area), *coaches* (someone that can help improve particular practice management skills), *sponsors* (someone that can act as a personal reference and provide networking contacts), or *counsellors* (mental health professionals or peer-counsellors that can provide professional wellness advice or wisdom from personal experience).

Resources such as the LSO’s *Coach and Advisor Network* or the *Member Assistance Program* (where lawyers can obtain professional counselling or speak with a peer regarding mental health concerns) can give new lawyers a boost in establishing such relationships.

For more information, see “It takes a village to build a lawyer: The importance of mentors in your legal career” from the 2019 Student Issue of *LAWPRO Magazine*.

Wellness

By the time Canadians reach 40 years of age, almost half will have or have had a mental illness. These problems are even more common among lawyers: The American Bar Association has found that the likelihood of depression is 3.6 times higher for practising lawyers.

With an ongoing pandemic leading to isolation, loneliness, and new work-from-home stresses, mental health concerns are more important than ever in 2021.



It's important for lawyers to know that their mental health concerns are common, and there is no shame in experiencing a mental health issue. We are all human and are all susceptible to the psychological impacts of the pandemic.

Keeping an eye out for red flags

Lawyers work in high-pressure environments and are prone to anxiety, stress, addiction, and depression. It's important to attend to the warning signs of these issues when they arise.

For example, lawyers and students may sometimes notice a change in their colleagues such as an observed difficulty completing tasks, even if their colleagues have more free time. They may show obsession over anxieties about the future to the point that it impacts their abilities to complete obligations.

Even more importantly, lawyers and students may observe these symptoms in themselves. These problems can grow if not properly addressed.

Check in with those in your office or school to help them know they are supported, and have access to assistance if they are experiencing difficulties. You can set an example for co-workers and classmates by discussing your own concerns, stresses, and mental health, and the steps you are taking to protect your resilience during these times.

For more information on mental health advice, see our article "Stress management for law students (from a recent grad!)" in the 2016 Student Issue of *LAWPRO Magazine*.

The Member Assistance Program

In Ontario, the MAP is co-funded by the Law Society of Ontario and LAWPRO to provide mental health and wellness assistance to lawyers, paralegals, students, and their families. It provides numerous resources aimed at improving mental health and wellness.

Through the MAP, lawyers and students can find e-courses on health and wellness and can be completed at your convenience.

The MAP also provides peer-to-peer support; professional counselling for depression, trauma, and other mental health concerns; childcare and eldercare resources; and lifestyle coaching for subjects such as smoking cessation.

For more information, see "Using the MAP to find a healthier way" in Volume 19:1 of *LAWPRO Magazine*.

Physical health

Maintaining your physical health is important to ensuring your creativity, attentiveness, faculties, and life enjoyment. Often, physical exercise and healthy eating will be deprioritized when facing long nights and take-out dinners.

But ensuring a good night's rest, regular physical activity, and a balanced diet helps avoid fatigue and irritability.

The *Member Assistance Program* and various employers offer helpful resources to maintain physical health, but the real secret is just following the advice we all received growing up: avoid junk food, take the stairs, go for that walk, and go to bed.

Work/life balance

Small things can make a big difference for work/life balance. Many lawyers maintain a tether to their jobs by being constantly available by email, text, or phone call—sometimes even late into the night, on weekends, or on vacation. This can lead to smartphone addiction and burnout.

Establishing clear boundaries by alerting colleagues and clients you will be completely (or almost completely) unreachable when on vacation and putting the smartphone away for set periods of time in the evening and on weekends, can increase life enjoyment and effectiveness when you turn your mind back to your job.

Maintaining the balance

Building a successful practice means constantly learning and growing as a lawyer and an individual. LAWPRO is here to provide advice, resources, and assistance for all lawyers every step of the way. ■





Moving up during lockdown:

What it's like "articling from home"

Congratulations, you finished law school during a pandemic. Here's your J.D., your mortarboard, and your computer screen and Zoom account through which you will spend most of your first year in the legal profession.

This probably isn't what you were expecting. Lawyers are supposed to take meetings in boardrooms, not at a desk in their bedroom. They're supposed to wear suits and gowns, not slippers and sweatpants. They're supposed to shake their client's hand, not wave at their frozen and glitching image on screen.

And now, as this pandemic seemingly carries on longer than *Jarndyce v Jarndyce*, you are starting a career that is quickly transforming for the entire profession. But like most lawyers, you have an open mind and are ready to adapt to these new challenges.

Like you, LAWPRO's articling students are not only meeting these challenges, they're learning from them and thriving, as they prepare for a career in law that may not initially be exactly as they expected.

We sat down with Alexei Batten and Kristen Steele, who both joined LAWPRO as articling students in 2020, to ask them about their experiences so far.

Alexei Batten

Even outside a once-in-a-century global pandemic, an open mind and flexibility would be good descriptors for how Alexei is approaching his legal career. To begin, he says, "I knew I wanted to be a lawyer, but I had no idea where that would take me. So much of it requires a realistic appraisal of the actual practice of law, and not just the academics. So, I knew from the start that I needed to be flexible."

When Alexei began at LAWPRO, COVID-19 guidelines prevented most employees from working in the office. As such, onboarding into an entirely virtual articling experience called for flexibility. Alexei describes working from home as "you don't have the same access to your colleagues. Networking is not as easy as it would otherwise be, so you have to be very proactive about finding ways to include those 'office experiences' into your home environment. I can't just walk down the hall or pop over my cubicle and ask the person next to me 'how do I solve this problem?' I have to set up more formal meetings to address these things. It's difficult, but it's also an opportunity to clear your own roadblocks, in a way."

To capitalize on that opportunity, Alexei recalls that "one of the good things our articling principal did was encourage us to reach out to someone new every week, either within the company or outside of it, to set up a conversation with them. You need to ensure you're making contacts and getting advice from those with beneficial experience."

Reaching out and building these relationships, even virtually, has helped Alexei's comfort and confidence when working with more experienced lawyers. He's found that "the more you own your opinion, are confident about your analysis, and explain why you take that position, the more useful you are to other people. It's okay to be wrong. It's better to be confident and do your best and maybe get it wrong than quibble about everything forever, because otherwise you will never be able to contribute your best."

The purpose of the articling period is to build the practice skills new lawyers will use throughout their career. To that end, the current

work-from-home environment has helped Alexei develop skills used for working in an entirely digital environment. He observes, "It's important to take notes on everything. I've found there are very useful tools within our digital file creation engines, where we can record notes on every file we work on. So I record any development. Things like 'I spoke to this person on the phone at this time about this topic.' Sometimes you think you can hold all these things in your head, and then five days later you regret that you didn't write it down."

Kristen Steele

Kristen was always attracted to a career in law because it's about problem solving. So, it's no surprise that she was ready to start solving the problems associated with remote working. She says "we've been forced to get much better at virtual communication. It can be difficult, because you're missing out on non-verbal cues that you would be getting in-person, but it's so important." For her, the pandemic brought an opportunity to develop and improve these sorts of communication skills that will be beneficial in the future.

Kristen notes that even though she can't physically approach any of her new colleagues, it doesn't mean they're not approachable. She says, "the lawyers you work with in your articles have been in your position and they're willing to help or give advice when you need it. I've found that everyone I've worked with has been willing to help and an invaluable resource."

However, it's clear from working at LAWPRO that one thing the pandemic hasn't changed is the need for *all* lawyers to exhaustively document their workflow. Kristen says, "one thing you notice, seeing the claims that come through, is how important it is to keep a paper trail and write down everything you do. You need to eventually provide reasons and documentation for every decision you make and provide evidence that you're fulfilling your responsibilities every step of the way."

According to Kristen, the LAWPRO opportunity particularly appealed to her because she would not only learn from these "best practice" observations but would also get hands-on experience with both solicitor and litigation work. She notes, "at my law school, there was a really big emphasis on the formal recruitment process, such as OCIs. I wish I had known how many opportunities there were outside those processes, because most people find their articling positions elsewhere."

Now, even working physically distanced from her new LAWPRO colleagues, she says "the biggest surprise has been the level of responsibility that we are given early on. When you see your work has an impact it feels pretty good."

And while Kristen acknowledges that the pandemic has prevented them from experiencing things like in-person hearings for themselves, she has taken it upon herself to ensure she still knows what to expect from that aspect of a legal career. She notes that "practicePRO has quite a few resources for new lawyers that are really helpful and supplemented our more 'virtual' experiences. Things like the 'The first timer's going to court cheat sheet' are really useful for getting a better sense of the rest of the profession." ■

Get your law practice off to the

BEST POSSIBLE START

Professional liability claims can take the wind out of the sails of anyone's legal career, but can be especially demoralizing for a new lawyer. Your best chance at avoiding claims is to develop great working habits right from the start. Here are some practice 'resolutions' that you may want to consider. Want more? Read the whole resolutions feature on the practicePRO website at practicepro.ca/resolutions



Want to avoid the most common claims in your particular area of law?
Try these resolutions...

...to avoid litigation claims

- I will talk to my clients more often and not rely on email so much.
- I will make sure to have written confirmation of instructions and advice.
- I will enter target dates a few days early to avoid last minute complications.
- I will maintain current knowledge of administrative dismissal rules (see the Rule 48 Transition Toolkit at practicepro.ca/rule48).
- I will create more detailed time dockets.
- I will review my file before closing it to make sure every task is accounted for.

...to avoid corporate-commercial claims

- I will not dabble in areas outside my expertise.
- I will follow the firm's conflict checking system and take action on conflicts.
- I will take the time to catch all the details and do the job right.

...to avoid real estate claims

- I will ensure I meet with my clients in person at least once.
- I will remember that the lender is also my client in most residential purchase transactions.
- I will make sure I take my instructions from the person with the true interest at risk in the transaction.
- I will document my conversations with and instructions from the client.
- I will not give my electronic registration password to my clerks or anyone else.

...to avoid family law claims

- I will make better use of reporting letters and checklists. (Check out LAWPRO's *Domestic Contracts Matter Toolkit* at practicepro.ca).
- I will be aware of the limitations of my legal knowledge.
- I will proactively direct and control client expectations.
- I will learn to say "no" and not take on a potentially difficult client.

...to avoid wills and estates claims

- I will ask probing questions when meeting with a client to prepare a will.
- I will not act for family members or friends.
- I will confirm as best I can the capacity of the testator and watch for undue influence.
- I will take the time to compare the drafted will with my notes.
- I will review the completed will with my client.

...to avoid criminal law claims

- I will take the time to ensure the client understands my recommendations.
- I will discuss with the client the potential consequences of pleading guilty (and document it).
- I will promptly notify LAWPRO of any appeals based on "ineffective assistance of counsel."
- I will meet with my client in my office whenever possible.



I will download the claims fact sheet for my area of practice from practicepro.ca/factsheets

Want to run an efficient and successful (and hopefully claims-free) practice? Try these resolutions...

...for better case management

- I will complete a conflicts check before opening a file.
- I will open a file for every matter I handle (doing “off-books” work not only bypasses firm administrative procedures and checks, it often leads to short-cuts and mistakes).
- I will use a tickler system for limitations periods and time-sensitive tasks.
- I will have signed retainer agreements or engagement letters in all my files.
- I will send a final reporting letter at the end of every retainer.
- I will not handle matters I am uncomfortable with, because dabblers are more likely to face a malpractice claim.

...to avoid doing things that annoy clients the most

- I will promptly return phone calls and reply to emails.
- I won't make clients wait in reception.
- I will deliver on promises of performance.
- I will be prepared for client meetings.
- I will keep my clients informed during long periods of inactivity.
- I will not send large bills without warning or explanation.
- I will endeavour not to fall down on the level of service my clients deserve.

...for stress relief, wellness and balance

- I will take a real lunch break.
- I will read a good book.
- I will get help if I need it.
- I will make time for exercise.
- I will go outside to improve my mental health.
- I will make time for family and friends.
- I will take the time to do things I enjoy.

...to better set and control client expectations

- I will carefully explain how the matter will proceed.
- I will avoid legal jargon when explaining things to my clients.
- I will give the client a realistic indication of how long the matter will take.
- I will provide the client with a full picture of all costs and disbursements.
- I will clearly explain to the client all possible outcomes or results.
- I will answer all my clients' questions to their satisfaction, and will confirm my advice in writing.
- I will immediately highlight for clients any unexpected changes that arise.

...to better document files

- I will document all important instructions, advice, conversations, and decisions in my files.
- I will be especially careful to document situations where my client wanted me to follow a course of action that I did not recommend or that could have possible negative outcomes.
- I will also be extra careful to document my files for difficult or emotional clients.
- I will get signed directions for major decisions on a matter.
- I will use written offers to settle.
- I will not document embarrassing views of my client or other parties.
- I will keep draft versions of documents in the file.
- I will keep a copy of the final version of documents in the file.

...to capture more time, avoid fee disputes (and make more money)

- I will get a sufficient retainer at the start of a matter.
- I will ask clients to replenish the retainer before it runs out.
- I will bill my matters regularly, and stop work if I am not paid (subject to getting off the record where appropriate).
- I will use electronic timesheets and enter my own time as I complete tasks throughout the day, using standard billing codes and including explanatory details.
- I will record every minute I spend on a file, and make necessary adjustments later.
- I will docket all my administrative and other non-billable time.
- I will review detailed time and billing reports for my practice.
- I will use the reports in my accounting software to monitor retainer amounts, Work in Progress (WIP) hours and outstanding accounts.
- I will keep in mind that suing for fees may trigger an allegation of negligence.

...to improve my skills with the help of LAWPRO and practicePRO resources

- I will visit practicepro.ca/newlawyers to access the *LAWPRO Magazine* archives and many other useful practice resources.
- I will regularly use practicePRO checklists and precedents (practicepro.ca/checklists).
- I will check the AvoidAClaim.com blog to keep up-to-date on claims prevention and fraud matters. ■

Dan Pinnington is President & CEO and Tim Lemieux is Claims Prevention & Stakeholder Relations and Claims Analyst at LAWPRO.

Student to lawyer



CHOOSE YOUR ROLE

20 tips for a successful transition

There isn't a magic formula for mapping out a career in law. You will make some decisions on where you would like to go, but there are many things outside your control which will impact where you end up. Factors such as economic conditions, personal circumstances, and even a bit of luck will affect the career path you will follow.

Some law students have a very strong idea about the area of law they ultimately see themselves practising in. Other students may have no idea, or perhaps an idea of areas of law they would prefer to avoid. Your thoughts may change as you go through law school. Whether you already have an articling position, an LPP placement, or are still searching, it is worthwhile to spend time organizing your thoughts about the direction you would like your professional life to take. This can help you make better choices. This article outlines some tips and self-assessment questions that will help you find your way to a satisfying and successful legal career.



Sole Practitioner



Small Firm



Big Firm

1

HONESTLY ASSESS WHAT MAKES SENSE FOR YOU

Regardless of what stage you are at in law school, you may have an idea of where it is you would like to end up. That could be in Toronto at a large Bay Street firm, a sole practitioner in a small community, or somewhere in between. When it comes to areas of law, work hours, working environments, types of work, remuneration and many other factors, Bay Street lawyers, smaller firm and solo practitioners live in very different worlds. Ask yourself what makes sense for you. This is a very personal question. Be honest – very honest. You will be happier and more successful if you can find the place where you best fit in. Do your best to figure out where that is.



A QUICK REVIEW OF THE OPTIONS

In Ontario there are nearly 29,000 lawyers in private practice (i.e. lawyers who work at a firm serving clients). The largest firms have several hundred lawyers. The smallest have a single lawyer. A job at a large firm may mean a bigger salary, and in some cases, a bigger time commitment. Some lawyers enjoy and thrive in the big firm environment, others do not. One-third of the lawyers in private practice work in sole practices and one-third work in firms with just 2-10 lawyers. There are a few thousand Ontario lawyers that have a corporate or “in-house” position. And while it is probably not something that many students contemplate as they are in the midst of working hard to get through law school, ultimately the realities of practice or other personal circumstances cause some to leave private practice and even the legal profession.

3

CREATE A LIST OF OPTIONS

Where do you want to go? Consider your preferences and what you think makes sense for you. Write out a list of your options. Your list should include the most desirable options as well as others you might consider if your preferred choices do not work out. Think broadly and keep alternatives open. You may have specific firms in mind, but you should keep an open mind and include groups or categories of firms that would be of interest.

4

WHAT MAKES YOU UNIQUE?

Every law student is unique, and the key to selling yourself is to tap into your own uniqueness. To do this, consider the work and personal experiences you have had, the education and training you have completed, and any other skills that you have learned before entering law school. Identify what makes you stand out from the crowd. This will let you sell yourself with more confidence and will also help you make choices about job opportunities that are the best suited to your abilities and preferences.

5

DO YOU HAVE WHAT IT TAKES TO BE A SOLE PRACTITIONER?

One-third of the nearly 29,000 lawyers in private practice in Ontario are sole practitioners. As a sole practitioner, it's great to have the freedom that comes with being your own boss, but you also have full responsibility for all the day-to-day operation of your law practice. Do you have what it takes to be a sole practitioner? See the self-assessment (below) to answer that question.



Are you ready for sole practice?

The chart helps identify your strengths and weaknesses and gives you a better idea of whether you're cut out for solo or small firm practice.

Ask yourself whether you possess some or all of the skills listed below. Rate your skills by circling the appropriate number, using a scale of 1-5, with 1 as low and 5 as high.

Skills

Getting clients

- projecting confidence in your skills
- networking
- client service follow-up
- asking for referrals
- identifying client needs
- tracking competitors

Rating

→ 1 2 3 4 5
LOW HIGH

Marketing

- advertising/promotion/public relations
- annual marketing plans
- marketing strategies
- advertising copy writing
- pricing

→ 1 2 3 4 5
LOW HIGH

Financial planning

- cash flow planning
- bank relationships
- management of credit lines
- monthly financial statements

→ 1 2 3 4 5
LOW HIGH

Accounting

- bookkeeping
- monthly profit and loss statements/balance sheets
- quarterly/annual tax preparation
- billing, payables, receivables

→ 1 2 3 4 5
LOW HIGH

Administrative

- scheduling
- payroll handling
- benefits administration

→ 1 2 3 4 5
LOW HIGH

Personnel management

- hiring employees
- motivating employees
- general management skills
- firing employees

→ 1 2 3 4 5
LOW HIGH

Personal business skills

- oral presentation skills
- computer skills
- fax, email experience
- written communication skills
- word processing skills
- organizational skills

→ 1 2 3 4 5
LOW HIGH

Intangibles

- ability to work long and hard
- family support
- ability to work alone
- ability to manage risk and stress
- ability to deal with failure
- ability to work with and manage others

→ 1 2 3 4 5
LOW HIGH

How did you do?

- If your total is less than 20 points, you should reconsider whether owning a business is the right step for you
- If your total is between 20 and 25, you're on the verge of being ready, but you may be wise to spend some time strengthening some of your weaker areas
- If your total is above 25, you may be ready to start a sole practice

Total: _____



6

A DOSE OF REALITY – THE JOB MARKET

After you have determined what you think your preferred career path will be, you need to consider the job market. Finding an articling position or post-articling job may be difficult right now, although the introduction of the Law Practice Program in 2014 expanded the

options for students. Unfortunately, you may end up taking a position that will not be your ideal in terms of size of firm, area of law or geographic location. These factors are beyond your control. You will need to work with them and make the best choices you can in the circumstances in which you find yourself.

7

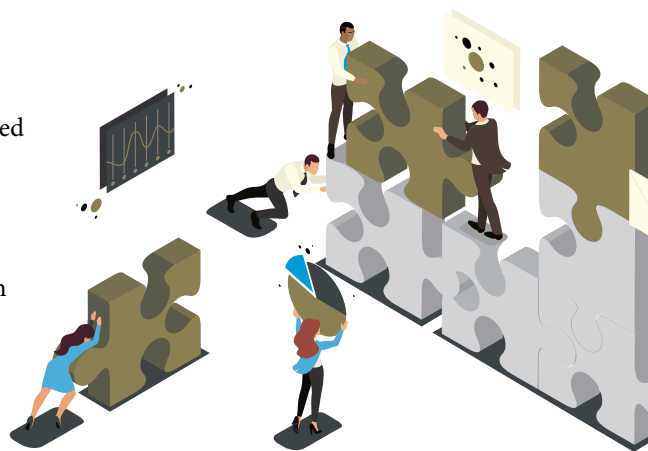
BE PREPARED TO DEAL WITH UNCERTAINTY

Making decisions about your career path when you are a student is not easy. There is a great deal of uncertainty as there are many choices and limited information on which to base decisions. This uncertainty is compounded by many factors and unknowns beyond your control. You will not be able to eliminate uncertainty. Accept that there is an element of risk and chance. Work to gather all available information and make the best decision you can in the circumstances.

8

BE READY TO ADAPT

After you have assessed your preferences and mapped out your options, you should have an idea of where you want to go and what you need to do to get there. However, your personal circumstances and external factors can change. Make sure you consider new or changing circumstances and be alert for new opportunities. Your preferred path may change based on your articling or LPP placement experience or the work you end up doing in the early years of practice.



9

PREPARE YOUR RESUME AND SUPPORTING INFORMATION

Prepare the bundle of information you will use to sell yourself in interviews. This includes a resume that highlights your background and why you are unique – remember, you want to stand out from the crowd. If you have them, collect writing samples to show your work. Identify your references and contact them for permission.





CONTACTING POTENTIAL EMPLOYERS

Contacting potential employers takes some legwork. Start with your most preferred options and work down your list. Go online and review firm websites; talk to friends and colleagues to get information about the firms you are considering. An inside introduction can help, so look to see if someone you know knows someone at any of the firms that interest you.

GET NETWORKING

For lawyers and students the process of networking is aimed at increasing your contact with individuals who may be clients, know about career opportunities, help open doors, or provide support. Networking involves developing new contacts, as well as tapping old ones. Informal channels can also help with networking, and even with

finding a job. Many law students initially think they do not have “contacts” in the legal profession. Don’t sell yourself short. If you are active on social media you already have a network that probably includes people from the legal world or people that are connected to people in the legal world. If you aren’t on social media, you can create a network with minimal effort.



MAKING A GOOD IMPRESSION AT A JOB INTERVIEW

When it comes to getting a position, making a good impression is critical, both in your articling and LPP interviews and in any future interviews you might do. You can make a positive impression with good answers to the many difficult and awkward questions that will be asked of you. These

questions are often fairly standard and you can and should prepare answers for them. See page 19 for a list of some of the questions you can expect in an interview for a position at a law firm.

How would you answer these job interview questions?

Job interviews can be very stressful. It’s not easy to answer questions about yourself, especially when they are open-ended questions that address your personality, work habits, ability to do teamwork and so on. Good answers are the key to a successful interview, and hopefully a job offer. The questions asked at job interviews are fairly standard. You greatly increase the chance you will give a good interview by preparing answers ahead of time. See the facing page for the questions you can expect in an interview for a position at a law firm.



Sample interview questions¹

Background questions:

- Tell me a little about yourself. What made you decide on law school?
- What do you hope to get out of a legal career?
- What do you know about [our firm]?
- How do you think [our firm] can help you achieve your career goals?
- If you had to describe yourself in only three words, what would those words be?

Independence/sense of self/judgment:

- Describe what success means to you.
- Do you think of yourself as a risk-taker, or someone who plays it safe?
- How would you describe your standards of performance?
- Describe a (recent) situation in which you had to quickly establish your credibility and gain the confidence of others. What did you do?
- What do you think has contributed most to your success so far?
- What are some of the things (weaknesses) you are still working on in yourself?
- Describe a time when you had to take on something very new or different and you had little or no guidance and support in doing so. How did you handle it?
- A senior partner left an assignment for you before leaving on vacation. Now, you can't reach him/her and don't understand the assignment. What do you do?

Conscientiousness/work ethic:

- Describe a situation in which you had to work under pressure. How did you handle it?
- Do you anticipate problems effectively or just react to them?
- Tell me about a time when you went beyond the call of duty or delivered results beyond what was expected. Why did you do that?
- How would you clarify an unclear assignment?
- What kind of work environment are you most comfortable in (structured/unstructured)?
- Tell me about a time when you were assigned an unwelcome task. What did you do?
- Have you ever made an error in judgment that you had to address with your employer? How did you handle it?
- What part of your current workload do you find most challenging?
- What distinguishes you as a candidate?

Motivation/initiative:

- Would you describe yourself as a self-starter? If so, why?
- Would people describe you as a competitive person?
- Describe two things that motivate you at work.
- Give me an example of something you've done that demonstrates initiative and willingness to work.
- What kinds of responsibilities are important to you in your work?

Achievement/accomplishments:

- What work or personal accomplishments are you most proud of?
- What accomplishments gave you the most satisfaction?
- Have you ever accomplished something you did not think you could? How did you do it?
- Give me an example of how you have shown initiative.
- What is the most challenging thing you have ever done?
- What would you consider to be a stimulating work environment?
- Describe a significant risk you took to accomplish a task.

Interpersonal skills/communication:

- Describe a (recent) experience when you worked in a team environment. What was your role?
- Describe a situation where you had to give constructive criticism to another person. How did you go about this?
- Can you describe a situation where you worked for a difficult boss? What happened and how did you handle it?
- Have you ever had to resolve a conflict with a co-worker? How did you resolve it?

Organization:

- Describe your study habits.
- How do you manage your time/organize your workload?
- Describe a situation in which you've faced competing priorities. How did you handle it?
- How do you plan to achieve your career goals?
- Tell me about a time when you organized a project/completed a job where the directions were vague.
- When you are under a lot of stress, what is your typical reaction?

¹ Many of the questions in this article come from a *Sample List of Interview Questions* prepared by Karen MacKay of Phoenix Legal Inc.



DELEGATED TASKS DONE RIGHT

Delegation involves getting the job done through others. As an articling, LPP student, and new lawyer you can count on having many tasks delegated to you. Here are some tips to help you maximize the learning opportunities that delegated tasks present and to make sure the tasks delegated to you are successfully completed:

- Get clear instructions and all required information: Make sure you understand the specific issues of concern, but also look to appreciate the bigger picture so that you understand the reasons behind the work that you are doing.
- Get direction on any special parameters: Ask the person giving you the task if there are any parameters that will limit or direct what you are to do to complete the task. Are there resources to use or to avoid? How much time is to be spent on the task? Are there any cost sensitivities on the part of the client with respect to the amount that will be billed for the work?
- Get a realistic deadline: Most tasks will come with a deadline attached to them. Make sure you are aware of the deadline and that you can realistically meet it given the other tasks for which you are responsible. Talk about alternatives if the deadline is unrealistic given other deadlines you are facing.
- Understand the reporting mechanism: Are you expected to simply return the completed work, or are you to check in with updates as the work progresses?
- Confirm the instructions given to you: At the end of your discussion, reiterate the instructions given to you to make sure you properly understood them. Ask about anything you don't understand or are confused about.
- Ask for feedback when the work is done: Getting feedback is key to learning, especially if there were mistakes or complaints about the work. Hopefully any criticism given to you will be constructive criticism.



GOOD CLIENT COMMUNICATION IS ESSENTIAL

Start off on the right foot in your dealings with clients. LAWPRO statistics indicate that nearly half of all lawyers will have at least one malpractice claim during the course of their career. The most common malpractice claims don't involve a failure to know or apply the law – errors of law lead to only about 13 per cent of the claims LAWPRO sees. Lawyer/client communication issues are the most common cause of claims, accounting for more than one-third of the claims LAWPRO handles. These errors arise due to poor communication, miscommunication, or no communication whatsoever. Take the time to develop good interpersonal skills and to implement sound client communication practices. You can find more resources on client communication practices on practicepro.ca



GET A MENTOR TO IMPROVE YOUR SKILLS

Mentoring is one of the most effective ways to gain skills, knowledge, and wisdom about many topics that are not taught in law school. See our article, *It takes a*

village to build a lawyer in the 2019 Student Issue, available at practicepro.ca, to learn more about using mentors in your career.



17



BE NICE!

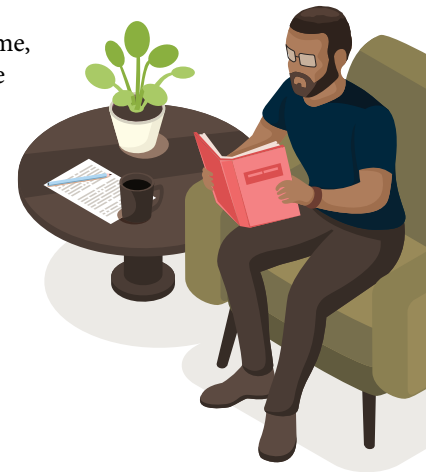
You will find that the legal world is a very small one. You will meet hundreds of people through the course of your articling year or LPP placement. This will include lawyers and staff at your firm and at other firms, clients, court office staff and others. You can count on meeting many of these people again through the course of your career, so be professional and courteous with everyone you deal with each and every day. Word gets around, and you never know how the people you interact with today will be in a position to help or harm you in the future. Always remember, what goes around, comes around. Be nice!

18

HAVE A LIFE

Many legal positions will put great demands on your time, sometimes far beyond the regular 9 to 5 workday. There is nothing wrong with working hard and being proud of the work you do as a lawyer. But don't neglect the

people in your life, and make sure you spend time outside the law office setting! Your partner, kids, extended family, friends and community are important. Make time for them. A strong social network outside the office will make it easier to deal with the stress at the office and can help keep your job in perspective. Sports or other hobbies will let you blow off steam, keep in shape or be engaged with non-legal tasks and people.



19

TAKE CARE OF YOURSELF

At times you will find the demands of working stressful, as well as physically and emotionally exhausting. You can count on being exposed to high levels of stress on a daily basis. Unfortunately, lawyers exposed to high levels of stress over the long term may misuse or become addicted to drugs or alcohol, and can have challenges to physical or mental wellness. These problems can be contributing factors for LAWPRO claims and Law Society complaints. So try to eat right, and get exercise. And if you feel stressed and burnt out, remember there are resources to help you. See the self-assessment tools and resources on the practicePRO wellness page and page 23 for more information.



20

TRUST YOUR INSTINCTS

Throughout your career as a lawyer, there will be highs and lows, good times and bad. Follow your heart and your instincts. Be ready for the unexpected. Many of you will end up in a career that is very different from anything you are expecting or planning for today. It may even be outside the law. Good luck on your articling or LPP experience and with the other decisions you face over the coming months. ■

Many students and lawyers find themselves confronting mental health and wellness issues during their career. If you find yourself dealing with depression, anxiety, addiction, or other mental health or wellness concerns, know that you're not alone. The Ontario Member Assistance Program ("MAP") is a confidential, independent program operated by Homewood Health that provides resources and counselling at no cost to Ontario lawyers and students.

Increasing awareness and new resources available to legal professionals in Ontario are building a healthier, more resilient, and stronger profession.

The MAP offers a wide variety of online resources available through the online portal of homeweb.ca, along with in-person professional assistance.

Short and longer-term counselling

Confidential short-term and crisis counselling is available in-person, online, or over the phone from experienced therapists who specialize in issues such as stress, anxiety, substance abuse, depression, burnout, and other personal and mental-health issues.

The MAP provides secure and private online counselling sessions, either through private and confidential message exchange, where a counsellor will respond to a private message within two business days, or through real-time interaction in a private chatroom environment via a secure web board, where all communications are confidential and private.

Longer-term counselling—up to 20 sessions—is available for members seeking treatment for depression or trauma related issues.

Peer-to-peer support

Designed specifically for members of the Ontario legal profession, the MAP's peer-to-peer support service connects members with a peer who has experienced and overcome the same issues they may be experiencing.

Lifestyle coaching

The MAP's "Life Smart" resources provide coaching on a variety of subjects such as childcare and parenting, elder and family care, financial and legal issues, nutrition and smoking cessation, as well as career, retirement, and workplace issues.

Online lifestyle and learning resources

Historically, despite the MAP's commitment to privacy and confidentiality, many lawyers have remained reluctant to reach out for necessary assistance due to concerns that their health issues may become known to colleagues or the Law Society. For that reason, the MAP provides self-directed online resources.



**Member
Assistance
Program**

Myassistplan.com

A curated collection of Homewood's resources are available to Ontario lawyers through the myassistplan.com online portal, which provides a large online library of health and wellness assessments and self-directed learning resources, including videos, articles, podcasts and e-courses designed to improve personal health and well-being. Resources can be accessed on any desktop or through Homewood's mobile app. Homewood offers licensees the ability to create an individual profile and receive guided, personalized content and recommendations, including a self-paced online cognitive behavioural program called "i-Volve." Members can easily access articles on subjects such as anxiety, PTSD, grief and loss, mindfulness and meditation, understanding and treating depression, and myriad other topics, or take online courses that can be completed in a single sitting aimed at taking control of anger, career, stress, and other aspects of their lives.

12weekstowellness.com

Homewood also provides an online, goal-oriented wellness resource under the banner of "12 weeks to wellness." Individuals set their own goals regarding lifestyle habits, weight, peace of mind, self-esteem, and other wellness aspects, and receive coaching while tracking their progress through assessments and a personal profile. ■

5 Tips for Developing Emotional Intelligence

Developing emotional intelligence can make you a more effective lawyer.

1

SELF-AWARENESS

Are you avoiding a file? Dig deeper for what the reasons might be, and how you can approach the work. Avoiding work on a file may lead to missed deadlines.

2

SELF-REGULATION

Before sending a heated response to opposing counsel, pause and reflect on whether such a response would be productive.

3

EMPATHY

Actively listening without making assumptions or judgments can help you better understand your clients concerns and provide tailored solutions.

4

SELF-MOTIVATION

Focusing on gratitude and positivity improves overall health and well-being, which is beneficial for you and your clients.

5

RELATIONSHIPS

Communicating with clients with transparency and empathy helps set expectations, leading to fewer disappointments/misunderstanding.

Take a look at some resources available for free from the Member Assistance Program such as eCourses on resilience, responsible optimism, resolving conflict, and taking control of your mood.



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Taking the gloom out of Zoom:

Ten teleconferencing tips

It turns out, the class we all needed was “Lawyering by Zoom 101”.

It’s clear that remote meetings and videoconferencing are now a permanent part of the legal profession. But while online meetings bring benefits and convenience, they can also bring confusion and frustration.

We’ve summarized ten teleconferencing tips to help you be the best digital lawyer you can be.



1) Check your tech

You don’t need studio lighting and high-end audio-visual equipment for your personal computer, but a few basic steps will ensure you come across in the best manner.

- a) Place your camera at approximately eye-level. If you are using a laptop, this may require you to elevate the laptop above its usual position. When speaking, try to look at the camera. Positioning the on-screen video window directly below the camera’s placement can help create the appearance of eye contact while facilitating conversation.
- b) Use headphones to avoid audible echoes. If available, good quality headphones with built-in microphones will usually provide better sound quality than a laptop mic.
- c) Test the equipment and software. It’s a good idea to familiarize yourself with how to navigate software before jumping into a meeting, especially if you will be screen-sharing or hosting. Remember that Zoom, Google Meet, Microsoft Teams, Webex, and GoToMeeting have different features and interfaces that may require some initial test-runs.

you want to project. Different lawyers will have different views about what is proper business attire when videoconferencing.

Use a bookcase, artwork, or tidy shelf as a backdrop—avoid windows as they can be distracting and can negatively affect your lighting, making you difficult to see. A ring-light mounted behind your computer is a reasonably inexpensive way to ensure you are always fully visible in meetings.

Some video conferencing tools allow you to set a virtual background. If you’re going to do this, make sure your background is appropriate for your audience. (Alas, giving legal advice from outer space isn’t always a sure-winner.)

Finally, if you are working from a home shared with others, make sure they know you will be in a meeting and should not be disturbed. While an unexpected visit from a young child or adorable pet can often be the highlight of a meeting for those watching, it’s a good idea to alert others in advance if this may occur, in order to avoid surprise and embarrassment.



3) Prepare to share

Most video-conferencing programs allow users to share the contents of their screen with other attendees and may also allow joint annotation and other functions.

If you will be referring to documents during the meeting, or reviewing documents with a client, prepare in advance what you will and



2) Dress (and set-dress) to impress

When meeting with a colleague, a client, or attending an online court hearing, maintain a look that fits the situation and is consistent with the image



will not be screen-sharing. Remember to close any non-relevant windows or programs running in the background, as you probably don't want others to see the online shopping or cat videos you were looking at earlier.



4) Mute, mute, and mute

Nobody wants the conversation overtaken by the street sweeper outside your window. If you're not speaking, always mute. If you're hosting the meeting, or the host forgets to do so, remind everyone at the start that they should also mute their microphones if they're not speaking.

And then, when you inevitably forget to unmute yourself before making a brilliant point, try not to feel embarrassed when half-a-dozen people interrupt you to say "you're on mute."



5) Ensure confidentiality and security

When meeting with clients or discussing confidential information with colleagues, privacy is of utmost importance. If you are deciding *which* teleconferencing software to use, remember that not all video conferencing software provides the same security. Consider whether meetings will require true end-to-end encryption (which means even the software provider will not have access to the content of your conversation).

To avoid uninvited guests logging into your meeting and listening-in or causing disruption, require a password for entry (and don't post this password online). It's also a good idea to use a virtual waiting room where attendees will log in and wait until they are specifically granted access by the host.



6) Don't assume others know how to use the software

A client or colleague may not have used remote conferencing software in the past or may be unfamiliar with the specific software used by the host. If you expect to be arranging online meetings with new contacts, it's a good idea to prepare (or download, if one already exists) a brief step-by-step walkthrough of how to set-up any required software and access to the meeting, and provide those instructions (or a link) to every attendee in advance.



7) Set a (short) agenda

If you're hosting a meeting, it can sometimes be difficult to maintain everyone's attention and understanding. A clear and concise agenda, either outlined at the start of the meeting, or circulated in advance to all attendees, will keep the meeting on track and ensure all matters are dealt with efficiently and effectively.

Keep meetings short, if possible, but overestimate their expected length. If the meeting is expected to be long, remember to schedule breaks for everyone to briefly step away from their computers.



8) Confirm backup contact info

Technical difficulties are inevitable, which can prevent you (or others) from getting online and into the room at the scheduled time. Make sure you have backup contact information for the host so that you can alert them if you encounter a never-ending loading screen (or worse).

Similarly, if you're hosting the meeting, make sure the invitees have your contact information so they can let you know of any delays (or where they went if they suddenly disappear mid-meeting).



9) Summarize and memorialize, and/or record with written consent

At the end of the meeting, summarize what was discussed and any deliverables and follow-ups that are required. As always, if meeting with a client, remember to memorialize the meeting immediately after it ends and put any instructions received or advice given into writing.

In some cases, it may be helpful to record the whole meeting. If you intend to do so, it is helpful to obtain the written consent of those attending and confirm their consent at the start of recording.



10) Did we mention mute?

Seriously. If you're not speaking, hit that mute button. ■

EVERYTHING YOU WANTED TO KNOW ABOUT BEING A LAWYER*

*But were afraid to ask

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