



PUTTING THE INSURANCE  
PUZZLE TOGETHER

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# Putting the insurance puzzle together

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LAWPRO's primary Errors & Omissions (E&O) program is a key piece of the insurance puzzle for any lawyer and law firm. But additional insurance coverage is often required to protect against the full constellation of risk faced by a law firm.

Remember that all insurance policies are drafted to cover only a specific set of risks. It's important to familiarize yourself with what is and is not covered and excluded by each policy so you know what additional coverage or endorsements may be needed. It's a good idea to consult with an insurance broker to get a full understanding of your insurance needs and options.

We've summarized some of the basic insurance categories you may want to consider:

## Business Owner Policies (BOP)

Insurance providers will often bundle general liability insurance, property insurance, and some business interruption insurance together in competitively priced packages for small businesses.

### *Commercial General Liability Coverage (CGL)*

Failing to meet a filing deadline may trigger LAWPRO E&O insurance but failing to remove the icy patch in front of the office building requires different coverage entirely. Basic CGL coverage protects against liability associated with bodily injury and property damage suffered by third parties as well as associated legal fees.

Depending on the package and specific endorsement options provided to the firm, these policies may also cover "**Personal and Advertising Injuries**", including non-physical personal injuries such as malicious prosecution, slander and libel, or publications that violate privacy. If claims of this nature arise outside the provision of professional "legal services," coverage under a CGL policy may be necessary to avoid substantial personal liability on the part of the lawyer.

### *Property Insurance*

It's hard to work without a workspace. Property insurance responds to damage to a physical office arising from fire, vandalism, and other such perils. Separate riders or separate policies entirely may be necessary to guarantee coverage for the cost of re-creating hard-copy records and files lost in a covered event (e.g., **Valuable Papers and Records Coverage**), or to cover the cost of any specialized equipment used by the firm (e.g., **Boiler and Machinery Insurance**).

If you work from home, standard home insurance may cover the risk of losing your physical workspace, but specific protection for business records or business interruption flowing from physical property damage (discussed below) will require specific coverage.

## *Business Interruption Coverage*

Certain events, such as a devastating fire or flood, may prevent a firm from being able to operate. Business interruption insurance compensates for lost income and helps cover fixed operating expenses like staff payroll. It also may cover renting a temporary location, hiring movers for inventory, and other costs of getting back to work.

The risks covered by Business Interruption Coverage vary. To use an example on everyone's mind, most Business Interruption Coverage *does not* cover pandemic related closures unless specifically requested (and, if even available, resulting in additional cost).

Business interruptions flowing from cyber-related activities, such as ransomware that paralyzes a firm for a period of time, is usually available through specific cybercrime coverage (see below) and would usually be excluded from Business Interruption Coverage tied to Property Insurance. General Business Owner Policies may include some level of Business Interruption Coverage tied to already covered perils, such as Property Insurance that covers fire damage as well as any business interruption flowing from the fire. However, Business Interruption Coverage will be carefully circumscribed by the provider to explicitly covered perils.

## **Professional Liability Coverage**

### *Directors and Officers (D&O) Insurance*

LAWPRO's standard professional liability insurance policy does not provide coverage for liability arising as a result of a lawyer's activity as a director. D&O policies are the principal means of protecting directors from the risk of personal liability as a result of their activities on behalf of an organization.

D&O coverage can typically be obtained as single policy coverage for all directors and officers of the organization (often maintained by the organization), or as "outside director liability policies", which are purchased by individual lawyers and/or their firms. If members of your firm act as directors or officers for outside entities (charities, clients' businesses, family enterprises) and these entities don't purchase their own D&O insurance, discuss with your broker whether your firm's policy might be able to provide coverage for your members when acting in those roles.

For more information, [see our article on D&O insurance](#).

### *Executor and Trustee Insurance*

Under Ontario's *Estates Act* and in many other jurisdictions, a judge may order damages against the executor for misconduct, neglect or default which results in loss to the estate. While LAWPRO's primary policy may cover lawyers acting as executors or trustees if the appointment arose from the practice of law, lawyers acting as executors or trustees may find they need additional coverage to ensure they are protected in all circumstances.

For more information, [see our article on Executor and Trustee Insurance](#).

### *Excess E&O Insurance*

LAWPRO's primary E&O policy only covers damages up to \$1 million for most claims, with an aggregate limit of \$2 million. Claim costs beyond these amounts will fall on the lawyer in their own capacity unless excess coverage is available.

Learn about the [excess insurance options available from LAWPRO](#).

## **Other Important Insurance**

### *Cybercrime and Data Loss*

Cyber attacks can come in different forms, all with substantial potential costs. Money held in trust could be stolen through a computer hack or social engineering (fraud). Computer software can be frozen or locked, preventing the firm's work from being completed. Personal data can be accessed or held for ransom, leading to not only potential third-party civil liability, but also regulatory costs associated with privacy legislation and potential fines. A major cyber attack that imperils client information may also lead to substantial public relations costs or reputational damage.

Many of these potential threats can be insured against—but not necessarily easily (or cheaply). LAWPRO [strictly limits its coverage of cyber threats](#) with a \$250,000 sublimit and limited scope under the primary policy. Additional coverage for cyber threats is available from various providers, but be careful to note the specific perils covered. Not all threats may be covered under a basic "cybercrime" policy, and perils from ransomware or social engineering may require separate endorsements with additional costs.

### *Crime*

LAWPRO policy includes Innocent Party coverage with an initial sublimit of \$250,000 (which can be bought up to \$1 million). This coverage offers protection to *innocent* members of a firm for the dishonest or possibly criminal actions of present or former partners or licensed employees of the firm.

Additional coverage may be available from other providers for losses (first or third party) arising from crimes, mail & transit coverage, counterfeit currency, extortion and more.

### *Employment Practices*

This insurance typically covers defence for employment litigation related to wrongful termination, harassment, breach of contract, invasion of privacy, equality rights, and other employment practices.

### *Critical Illness / Disability / Key Person Insurance*

Many firms would be seriously impacted by the loss of certain employees from illness, disability, or death. This may be an executive officer with specific skills and knowledge, or a partner with irreplaceable personal relationships with important clients. If suddenly losing these individuals could severely impact the firm's ability to function, "Key Person" insurance may be a valuable consideration.

Sole practitioners and lawyers in small firms may also want to consider critical illness or disability insurance for themselves. Even beyond personal protection for the lawyer or their family, such

insurance can be crafted to provide protection for a firm's support staff or compensation for other costs associated with the lawyer becoming incapacitated.