

INSURANCE NEWS

BY DEBORAH ROZEE

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CLIA EXCESS INSURANCE PROGRAM – New coverage available for retiring lawyers

The Canadian Lawyers Insurance Association (CLIA) policy renewal period for the mandatory insurance program and the excess insurance is July 1st. In an ongoing effort to be responsive to members' needs, CLIA will be offering a new excess coverage this year. **Effective July 1st retiring sole practitioners and lawyers retiring from a firm may purchase their own excess coverage, renewable each year.** Traditionally, excess insurance policies are purchased by a firm basis and not by the individual members of a firm. When a lawyer retires from a firm, the lawyer is dependant on the firm maintaining excess coverage in order to have excess insurance for the work of the lawyer while the lawyer was with the firm. If the law firm no longer exists or does not continue to purchase excess insurance, and a claim is subsequently brought against the lawyer, there will not be any excess insurance available to respond to the claim. Previously, sole practitioners could only purchase excess insurance coverage for two years after retirement.

The CLIA information bulletin on this new insurance coverage states:

Lawyers retired from private practice in the CLIA provinces can be left without protection above their primary program limits in situations where they were a sole proprietor or have left a firm which no longer exists. This is typically a concern where the firm has dissolved and not purchased an extended reporting period, but can also occur where a firm no longer purchases excess limits...

Coverage will be limited to CLIA provinces only for professional services rendered prior to their retirement. Coverage must have been maintained continuously and each account will be individually underwritten. Vicarious liability will be excluded so that this policy will not respond to the acts of other individuals in the firm.

Watch for further information about this new insurance protection.

CLIA EXCESS INSURANCE PROGRAM – PROTECTION AGAINST LATE REPORTING

CLIA's excess insurance program offers another significant benefit to members. Reporting of a claim under the mandatory \$1 million policy also serves as reporting for the purposes of a CLIA excess insurance policy in force at the time. Reporting to LIANS is not reporting to the excess insurer when the excess insurance is purchased from an insurance company other than CLIA.

Often the full magnitude of a claim is not known at the time of reporting to LIANS. When the initial report of the claim is made, the lawyer or firm may not report the claim to their excess carrier. If the subsequent report to the excess carrier is not in the same policy term as the initial report to LIANS, the excess insurer will likely review their obligation to provide coverage and may deny coverage for the claim. This exposure does not exist when the excess insurance policy is with CLIA.

Under the CLIA excess program, a claim report to LIANS is also notice under the CLIA excess insurance policy.

RETURN OF SURPLUS TO PARTICIPATING MEMBERS

Lastly, the CLIA excess insurance program is non-profit. Surplus not required for future claims is returned to insureds who have participated in the program for a full underwriting period of 5 years.

For more information on CLIA's excess insurance program contact Christine Ward cward@lians.ca or Deborah Rozee drozee@lians.ca.

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TIPS FROM THE RISK & PRACTICE MANAGEMENT ADVISOR

BY DEBORAH E. GILLIS, Q.C.

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The Importance of Securing Your Electronic Data

The theft, loss, or destruction of practice-related data is disruptive, stressful, and financially draining to you. If that data belongs to, or impacts your client, this breach of confidentiality might result in a negligence claim against you, an investigation and fine under PIPEDA (*Personal Information Protection and Electronic Documents Act*), and/or a legal ethics and professional responsibility complaint.

Therefore, it is important that you take steps to safeguard your own and your client's information. Implement a security policy for your office that covers your electronic data as well as your paper files.

There are many issues to consider when developing your policy, including the use of wireless connectivity without first ensuring that all possible security features are in place. Without these features in place, serious problems can result. This was seen in Edmonton recently, when an unprotected computer server in a downtown law firm allowed an employee in a neighbouring building to access hundreds of client files that included personal information. The lawyer had set up a wireless system himself and thought it was secured by encrypted password. It was not. Alberta's Privacy Commissioner ordered an investigation into this security breach.

Links to resources and articles on data protection, security, and encryption can be found on the LIANS website at www.LIANS.ca under Loss Prevention Resources [Data Protection].

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