



Lawyers' Insurance  
Association of Nova Scotia

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ANNUAL REPORT 2005





# Lawyers' Insurance Association of Nova Scotia

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### **Mission Statement**

The Lawyers' Insurance Association of Nova Scotia is established and operated pursuant to the *Legal Profession Act* and Regulations, as part of the Nova Scotia Barristers' Society's public protection mandate.

LIANS conducts the mandatory professional liability insurance program for the benefit of the practicing insured members.

# Report from the Chair of the Board

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**SANDRA  
MACPHERSON  
DUNCAN, Q.C.**  
Chair

Sandra MacPherson Duncan joined the Board in 1996 and has been chair since 2002. Sandra is a partner with Beveridge, MacPherson & Duncan Barristers & Solicitors in Halifax.

**I am pleased to report on behalf of the Board that the LIANS has had another very strong year. The full practising levy for private practitioners for the 2006-2007 year is \$600, for Nova Scotia Legal Aid staff lawyers, \$350, and for lawyers in the provincial government, \$350.**

This is a \$200 decrease in the levy for private practitioners over last year.

To remind members, this is the lowest assessment for members since the introduction of the CLIA insurance program, well off the high of \$2700 per member reached in the early 1990s. It is also one of the lowest insurance assessments in the country.

Our actuaries advise us that the true levy necessary to meet our expected liabilities in the coming year would be \$1798 per private practitioner, or about three times the levy being charged to private practitioners. We are able to subsidize this amount through the return to members of excess surplus held by LIANS and CLIA surplus credits. We do this in consultation with our actuaries. Since we expect to gradually deplete our surplus, we can expect the levy to increase over time. Members should not expect the levy to remain at these low rates indefinitely. Nevertheless, we are hopeful that we can continue to stabilize rates in the near future.

Our investment experience has been as anticipated in the past year, which has contributed to the surplus available to be returned to members. As well, we continue to have very favourable loss experience. We can all do our part to contribute to the situation by being careful and claims-wise in the way we practice.

Our claims experience with CLIA (which provides coverage of our liability claims in excess of \$300,000 up to a maximum of \$1,000,000 per occurrence) continues to be excellent. As a result, the CLIA premium portion of our insurance levy is among the lowest of the participating provinces and territories.

LIANS is committed to managing your funds cautiously. We're very pleased with the financial health of LIANS and our consequent ability, through return of surplus, to stabilize rates for members during these difficult times for lawyers in this province. We can all do our part to keep increases in rates to a minimum, by practising carefully with a view to loss prevention.

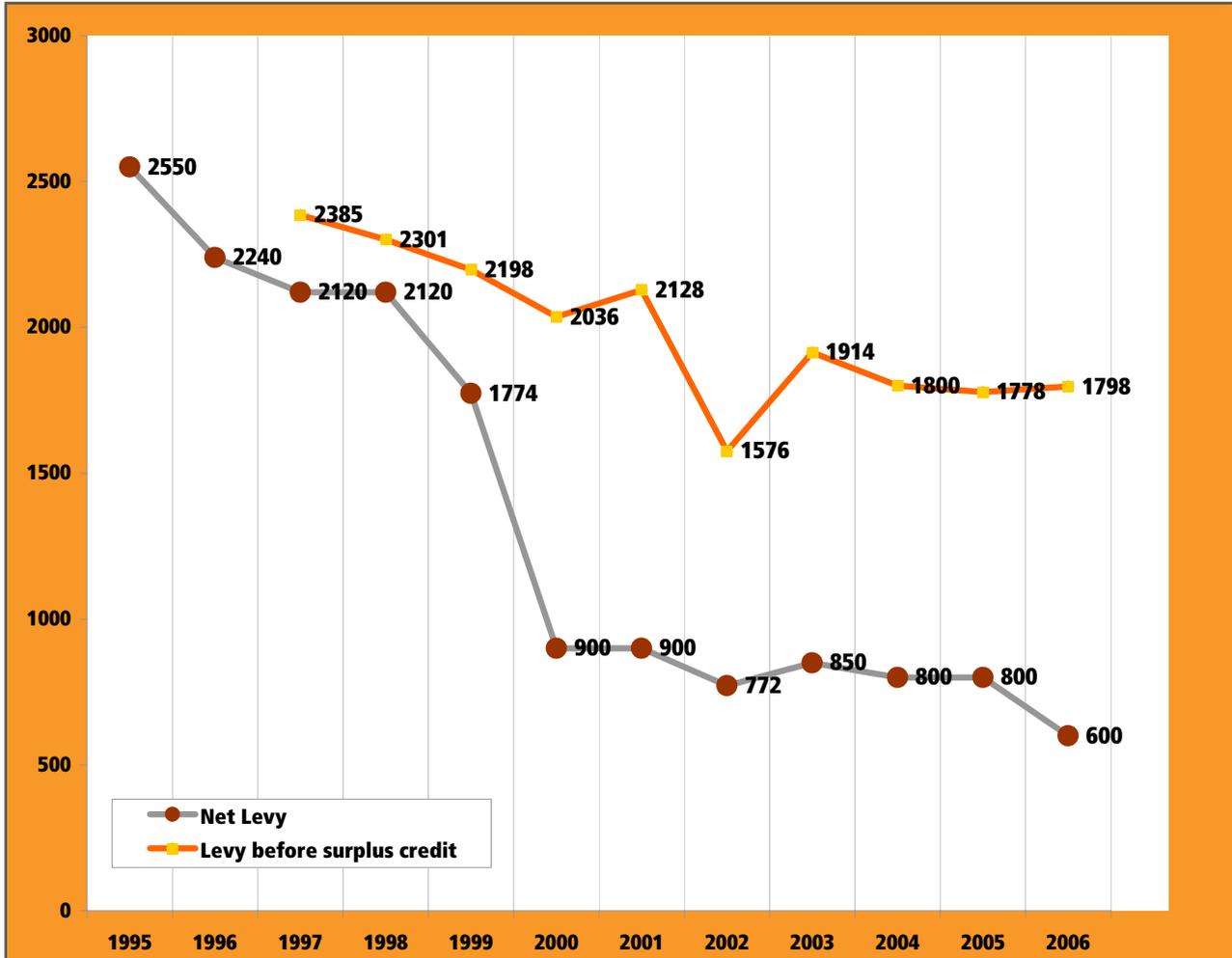
LIANS is very pleased to continue its activities for the benefit of members. A Risk and Practice Management Advisor, Deborah Gillis, has joined LIANS and has begun work on a number of articles and other materials for the use and benefit of members in their practice.

I would like to thank all members of the Board for the commitment and dedication they continue to show to LIANS. I would also like to especially thank your Director, Deborah Rozee, and the dedicated staff, Patricia Neild, Gerri O'Shea, Robin Russell, and Christine Ward, who work so diligently to assist members. It is indeed a pleasure and an honour to have been Chair of the Board of LIANS for the past four years. I am proud of the very positive results this group of people continues to deliver to members.

A summary of the past year's financial highlights, taken from the audited financial statements of LIANS, is attached to this report.

***Sandra MacPherson Duncan***

# Insurance Levy — 10 year history



“Our actuaries advise us that the true levy necessary to meet our expected liabilities in the coming year would be \$1798 per private practitioner, or about three times the levy being charged to private practitioners.”

# Program Report



DEBORAH ROZEE  
Director

Deborah Rozee joined LIANS in 1993 as Claims Manager and became Director in 1996.

## Claims Management

Overall, our claims experience continues to be favourable, with a reduction in the number of claims reported in 2005. There were 197 new claims reported during the year, down from 226 claims reported in 2004. This reduction in the number of claims, of approximately 13 per cent, is not expected to continue. So far in 2006 we have seen a return to the level of activity experienced in prior years. If reporting remains at this level for the balance of the year, we anticipate receiving approximately 237 claim reports in 2006.

We saw an increase in the average cost per claim during 2005. On its face this could signal the beginning of a rise in claim costs. However, since last year had unusually low frequency it is possible that the increase in the average claim cost reflects fewer claims. If this is the case we will see a return to recent historic costs over the next year. This is an area of development that we will watch closely over 2006.

### Claims Reported Per 100 Lawyers (1995 - 2005)

95	96	97	98	99	00	01	02	03	04	05
23	23	18	18	15	16	14	19	16	14	12

The current claim trends which may increase claims costs are the increasing number of self represented litigants and increased lawyer mobility. We continue to receive a significant number of civil litigation claims where limitation periods have been missed, and an increasing number of claims where a limitation period has been missed in a jurisdiction other than Nova Scotia. We have

some latitude to rectify these mistakes in Nova Scotia, but not in other jurisdictions. We know from the experience of our peers across Canada that missed limitations are an area of very high claim costs. For missed limitations within Nova Scotia, we continue to incur significant legal expense in order to rectify the situation.

Frequency Of Claims By Area Of Law Files Opened in Fund Years 1996 - 2006	
Area of Law	Percent
Real Estate	53%
Civil Litigation	19%
Commercial	5%
Matrimonial & Family	7%
Other	5%
Estate Planning & Administration	6%
Corporate	2%
Tax	1%
Administrative/Boards/Tribunal	2%
	100%

Missed limitations occur for many reasons. When the error is in Nova Scotia, the cause is not generally lack of knowledge of the law. It is usually the failure of office systems, overwork, procrastination and simple oversight. This is true for claims arising in all areas of law. Through the Risk and Practice Management Program, we will be

# Program Report

developing resources and tools to help address the problems which most frequently give rise to claims.

**Table of Limitation Periods for Nova Scotia on line at [www.lians.ca](http://www.lians.ca)**

## Risk & Practice Management

Deborah Gillis, Q.C., joined LIANS in November as our Risk & Practice Management Advisor. She will be utilizing our claims information to develop practice resources and tools for members to assist them in avoiding the common causes of claims.

Deborah Gillis has begun to develop materials which are available on the LIANS website at [www.lians.ca](http://www.lians.ca). Several new articles written by Deborah can be found on the website under Loss Prevention Resources. Over the next year the website will be revamped and will form the basis of our delivery of resources and loss prevention tools to members.

## Lawyers Assistance Program

The number of calls received by LAP remained constant over the last 12 months with 77 calls received between May 1st, 2005 to April 30, 2006. This is the same number of calls received in the prior 12-month period.

More than 50 per cent of the requests for assistance-related concerns arise from:

- marriage breakdown
- work related confusion or stress
- depression
- stress

The table below provides a complete breakdown of the issues for which assistance was sought.

May 1, 2005 to April 30, 2006

Labels	Numbers
Work related confusion/stress	10
Anxiety	6
Grief and loss	3
Depression	9
Addiction	8
Ethical issues causing stress	2
Practice issues ( <i>workload, procrastination, etc.</i> )	7
Marriage	11
Marriage breakdown	5
Children and family	6
Family breakdown	2
Family dysfunction	3
Adolescence	2
Issues of a sexual nature	3
<b>Total</b>	<b>77</b>

LAP provides counseling for lawyers, their staff, and family members.

Blanche Keats was hired as LAP Advisor effective November 1, 2005. Blanche Keats answers the LAP help line, provides members with information about the program and available services, and provides the referral to the appropriate professional counselor and therapist. Also, Blanche Keats develops LAP's relationship with



**DEBORAH  
GILLIS, Q.C.**  
Risk & Practice  
Management  
Advisor

Deborah Gillis  
joined LIANS in  
November 2005  
bringing with her 26  
years experience in  
private practice.

# Program Report

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therapists and counselors around the province to ensure that competent professional assistance is available to members throughout Nova Scotia.

LAP continues to be supported by an active group of peer volunteer lawyers. Peer volunteers are available to provide peer support to members, when requested, and to promote member awareness of the program. In particular, peer volunteers speak to the students of each Bar admission class.

During the year, peer volunteers met bi-monthly for education sessions on issues including marital counseling, gambling addiction, and work place intervention. Several of the peer volunteers participated in a two-day training session with a focus on developing skills necessary to provide effective peer support. By the completion of this training session, all peer volunteers have taken the intensive 2 day training program.

Unfortunately, member awareness of the LAP program continues to be a concern. Members frequently advise that they are not aware of the assistance available through LAP. Therefore, the LAP committee is increasing communication with members through regular Society Record articles, and the development of a website at [www.NSLAP.ca](http://www.NSLAP.ca). LAP has also provided program information to the Society and LIANS, and requested that it be included in correspondence to members.

All communication with LAP is confidential. If you have any questions about LAP's services, you can call 1-866-299-1299 and inquire. Your contact with LAP will not be disclosed to the Society or LIANS.



**You don't have to face this alone.**

Someone is available 24 hours a day, everyday  
— the NS Lawyers Assistance Program Advisor.

**COMPLETELY CONFIDENTIAL ASSISTANCE**

**1-866-299-1299**

Information | Counselling | Support



# Summary of Financial Highlights

## Notes to the Summary of Financial Highlights

The Fund's financial position has remained stable during 2005. As at December 31, 2005 there was a deficiency of revenue over expenditures of \$142,000. The deficiency of revenue over expenditure was anticipated and is a planned distribution of surplus to insured members. It is part of the Board's strategic plan to stabilize the insurance levy while maintaining adequate reserves to ensure long-term stability.

There was a decrease in net revenue of \$9,000 as a result of increased levy revenue in 2005. Total claims and expenses increased by \$34,000, and administration increased by \$58,000. The increase in administration reflects the addition of the Risk and Practice Management Program to LIANS operations.

At year-end, the reserve had decreased by \$142,000 over the prior year.

### LAWYERS' INSURANCE ASSOCIATION OF NOVA SCOTIA Summary of Financial Highlights From December 31, 2005 Audited Financial Highlights (000's)

#### STATEMENT OF FINANCIAL POSITION AS AT DECEMBER 31, 2005

	December 31 2005	December 31 2004
Cash	\$ 2,263	\$ 3,057
Accounts receivable	228	273
Levy receivable	324	302
Prepays	-	232
Investments	11,846	11,260
Fixed assets	26	29
	<b>\$ 14,687</b>	<b>\$ 15,153</b>
Accounts payable and accrued liabilities	\$ 119	\$ 172
Unearned Levy	600	590
Provision for unpaid claims and expenses	4,792	5,073
Professional liability insurance reserve	9,176	9,318
	<b>\$ 14,687</b>	<b>\$ 15,153</b>

#### STATEMENT OF REVENUE, EXPENDITURE AND RESERVE PERIOD ENDED DECEMBER 31, 2005

	December 31 2005	December 31 2004
Revenue	\$ 2,037	\$ 2,009
Insurance premiums	(486)	(449)
Net revenue	1,551	1,560
Claims and expenses		
Payments	1,858	1,296
Stop loss group deductible and limit reimbursements	(388)	(206)
	1,470	1,090
(Decrease) increase in provisions for unpaid claims and expenses	(281)	65
Total claims and expenses	1,189	1,155
Administration	628	569
Deficiency of revenue over expenditure before under-noted	(266)	(164)
Return of C.L.I.A. surplus subscriber's equity	124	340
(Deficiency) excess of revenue over expenditure	(142)	176
Reserve, beginning of year	9,318	9,142
Reserve, end of year	<b>\$ 9,176</b>	<b>\$ 9,318</b>

# 2005 Board, Committees and Staff

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## BOARD OF DIRECTORS

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Nancy I. Murray, Q.C.  
Robert G. H. Patzelt, Q.C.  
Stephen D. Piggott  
Darrel I. Pink  
Philip J. Star, Q.C.  
John W. Traves  
STAFF: Deborah Rozee

## STAFF

Deborah Rozee, LL.B.  
*Director*  
Christine Ward  
*Executive Assistant to the Director*  
Deborah E. Gillis, Q.C.  
*Risk & Practice Management Advisor*  
Patricia Neild, LL.B.  
*Claims Examiner*  
Gerri O'Shea, LL.B.  
*Claims Examiner*  
Robin Russell  
*Claims Officer*

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Darrel I. Pink  
John W. Traves

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Darrel I. Pink  
Catherine S. Walker, Q.C.  
Ivo R. Winter  
Jacqueline Mullenger  
STAFF: Deborah Rozee  
Deborah E. Gillis, Q.C.



