



Lawyers' Insurance  
Association of Nova Scotia

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ANNUAL REPORT 2006





# 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 practising insured members.

# Report from the Chair of the Board

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W. DALE DUNLOP,  
Chair

W. Dale Dunlop joined the Board in 1999. He was appointed chair in 2006. Dale is a partner with Walker Dunlop.

Last year marked my first as chair of the LIANS Board, after being a board member for the past eight years. My predecessors have established a tradition of excellence in this position and I am indeed honoured to be considered worthy of the task. I would like to thank Sandra MacPherson Duncan, Q.C., for her many hundreds of hours of dedicated service as the previous chair. Sandra has now committed to even more time as a member of the Executive Committee of the Canadian Lawyers Insurance Association (CLIA).

Last year was another strong year for LIANS with favourable claims experience and investment outcomes. However, due largely to an unexpected increase in the CLIA premium, our insurance rates have risen slightly to \$640 for full time private practitioners, \$350 for Legal Aid lawyers and \$350 for Nova Scotia government lawyers.

It is very important that members be aware that the actual amount charged is well below the true cost of providing insurance, which our actuaries tell us is \$1813 for the upcoming year. This is roughly three times the levy charged. The reason LIANS is able to, in effect, subsidize the levy is based on several factors. Over the past decade or so our loss experience at both the LIANS and CLIA levels has been excellent. Nova Scotian lawyers are among the most safe and effective practitioners in the country and this has contributed in part to a build up of surplus reserves. The Board is determined to return the surplus in an orderly and predictable manner that will ensure that the levy does not take a dramatic jump. However, as Sandra pointed out in her report last year, it is inevitable that rates will gradually rise to the point where they are no longer subsidized. This year's small increase will, in all likelihood, be the first of more to come. Members can take some comfort that the surplus reserves that will be returned to practitioners in the form of a subsidized levy, will continue for at least the

next three or four years and perhaps longer.

While LIANS is committed to managing your funds in a cautious and responsible manner, we have not been content to simply invest in bonds and other relatively safe, but low yielding investment devices. The Board has taken advantage of the opportunities in the equities market which have resulted in very good returns at both the LIANS and CLIA levels. This in turn has helped contribute to our reserve position and hopefully, will continue to do so for the foreseeable future.

Your annual practicing insurance fee has two components. The first is coverage up to \$300,000 which is provided by LIANS. LIANS is also responsible for administering and defending all claims brought under the policy. From \$300,000 to \$1,000,000 the coverage is funded by CLIA which provides a mechanism for pooling our resources and risks with nine other provinces and territories. This year we were faced with a somewhat unexpected CLIA premium raise of \$75 and, an expected and substantial decrease in the return of subscribers' equity from CLIA. The Board felt that a portion of this increase should be passed on to members to remind us all of the true costs of insurance.

There were several new developments at LIANS this year which increased the responsibilities of the Board and staff. The first was the implementation of the Compensation Fund into insurance coverage as a completely new policy coverage.

While the Society continues to determine when and in what amounts reimbursement for defalcation will be made to the public, the insurance coverage for those payments is now included in your insurance policy. LIANS believes that this provides members with much better protection from catastrophic

# Report from the Chair of the Board

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levies necessitated by large defalcations than in the past.

The second new responsibility LIANS has taken on is the Lawyers Assistance Program (LAP). In conjunction with the Society, it was agreed that LAP services were best considered in light of the risk and practice management issues already being addressed by LIANS. As a preliminary step, the LAP Committee provided the Board with a review of its mandate and suggestions as to how LAP services might be delivered in the future. LIANS is committed to developing and implementing one of the most effective lawyers assistance programs in North America.

Despite these additional responsibilities and the costs associated with them, I am pleased to report that the actual cost of administering LIANS last year rose by only 4.5 percent. This is attributable both to our members and

to the commitment and dedication of the excellent staff which LIANS is fortunate enough to employ. My special thanks to your Director, Deborah Rozee, and her staff – Deborah Gillis, Q.C., Patricia Neild, Gerri O'Shea, Robin Russell, Jennifer Hadley and Christine Ward. I can advise that they make the work of Board members very much a pleasure rather than a chore.

In closing, my sincere thanks go out to the Board members, who provide unselfish service and a collegial atmosphere at both the Board and Committee level.

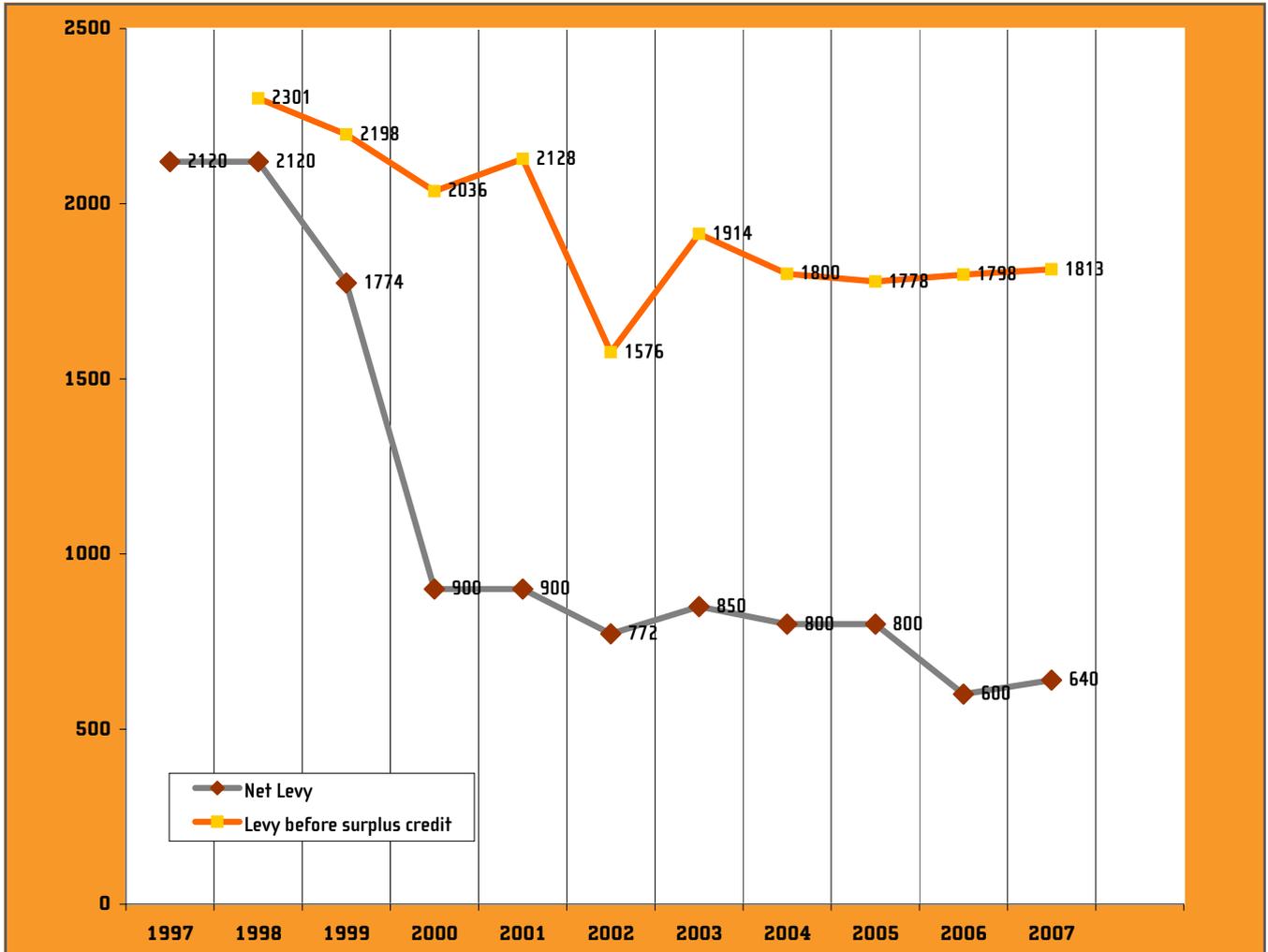
A summary of the past year's financial highlights, taken from the audited financial statements of LIANS can be found on page 11.

*W. Dale Dunlop, Chair*



Board members  
John Kulik, John  
Traves, Q.C., and  
Dale Dunlop

# Insurance Levy — 10-year history



*“It is very important that members be aware that the actual amount charged is well below the true cost of providing insurance, which our actuaries tell us is \$1813 for the upcoming year.”*

# Program Report



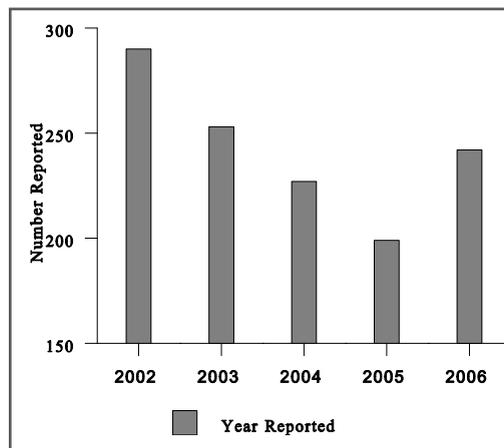
**DEBORAH ROZEE**  
Director

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

## Claims Management

We are fortunate to have had a sustained period of favourable claims experience. Overall, this trend is continuing. With a relatively small program, minor changes in numbers can result in the appearance of significant changes to the program. As a result, LIANS' statistics must be interpreted over the long-term. This becomes clear when we look at the statistics for 2006.

There has been a significant increase in the number of new claims reported in 2006 over 2005. In 2006, 242 new claims were reported versus 199 new claims in 2005; but looked at over the longer term, 2006 represents a return to past levels of reporting.



The number of new claims reported each year, over the past 10 years, has ranged between a high of 290 to a low of 199. On average there are 239 reported each year. The table above shows the number of claims reported over the past five years.

## Claims Reported Per 100 Lawyers (1997 - 2006)

97	98	99	00	01	02	03	04	05	06
18	18	15	16	14	19	16	14	12	14

Last year we projected 238 new claims in 2006. We were not far off the mark at 242. Whether this increase is the start of a sustained upward trend, or merely a return to former levels, remains to be seen.

Overall, the frequency of claims occurring in specific areas of law has remained constant. The table below shows claims frequency by area of law over a 10-year period, and for the 2006 year. The only anomaly which jumps out is the percentage of civil litigation, which increased from an average of 19 per cent to 31 per cent of all claims.

Area of Law	1997-2006	2006
Real Estate	52%	52%
Civil Litigation	19%	31%
Commercial	5%	2%
Matrimonial & Family	8%	4%
Other	4%	3%
Estate Planning & Administration	7%	3%
Corporate	2%	3%
Tax	1%	1%
Administrative/Boards/Tribunal	2%	1%
	<b>100%</b>	<b>100%</b>

# Program Report

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A review of the civil litigation files reported in 2006 reveals that several potential claims relating to a single lawyer were reported as a matter of caution. These files have been reviewed and for the most part do not have any exposure. If frequency is considered without including these precautionary notices, the percentage of civil litigation claims would be in line with past years.

Approximately 50 per cent of the civil litigation claims arise from missed limitation periods. This is an area of exposure that can usually be eliminated by careful implementation of office systems and procedures and training of staff. Information to assist in accurate diary periods and other loss prevention information is available through the Risk and Practice Management program.

## Risk and Practice Management

When the Risk and Practice Management program was redesigned and a full time Risk and Practice Management Advisor hired, the goal was to provide members with a program which would focus on the creation of practice aids and delivery of information to help lawyers avoid common practice pitfalls. The RPM program completed its first full year of operation in 2006 and we are pleased with the progress made to date. Through the activities of Deborah Gillis, Q.C., Risk and Practice Management Advisor, there have been:

- Meetings with the majority of County Bars outlining the program objectives to members and raising their awareness of risk and practice management issues.
- Presentations at various conferences, the Society's Annual General Meeting, and the Bar Admissions Skills course.
- The development and circulation of a Mortgage

Release Contact Directory as an aid for members who are looking to obtain releases for old unreleased mortgages.

- Regular articles in the Society Record covering a variety of topics including: winding down a practice, risks associated with acting as a board director, managing workloads, effective intake procedures, conflict checking, and the benefits of good communication between lawyers and clients. These articles, and related information, can be found on LIANS web site at [www.LIANS.ca](http://www.LIANS.ca).
- Information provided to individual members on a variety of topics, including: file retention, firm dissolution, office management and billing, practice set-up, and mortgage releases.

The focus for 2007 is on the development of a regular Risk and Practice Management electronic newsletter, an improved database to identify areas of high risk for lawyers – and to develop practice aids specifically targeting for these areas, and the continued delivery of risk and practice management across the province. Also, watch for the launch of LIANS new website later this year. Specific RPM offerings for the coming year will focus on file retention, document management, succession planning, and engagement management and communications.

Deborah Gillis is an active member of the Practice Management Advisors of North America and the Practice Management Advisor/State and Local Bar Outreach Committee of the American Bar Association. This provides international exposure and recognition for our program and provides Deborah and our program with a strong and readily available network of valuable resources and access to leading Practice Management Advisors in North America.



**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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## Lawyers Assistance Program

This has been a busy year for the Lawyers Assistance Program. The number of calls for assistance received by LAP rose significantly over the last 12 months, with 128 calls received between May 1, 2006 and April 30, 2007. This represents an increase of over 50 per cent from the 77 calls received the previous year.

Blanche Keats, our LAP Advisor, reports that the four primary areas of concern for which assistance is sought are:

- Marriage breakdown / Family issues
- Adolescents / Children / Parents
- Depression
- Anxiety / Stress

LAP continues to provide assessment and referral to professional counseling services and appropriate peer support for lawyers, their staff (including articled clerks), and their immediate families.

Blanche Keats continues to provide capable and confidential service as our LAP Advisor. Blanche answers calls to our toll-free LAP help line, provides information about the program and available services, completes the assessment and referral process for counseling and appropriate peer support, and provides confidential reporting to the LAP Committee. Blanche also manages the relationship between LAP and the roster of therapists and counselors throughout the province to ensure that competent professional assistance remains available to members throughout Nova Scotia.

In March 2007, the LAP Committee completed a major review of LAP and provided a report to the LIANS Board

of Directors, entitled "Helping Lawyers Reach Their Full Potential: Future Direction for Lawyers' Assistance in Nova Scotia." This report provides a foundation for future growth and development of the program as we continue to assess the most effective way to provide assistance and support to members across Nova Scotia.

The LAP Committee has been extremely active through the year and is continuing to meet regularly to complete a number of objectives, including:

- Completion of a Communications Plan (including print materials, website enhancement and content; development of conference, county bar and law firm presentations; continued presentations to the Bar Admission Course).
- Continued development of our Peer Support program.
- Completion of a Policy Manual for LAP.
- Development of a 'Health & Wellness' program.
- Hosting the 2007 ABA COLAP (Commission on Lawyers Assistance Programs) and ILAA (International Lawyers in Alcoholics Anonymous) Annual Conferences in Halifax, from October 2-5 and 5-7, 2007.

LAP continues to be supported by a dedicated and active group of Peer Volunteer lawyers. Our Peer Volunteers are available to provide peer support to members, when requested, and are involved in educational and promotional initiatives to increase the awareness of LAP across the province.

The LAP Committee believes that the significant increase in calls to LAP this year is a direct result of continuing promotion and communications to increase member



**SEAN FOREMAN**  
Chair, LAP  
Committee

Sean Foreman is  
Chair of the Lawyers  
Assistance  
Program. Sean  
is a partner with  
Wickwire Holm.

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awareness of the program. All communication with LAP is confidential. If you have any questions about LAP services, you can call 1-866-299-1299 and speak with Blanche Keats. Your contact with LAP will never be disclosed to LIANS or the Bar Society.

In closing, as the new Chair of the LAP Committee, I wish to thank our Past Chair, Pat Cassidy, Q.C., for his hard work and long-standing commitment to the LAP in Nova Scotia. We are pleased that Pat intends to remain involved as a Peer Volunteer with the program. I also wish to thank Don Murray, Q.C., who retired from the LAP Com-

mittee this year, for his many years of work and support. I also want to thank all of our Peer Volunteers throughout Nova Scotia, and the members of our LAP Committee, for their hard work, commitment, and initiative throughout this year. I look forward to working with all of them in the coming year.

*Respectfully,*

***Sean Foreman***  
***Chair, LAP Committee***



LAP Committee members Nancy Rideout, Cheryl Canning, and Sean Foreman

# Summary of Financial Highlights

## Notes to the Summary of Financial Highlights

LIANS financial position remained strong at the end of 2006.

During the year, surplus was distributed to insured members through a subsidy to the levy charged for the mandatory insurance policy. The distribution of surplus resulted in a planned deficiency of revenue over expenditure of \$418,000. During 2006, LIANS received a return of surplus subscribers' equity from CLIA of \$756,000. This return of subscribers' equity reflects the non-profit nature of CLIA and is in accordance with the rules of the reciprocal. As a result of the return of subscribers' equity, as at December 31, 2006, there was an excess of revenue over expenditure of \$338,000.

Total claims and expenses increased from \$1,189,000 in 2005 to \$1,275,000 in 2006. This increase is due to an increase in the provision for unpaid claims and expenses. While fewer claims were paid during 2006, reserves have been increased in anticipation of future claim liabilities.

The reserve at the year end was \$9,514,000; an increase from the 2005 year end reserve of \$9,176,000.

### LAWYERS' INSURANCE ASSOCIATION OF NOVA SCOTIA Summary of Financial Highlights From December 31, 2006 Audited Financial Highlights (000's)

#### STATEMENT OF FINANCIAL POSITION AS AT DECEMBER 31, 2006

	December 31 2006	December 31 2005
Cash	\$ 2,241	\$ 2,263
Accounts receivable	35	228
Levy receivable	243	324
Prepays	199	-
Investments	12,548	11,846
Fixed assets	16	26
	<b>\$ 15,282</b>	<b>\$ 14,687</b>
Accounts payable and accrued liabilities	\$ 78	\$ 119
Unearned Levy	471	600
Provision for unpaid claims and expenses	5,219	4,792
Professional liability insurance reserve	9,514	9,176
	<b>\$ 15,282</b>	<b>\$ 14,687</b>

#### STATEMENT OF REVENUE, EXPENDITURE AND RESERVE PERIOD ENDED DECEMBER 31, 2006

	December 31 2006	December 31 2005
Revenue	\$ 2,085	\$ 2,037
Insurance premiums	(461)	(486)
Net revenue	1,624	1,551
Claims and expenses		
Payments	871	1,858
Stop loss group deductible and limit reimbursements	(24)	(388)
	847	1,470
Increase (decrease) in provisions for unpaid claims and expenses	428	(281)
Total claims and expenses	1,275	1,189
Administration	767	628
(Deficiency) excess of revenue over expenditure before under-noted	(418)	(266)
Return of C.L.I.A. surplus subscriber's equity	756	124
Excess of revenue over expenditure	338	(142)
Reserve, beginning of year	9,176	9,318
Reserve, end of year	<b>\$ 9,514</b>	<b>\$ 9,176</b>

# 2007 Distinguished Service Award

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Philip J. Star, Q.C., President, presents Daniel M. Campbell, Q.C., with the Distinguished Service Award on June 7, 2007

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**After 20 years of service, Daniel M. Campbell, Q.C., completed his term on CLIA's executive and resigned from the board of LIANS. Daniel Campbell's valuable contribution was recognized by the Nova Scotia Barristers' Society's Distinguished Service Award which was inscribed as follows:**

*Daniel M. Campbell, Q.C. is a visionary leader and reformer who played a key role in developing the Canadian Lawyers Insurance Association. For nearly 20 years he*

*actively led in its governance with the result that both lawyers and the public in Canada benefit from liability insurance that provides real and valuable protection.*

*He has served his community as President of the YMCA; his alma mater, as a member of Dalhousie University's Board of Governors; and his church, as chair and elder of St. Matthew's United Church. In each instance he has demonstrated his impeccable integrity, courtesy, and commitment to excellence: hallmarks of what is the best of our profession.*

# 2006 Board, Committees and Staff

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## BOARD OF DIRECTORS

W. Dale Dunlop, *Chair*  
Sandra B. MacPherson Duncan, Q.C.  
Michael R. Brooker, Q.C.  
Robert K. Dickson, Q.C.  
Wendy Johnston, Q.C.  
John Kulik  
Nancy I. Murray, Q.C.  
Robert G. H. Patzelt, Q.C.  
Stephen D. Piggott  
Darrel I. Pink  
John W. Traves, Q.C.  
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*  
Jennifer Hadley  
*Secretary*

## COMMITTEES

### Audit Committee

Stephen D. Piggott, *Chair*  
Sandra B. MacPherson Duncan, Q.C.  
Nancy I. Murray, Q.C.  
STAFF: Deborah Rozee

### Claims Review Committee

Deborah Rozee, *Chair*  
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Michael R. Brooker, Q.C.  
W. Dale Dunlop  
John W. Traves, Q.C.  
Wendy Johnston, Q.C.  
Maurice G. McGillivray, Q.C.

### Investment Committee

Robert G. H. Patzelt, Q.C., *Chair*  
Sandra B. MacPherson Duncan, Q.C.  
W. Dale Dunlop  
Nancy I. Murray, Q.C.  
John W. Traves, Q.C.  
STAFF: Deborah Rozee

### Lawyers Assistance Program

Sean M. Foreman, *Chair*  
Patrick I. Cassidy, Q.C.  
Cheryl Canning  
Jennifer Glennie  
Nancy G. Rideout  
STAFF: Deborah Rozee

### Risk & Practice Management Committee

W. Dale Dunlop, *Chair*  
Sandra B. MacPherson Duncan, Q.C.  
Robert G. H. Patzelt, Q.C.  
John Kulik  
Stephen D. Piggott  
Darrel I. Pink  
Jacqueline Mullenger  
STAFF: Deborah Rozee  
Deborah E. Gillis, Q.C.



# What is LAP?

## Who

Available to members of Nova Scotia's legal profession, their staff and families

## What

Provides assistance with stress, burnout or other emotional problems; gambling, alcohol or chemical addiction; family or other personal problems

## Where

Anywhere in Nova Scotia

## When

24 hours a day

## How

**1 866 299 1299**

Completely confidential

There is no cost to use LAP. If you are referred to a private counsellor through LAP, the cost of five sessions will be covered by LAP. Billing will be through the LAP Advisor to ensure confidentiality is maintained.



**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





