REPORT TO CONVOCATION

SEPTEMBER 2014

LAWPRO®
Lawyers' Professional Indemnity Company
Assurance LAWPRO®

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lawpro.ca

TO: The Treasurer and Benchers of The Law Society of Upper Canada

RE: 2015 Insurance Program: Transmittal of Report to Convocation

Consideration of this year's Report to Convocation represents the first step towards the 2015 insurance program, the 20th anniversary of LAWPRO providing the program for the Law Society. LAWPRO has established a strong foundation upon which our insureds can build secure practices. Now the work of keeping the house we have built so carefully in good order is our ongoing task. This year we are offering an insurance program that is similar to the previous one, but with a few changes to keep it running in an optimal fashion.

The claims and financial environments

In recent years, we have seen an upward trend in the number of open claims files as well as an increased number of large claims. This trend may now be reaching a plateau with count and cost remaining at a similar level as last year. We will continue to watch carefully to see if this stabilization continues.

Given the current claims situation combined with our prudent investment approach, and notwithstanding the Minimum Capital Test ("MCT") changes discussed below, LAWPRO is able to continue to offer a base premium of $3,350 per lawyer for 2015. This base premium has remained unchanged for five years in a row. LAWPRO is very proud of this accomplishment, given that we have experienced five years of market turmoil, low interest rates, regulatory stresses and increased workload due to claims count and complexity.

For some years, LAWPRO has been anticipating proposed changes to the calculation of the MCT. As Convocation will recall, the MCT is the main solvency test for Canadian insurance companies. The changes, effective January 1, 2015, may drop LAWPRO's current MCT of 239 per cent to the 200 per cent range. Fortunately, there has recently been announced a three year phase-in period that will allow LAWPRO to take appropriate action over time to moderate the effect of these changes. It should be noted, however, that our capital reserves will be under extra scrutiny during this period.

The offer contained in the Report to Convocation assumes that the use of the Law Society's E&O Fund as a revolving backstop for the transaction levy income compared to budget will end as of December, 2014. The amount in the E&O Fund notionally being held on account of transaction levy shortfalls (approximately $2.5 million estimated as of December 31, 2014) is expected to be drawn and applied to the 2015 insurance premium.

Providing resources that encourage responsible conduct

For several years, LAWPRO has offered a Risk Management Credit to insureds who complete pre-approved legal and education programs with a strong risk management component. These courses focus on a number of legal and practice management areas that have been identified as high risk activities.

Risky behavior not only involves work-related activities: It is no secret that a legal career brings with it many pressures and from time to time, a great deal of stress. These pressures and stresses can become a serious concern if insured licensees don't have outlets to manage, control and resolve them. They can cause serious health issues ranging from burnout, anxiety, and substance abuse to depression and be a contributing factor to malpractice claims and Law Society complaints.

Accordingly, in addition to contributing financially to the Law Society's Member Assistance Program ("MAP") operated by Homewood Human Solutions for the last few years, LAWPRO is expanding the Risk Management Credit as part of the 2015 Program to include MAP e-Learning courses that meet certain criteria. Approved courses taken between September 16, 2014 and September 15, 2015 will be eligible to count towards calculation of the Risk Management Credit for 2016 premium.

Paralegal insureds

The Risk Management Credit will also become available for LawPRO paralegal insureds. This program change will allow paralegals who are partners of lawyers (and thus required to be insured under the LawPRO program), to qualify for reduced premiums under the 2016 Program in the same way as our lawyer insureds. This is another means by which LAWPRO is accommodating its changing insured base, so that the program remains relevant to its evolving needs.

Cancellation and extended notice period provisions regarding paralegal partners in combined licensee partnerships are also being added to comply with the mandatory insurance provisions for paralegals under By-Law No. 6 of the *Law Society Act*.

Conclusions

In the full report you will also find references to adding special coverage for penalties under s. 237.3 of the *Income Tax Act*, amending the definition of "employee" in the policy to recognize that many employed lawyers work less than fulltime and better aligning the territorial coverage for non-licensee partners in multi-disciplinary partnerships to accord with the territorial coverage given to licensee insureds. These also reflect trends in the environment affecting the Law Society's licensees.

LAWPRO's mission to be an innovative provider of insurance products and services that enhance the viability and competitive position of the legal profession continues to inform its sound management and Board decisions, resulting in a stable foundation for the profession.

Board members and management of LawPRO look forward to continuing to provide its insureds with a cost-effective and responsive insurance program in 2015 and beyond.

Original signed by Susan McGrath

Susan T. McGrath
Chair

Original signed by Kathleen Waters

Kathleen A. Waters
President & CEO

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LAWYERS' PROFESSIONAL INDEMNITY COMPANY ("LAWPRO")

REPORT TO CONVOCATION – SEPTEMBER, 2014

BACKGROUND

1. The Law Society of Upper Canada ("Law Society") governs the legal profession in the public interest. One of the ways it discharges its responsibilities is through the mandatory requirement it places on practising lawyers to obtain professional liability insurance coverage for legal malpractice claims. This coverage is provided by LAWPRO, a provincially licensed insurer that is owned by the Law Society.

2. The coverage that the Law Society's mandatory insurance program ("Program") provides is considered to be both in the best interests of the public and in the best interests of Ontario lawyers – in that the public has reasonable assurance that an insurance policy backstops errors committed by lawyers in practice, and lawyers have assurance that they have a degree of financial protection for their professional liability that is well-suited to most lawyers' practice needs.

3. In recent years, we have seen an upward trend in the number of open claims files, with approximately 3,600 open files as at December 31, 2013, estimated to have a gross value of $447.9 million. Overall, the insurance Program manages about 87 per cent of the Law Society's almost $745 million in combined assets.

4. Each September since 1995, LAWPRO's Board of Directors has reported to Convocation on changes to the Law Society's Program for the following calendar year. The timing of this report is necessitated by the logistics of renewing approximately 25,000 policies effective January 1, and the need to negotiate and place any related or corollary reinsurance treaties.

5. This report is also an opportunity for LAWPRO's Board to review with Convocation issues of importance to its insurance operations and receive policy direction where necessary. Financial information on LAWPRO and the Program is provided to Convocation throughout the year.

6. Convocation established LAWPRO's mandate in 1994 with the adoption of the Insurance Committee Task Force Report (the "Task Force Report"). The mandate and principles of operation derived from the Task Force Report are as follows:

- that LAWPRO be operated separate and apart from the Law Society by an independent board of directors;
- that LAWPRO be operated in a commercially reasonable manner;
- that LAWPRO move to a system where the cost of insurance reflects the risk of claims; and
- that claims be resolved fairly and expeditiously; however, this was not to be a system of "no-fault" compensation and there would be certain circumstances where coverage was denied or coverage was limited.

For 2015, we have conducted our annual review of the Program to re-validate the approach and rating structure in light of these Task Force recommendations.

7. The LAWPRO Board of Directors believes that these recommendations have been achieved in LAWPRO's operations, and that the proposed Program for 2015 continues to fulfill these principles. This report deals solely with the Program for the Law Society. The LAWPRO optional insurance segment, composed of TitlePLUS® title insurance and the Excess professional liability insurance programs, is operated on an expected break-even or better basis.

2015 PROGRAM SUMMARY

8. The following summarizes the 2015 professional liability insurance Program, as provided for in this report.

Premium Pricing for 2015:

(i) The base premium is $3,350 per lawyer for 2015, the same base premium charged in 2011 through 2014 (paragraph 117(a)).

(ii) Revenues from real estate and civil litigation transaction levies collected by the E&O Fund during the year are budgeted at $24.7 million for the purposes of establishing the base premium for 2015 and other budgetary purposes (paragraph 117(b)).

(iii) The Errors and Omissions ("E&O") Fund will discontinue its practice of guaranteeing the level of transaction levies collected and forwarded to LAWPRO, effective for the 2015 Program (the guarantee mechanism for claims history surcharges was discontinued effective for the 2014 Program). As a result, $2.5 million (approximately $100 per insured lawyer) is expected to be drawn from the available surplus in the E&O Fund built up in prior years and applied to the 2015 insurance premium (paragraph 117(c)).

(iv) The premium for the Real Estate Practice Coverage Option will be $250, the same amount charged in 2012 through 2014 (paragraph 117(d)).

(v) 100 per cent of the premiums and losses for the Program will again be retained by LAWPRO in 2015, subject to limited capital backstop protection provided by the E&O Fund, and reinsurance protecting the Program from multiple losses arising out of a common event or nexus (paragraph 88).

LAWPRO Risk Management Credit:

(vi) The LAWPRO Risk Management Credit ("RMC") will be continued, with a $50 premium credit per approved CPD program, subject to a $100 per lawyer maximum amount, to be applied for pre-approved legal and other educational programs taken and successfully completed by lawyers between September 16, 2014, and September 15, 2015, for which the lawyer has successfully completed the online Risk Management Credit Declaration Form (paragraph 22(a)).

(vii) Course accreditation for the RMC shall be extended to Law Society Member Assistance Program e-Learning courses that are considered by LAWPRO to meet the objectives of the RMC (paragraph 22(b)).

(viii) Paralegal partners in combined licensee partnerships who have completed courses that qualify for the RMC shall be entitled to a $50 premium credit per approved CPD program, subject to a $100 per paralegal maximum amount, in a similar fashion to lawyers. This Program change will allow paralegal partners to qualify for reduced premiums under the 2016 Program for RMC approved courses they take between September 16, 2014 and September 15, 2015 (paragraph 22(c)).

Claims by Employers:

(ix) The Program policy shall be amended so that the definition of "EMPLOYEE(S)" refers to someone who works exclusively for one employer, without qualification as to full-time or part-time basis. For the purposes of this definition, someone for whom services are provided without remuneration (e.g., on a *pro bono* basis) outside of a lawyer's usual employment would not be considered another employer (paragraph 27).

Prescribed Penalties and s. 237.3 of the* Income Tax Act*:

(x) The policy definition of "PRESCRIBED PENALTY(IES)" shall be expanded to include penalties assessed under s. 237.3 of the *Income Tax Act,* ensuring that effective investigation and defence cost protection of up to $100,000 is available to lawyers who successfully defend such penalties assessed, upon final resolution, as provided for under insurance coverage "C. PRESCRIBED PENALTY expenses" under the policy (paragraph 32).

Non-Lawyers in Partnership with Lawyers:

(xi) The 2015 Program policy shall, for greater clarity, be amended to ensure that coverage in respect of non-licensee professionals in partnership with lawyer licensees in MDPs is limited to:

- **the practice of the non-licensee's profession trade or occupation that supports or supplements the practice of the Law of Canada;**
- **services performed for or on behalf of the MDP;**
- **services provided or which ought to have been provided within Canada; and**
- **claims or civil suits brought on their merits in Canada (paragraph 40).**

(xii) The 2015 Program policy shall be amended to ensure that cancellation and extended notice period provisions regarding paralegal partners in combined licensee partnerships are included to comply with the mandatory insurance provisions for paralegals under By-Law No. 6 of the *Law Society Act* (paragraph 41).

Other Program Features (or Adjustments):

(xiii) Subject to the changes identified earlier in the report, the remaining exemption criteria, policy coverage, coverage options, and premium discounts and surcharges in place in 2014 will remain unchanged for the 2015 Program (paragraph 122).

The Errors & Omissions Insurance Fund:

(xiv) The investment income of the Errors & Omissions Fund which is surplus to the obligations of the Fund will be made available to the Law Society during 2015 (paragraph 12).

Conclusion:

(xv) The LAWPRO Board considers the Program changes to be appropriate and consistent with its mandate as set out in the 1994 Insurance Committee Task Force Report. The LAWPRO Board offers this Program of insurance for 2015 and asks for Convocation's acceptance of this Report at the September Convocation, so that the 2015 Program can be implemented by January 1, 2015 (paragraph 123).

PART 1 – THE ERRORS & OMISSIONS INSURANCE FUND

9. LAWPRO provides service to the Law Society with respect to the E&O Fund of the Law Society, which is currently in run-off mode. (The E&O Fund was responsible for the insurance Program prior to 1990, and for a group deductible of up to $250,000 per claim prior to 1995.)

10. In recent years the E&O Fund resources have been utilized to settle outstanding claims (for Program policies in place between July 1, 1989 and December 31, 1994), maintain its investment in LAWPRO share capital, make available $15 million of funds to backstop the potential of significant deterioration in the loss experience under recent years' Program policies, guarantee the level of supplementary premiums such as transaction levies, and make premium contributions where appropriate (see the Reinsurance and Capital Preservation section starting at paragraph 80 for more details). Where the investment income has been considered surplus to the E&O Fund's commitments, it has typically been aggregated for use to the benefit of the Law Society's general purposes.

11. As of June 30, 2014, the E&O Fund had outstanding claims liabilities of $0.2 million. The number of open files for 1994 and prior years stood at two. Since there are sufficient assets in the E&O Fund to fully meet the outstanding liabilities, the LAWPRO Board is again satisfied that the investment income generated by the E&O Fund is surplus to the needs of the E&O Fund and can be used by the Law Society for its general purposes.

12. Accordingly, the investment income of the Errors & Omissions Fund which is surplus to the obligations of the Fund will be made available to the Law Society during 2015.

PART 2 – CHANGES TO THE INSURANCE PROGRAM FOR 2015

13. In developing the details of the 2015 Program, LAWPRO has, as always, considered the changing environment in which lawyers practise and any comments received from the profession during the previous year. The general structure of the current Program appears to generally meet the needs and practice realities of the profession for 2015.

14. However, for the 2015 Program, four substantive modifications in the structure of the Program or in the form and substance of the policy are contemplated.

LAWPRO Risk Management Credit

15. The LAWPRO Risk Management Credit ("RMC") provides lawyers with a $50 premium credit, to a maximum of $100 per lawyer, for each pre-approved legal or other educational program taken and successfully completed. LAWPRO works closely with the Law Society, as well as the Ontario Bar Association, The Advocates' Society and other law associations and not-for-profit continuing professional development ("CPD") providers, to identify programs that can qualify for the RMC. To qualify, programs must include a substantial risk management component, which typically focuses on the most common claims risks in a given practice area, and practical advice on how to reduce the risk of claims.

16. LAWPRO believes that lawyers who attend these types of programs, and apply the information obtained, will be better able to avoid the mistakes or errors that most commonly lead to malpractice claims. So, while helping lawyers provide better service to their clients and manage the risks associated with their practice, the RMC premium credit is also considered supportive of the principle of risk-rating under the Program.

17. Another way in which LAWPRO is attempting to change lawyer behaviour to reduce the risk of claims is by contributing financially to the Law Society's Member Assistance Program ("MAP") operated by Homewood Human Solutions[1]. The MAP is available to all Ontario lawyers, judges and paralegals, and their family members. It is LAWPRO's belief that when lawyers have access to help and resources through programs such as the MAP, they will be less

[1] For more information on Homewood Human Solutions, the member assistance program and its available resources, the website can be accessed at https://www.homewoodhumansolutions.com/MSA/lawsocietyuppercanada

likely to take part in negative behaviours that are commonly associated with issues surrounding mental health and stress that are likely to lead to claims.

18. Amongst the services offered to licensees by Homewood Human Solutions are interactive e-learning courses which are described as:

> "Homewood Human Solutions™ e-Learning provides self-paced, private, and personalized learning experiences designed to improve personal health and well-being and/or workplace effectiveness. A variety of courses are available, focusing on health and wellness and a wide range of life skills."

19. Amongst the courses offered by Homewood Human Solutions are:

- *Taking Control of Alcohol Use*
- *Supporting Respect in the Workplace*
- *Taking Control of Your Money*
- *Fundamentals of Effective Supervision*
- *Managing Sensitive Employee Issues*
- *Taking Control of Stress*
- *Preparing for Your Retirement*
- *Values-Based Leadership*
- *Taking Control of Your Mood*
- *Taking Control of your Career*

20. These courses have not been specifically developed for legal professionals. However, for those that are found to contain effective risk management advice and techniques that could reduce the number or severity of claims by helping licensees to better manage their time, their practice and themselves, these courses appear to meet the aims of the RMC. Just as it would for courses offered by CPD providers, LAWPRO is able to assess these courses to determine if a risk-management aspect is included. With Homewood's assistance, LAWPRO can review the courses, which are free and available online, for possible accreditation. It is noteworthy that the practicePRO Online Coaching Centre practice modules qualify for the RMC and that a number of these modules look to address similar subject areas as some of the Homewood courses. LAWPRO would rely on the honour system for verification of completion of a Homewood course, as it does for lawyers claiming the RMC for attendance at CPD programs.

21. As well as insuring Ontario lawyers, paralegals who practice in partnership with lawyers in combined licensee partnerships ("CLPs") are also required to obtain their mandatory insurance from LAWPRO under the Law Society insurance Program commencing in 2014. As of July 31, 2014, there are 13 paralegal licensees insured by LAWPRO. It is LAWPRO's view that paralegal licensees, like lawyer licensees, who attend qualifying risk-management programs and apply the information obtained are better able to avoid the mistakes or errors that most commonly lead to

malpractice claims, so they too should qualify and be eligible for the RMC in the same fashion as lawyers, when insured under the Program.

22. Accordingly, for the 2016 Program:

a) The LawPRO Risk Management Credit ("RMC") will be continued, with a $50 premium credit per approved CPD program, subject to a $100 per lawyer maximum amount, to be applied for pre-approved legal and other educational programs taken and successfully completed by lawyers between September 16, 2014, and September 15, 2015, for which the lawyer has successfully completed the online Risk Management Credit Declaration Form;

b) Course accreditation for the RMC shall be extended to Law Society Member Assistance Program e-Learning courses that are considered by LAWPRO to meet the objectives of the RMC; and

c) Paralegal partners in combined licensee partnerships who have completed courses that qualify for the RMC shall be entitled to a $50 premium credit per approved CPD program, subject to a $100 per paralegal maximum amount, in a similar fashion to lawyers. This Program change will allow paralegal partners to qualify for reduced premiums under the 2016 Program for RMC approved courses they take between September 16, 2014 and September 15, 2015 .

Claims by Employers

23. Claims brought by employers against lawyers who are employed by them on a full-time basis are generally excluded from Program coverage in accordance with exclusion (b) of the policy, subject to limited defence-only coverage provided by endorsement to those acting as in-house corporate counsel. "EMPLOYEE(S)" is defined in the policy to mean "a person who provides services for another under either a contract of service or contract for services on a *full-time* basis" (emphasis added).

24. Under this definition of EMPLOYEE(S), if a lawyer acts only for a single employer and no one else, but happens not to work on a full-time basis, then exclusion (b) above would not apply and a claim by the employer might potentially be covered.

25. The question arises as to whether different coverage treatment for lawyers employed on a part-time basis and those employed on a full-time basis is intended or fair. In fact, as with most other professional liability insurance, it is not the general intention that the Program insure exposures arising between or among insured employees and their employer, whether employed on a full-time or part-time basis. To the extent that the Program does afford some such protection though, as it does in the case of the limited defence-only ($250,000 per claim and in the aggregate per policy period) sublimit protection for those acting as in-house corporate counsel, it is LAWPRO's view that this protection should be afforded equally to those in-house corporate counsel acting on a part-time basis as it is to those acting on a full-time basis.

26. When determining whether lawyers employed in government or education, or as in-house corporate counsel, may claim exemption under the Program, no such necessity of full-time employment is imposed. In this regard, subsection 9(1)(4)(iii) of By-Law 6 of the *Law Society Act* provides that a lawyer may qualify for exemption if she or he does "not engage in the practice of law in Ontario other than for and on behalf of the employer".

27. Accordingly, the Program policy shall be amended so that the definition of "EMPLOYEE(S)" refers to someone who works exclusively for one employer, without qualification as to full-time or part-time basis. For the purposes of this definition, someone for whom services are provided without remuneration (e.g., on a *pro bono* basis) outside of a lawyer's usual employment would not be considered another employer.

Prescribed Penalties and s. 237.3 of the *Income Tax Act*

28. Lawyers who have had a penalty assessed against them for misrepresenting a tax matter or tax planning arrangement under s.163.2 of the *Income Tax Act*, R.S.C. 1985, c.I or s. 285.1 of the *Excise Tax Act*, R.S.C. 1985, c. E-15, and have successfully defended such allegations upon final resolution, may be reimbursed under the policy for up to $100,000 of their expenses. Although the sublimit which applies to these "prescribed penalties" affords protection for investigation and defence costs only, in fact only one claim has been reported under the Program to date in respect of this coverage since it was first introduced in 2003.

29. In 2013, section 237.3 of the *Income Tax Act* came into effect which, similar to the prescribed penalties under the policy, could leave lawyers open to sanctions. As it was originally

circulated, s. 237.3 could lead to an advisor/promoter (such as a lawyer) being penalized for failure to report transactions that had at least two of three "hallmarks" of anti-avoidance (being a "fee hallmark", a "confidential protection hallmark" and/or a "contractual protection hallmark"). If two of the three hallmarks are present, there is a general obligation to report the transaction to the Canada Revenue Agency under its general anti-avoidance rule ("GAAR") found at s. 245 of the Act.

30. The *Income Tax Act* recognizes that "solicitor-client privilege" may impact the disclosure required to the Minister of National Revenue and contains a definition thereof in s. 232(1). On its face, it appears that lawyers would only face sanction if[2]:

(i) The lawyer is subject to the reporting requirement;

(ii) The required information is not protected by solicitor-client privilege;

(iii) No other person has provided the required information to the Minister of National Revenue; and

(iv) The lawyer failed to make "reasonable efforts" to identify whether the reporting requirement exists or that another person had satisfied the reporting requirement.

31. As a result, it may be unlikely that a lawyer, acting in his/her capacity as a lawyer, would ultimately be sanctioned under s. 237.3. Also, in the event it was determined that a lawyer did fail to file an information return for a reportable transaction as she or he was required to do, the maximum amount of the assessment is limited to the amount of the fee obtained from the client who has been found to have engaged in a tax avoidance transaction contrary to the Act.

32. For 2015, the policy definition of "PRESCRIBED PENALTY(IES)" shall be expanded to include penalties assessed under s. 237.3 of the *Income Tax Act*, ensuring that effective investigation and defence cost protection of up to $100,000 is available to lawyers who successfully defend such penalties assessed, upon final resolution, as provided for under insurance coverage "C. PRESCRIBED PENALTY expenses" under the policy.

[2] This would appear to be the case based upon information contained in clause 356 of the Department of Finance's *Explanatory Notes Relating to the Income Tax Act, the Excise Tax Act and Related Legislation, Part 5*, which can be viewed at http://www.fin.gc.ca/drleg-apl/nwmm-amvm-1012n-05-eng.asp

Non-Lawyers in Partnership with Lawyers

33. Under By-Law Nos. 6 and 7 of the *Law Society Act*, non-lawyers who are in Ontario partnerships with lawyers, as recognized by the Law Society, are required to be insured under the Law Society Program by LAWPRO. There are two types of partnerships that this applies to:

a) Combined licensee partnerships, in which lawyers are in partnership with paralegals who are also licensed by the Law Society; and

b) Multi-discipline partnerships ("MDPs"), in which lawyers are in partnership with "non-licensees" (i.e., professionals other than lawyers and paralegals licensed by the Law Society of Upper Canada).

34. The non-licensee partners in an MDP must practice a profession, trade or occupation that supports or supplements the practice of a Law Society licensee partner. Lawyers must apply to the Law Society before they can enter into a MDP and the Law Society must approve its renewal on an annual basis in order for the MDP to continue. There are currently twelve such MDPs for which insurance is provided by LAWPRO under the Program.

35. Although perhaps not originally contemplated in the conceptualization of MDPs, in the past year three MDPs have been formed with American lawyers as the non-licensee professionals. For one partnership, according to the application filed with the Law Society, the U.S. lawyer is not acting as a lawyer but providing marketing services that supports the Ontario lawyer's law practice. In another, the U.S. lawyers act in their capacity as American lawyers in supporting the U.S. element of cross-border (class action) litigation, and in the third, a U.S. tax law specialist helps the firm provide its clients with Canada/U.S. tax services.

36. Although the Program policy has long been clear, both in the principle insuring agreement and the territorial provisions, that no protection is afforded in respect of the practice of foreign law by Ontario lawyers, given the recent inception of MDPs with foreign lawyers as non-licensee professional partners, it is appropriate that the policy endorsement affording coverage in respect of MDPs be updated, so that the coverage under the Program between Ontario lawyers and their MDP partners is better aligned.

37. The underwriting intention is that Program coverage be provided with respect to the practice of law in Ontario and the practice of a profession, trade or occupation that supports or supplements the practice of law in Ontario, but not without regard to the types of territorial

considerations already provided for under the policy. In this regard, the Program should not be seen as providing general insurance protection to foreign lawyers for their practice of foreign law, because they happen to have involvement as a partner in an MDP with an Ontario lawyer.

38. Through more specific endorsement provision, the possibility of there being broader Program protection for foreign exposures for non-licensee partners in an MDP than is provided to lawyer licensees generally under the Program will be more definitively avoided.

39. As well, for paralegal partners in combined licensee partnerships, endorsement provisions will be updated to expressly provide for 60 days written notice to the Law Society of cancellation or amendment of policy coverage and a ninety (90) day extended reporting period, in accordance with Section 12(1) of Law Society By-Law No. 6.

40. Accordingly, the 2015 Program policy shall, for greater clarity, be amended to ensure that coverage in respect of non-licensee professionals in partnership with lawyer licensees in MDPs is limited to:

- **the practice of the non-licensee's profession trade or occupation that supports or supplements the practice of the Law of Canada;**
- **services performed for or on behalf of the MDP;**
- **services provided or which ought to have been provided within Canada; and**
- **claims or civil suits brought on their merits in Canada.**

41. The 2015 Program policy shall be amended to ensure that cancellation and extended notice period provisions regarding paralegal partners in combined licensee partnerships are included to comply with the mandatory insurance provisions for paralegals under By-Law No. 6 of the *Law Society Act*.

PART 3 – THE PROFESSIONAL LIABILITY INSURANCE PROGRAM

42. Persistent increases in the number and cost of claims over the past several years are putting significant pressure on the Program. The Program is also subject to ongoing uncertainty regarding investment income and transaction levies. Because of the elimination of the Premium Stabilization Fund, there is no longer a significant pool of money in the Law Society's E&O Fund which can routinely be used on an annual basis to insulate the Program from negative impacts.

43. As LAWPRO works through these challenging times, the company's prudent and conservative approach to the issues of the day has stood it in good stead. LAWPRO has maintained a solid capital base, with a minimum capital test ("MCT") as of June 30, 2014 of 239 per cent. This MCT result is above the regulators' minimum level of 100 per cent and supervisory threshold of 150 per cent, and above LAWPRO's internal minimum target of 180 per cent. LAWPRO has a robust asset-liability matching program to ensure that the funds are available to satisfy the claims obligations undertaken to date. Also, LAWPRO has received a consistent "A" (Excellent) rating from A.M. Best Co. each year since 2000.

44. In 2014, LAWPRO has retained its "stable" outlook based on the company's commanding market profile and recent improvement in operating and underwriting results. (An "outlook", which looks more to the future, is different from a "rating".) However, A.M. Best Co. did note LAWPRO's unfavourable loss ratio trends would continue to place pressure on its capital base. The MCT of 239 per cent as of June 30, 2014, represents a relatively favourable result compared with the 233 per cent as at December 31, 2013, especially once seasonal variations related to the gradual "earning" of premium in the course of the year are taken into account. But this level of capital is somewhat lower than various Canada-wide averages, such as the overall insurer average of over 250 per cent, the personal lines average of over 240 per cent or the commercial lines average of over 300 per cent[3]. The proposals outlined in the following pages are designed to address the present challenges in a prudent fashion and maintain the company's ability to meet the needs of the Program in the years to come.

[3] As reported by MSA Research Inc.

45. To establish the recommended Program for 2015, the LAWPRO Board considered several factors, such as:

- the cumulative effect of the recent underwriting and investment results, and the economic environment, on the Program;
- the expected future loss cost;
- the revenue sources which are expected to supplement the base levies; and
- the inherent uncertainties in predicting the results of the Program each year.

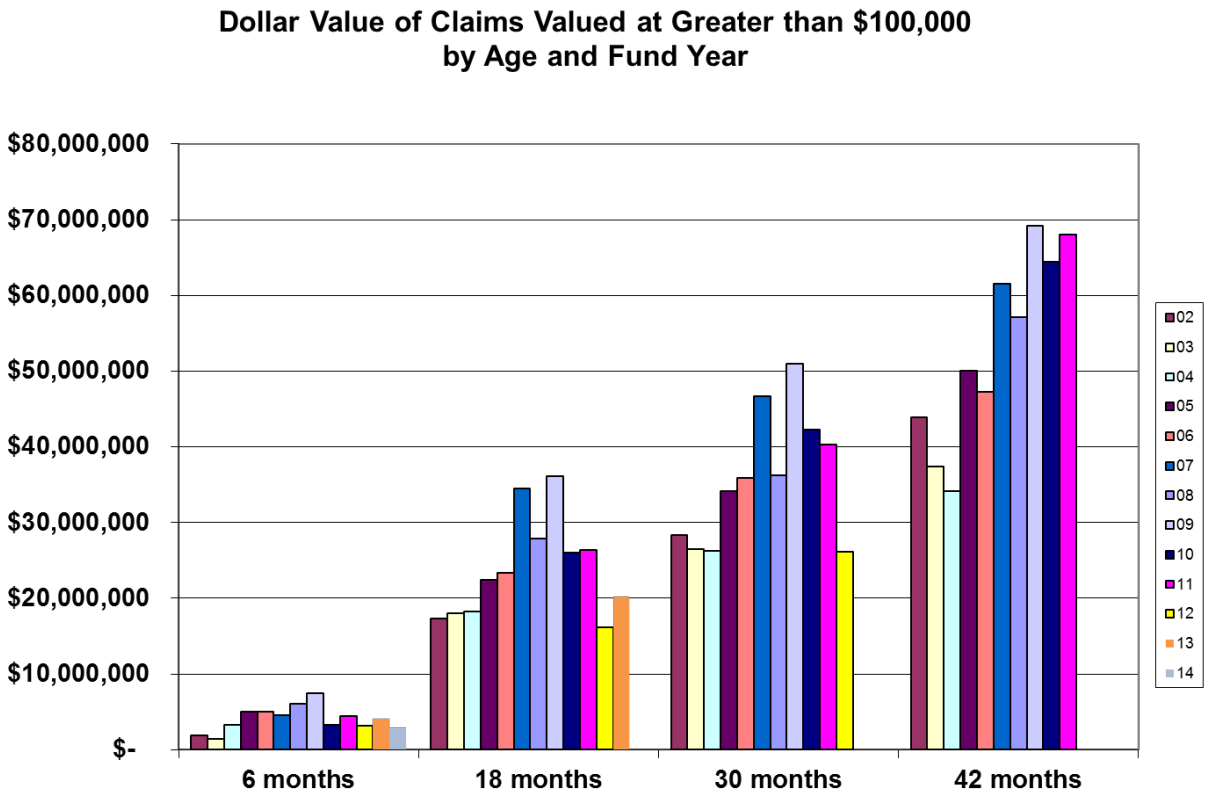
46. To ensure the Program's long-term viability, LAWPRO and the Board took a prudent approach to projections of revenue, as well as claims frequency and severity, taking into account factors such as emerging claims trends, general economic conditions, the tax environment and inflationary pressures on the claims portfolio.

47. As part of its ongoing planning process, LAWPRO looked at a five-year time horizon. Any LAWPRO forecast is reviewed and revised periodically based on new information as it emerges. The subject forecast reflects the trends detailed in this report, and takes a conservative approach to projecting the frequency and cost of claims under the Program. This prudent approach is dictated by uncertainties associated with predicting (a) general economic and inflationary trends, and (b) claims associated with recommended or recent Program changes, as applicable.

Program Costs

48. LAWPRO's revenue requirements for the 2015 Program are based on the anticipated cost of claims for the year, as well as the cost of applicable taxes and Program administration.

49. Loss experience has trended up noticeably in terms of frequency since 2004, with more claims reported than in the earlier part of the decade. It is too early to form a final view on the development of the most recent fund years' claims, such as 2012 through 2014. However, despite a very recent stabilization in the number of claims involving $100,000 or more (as seen in the following charts), there is an overall longer term upward trend in claims severity (cost per claim).


Dollar Value of Claims Valued at Greater than $100,000
by Age and Fund Year
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$60,000,000
$50,000,000
$40,000,000
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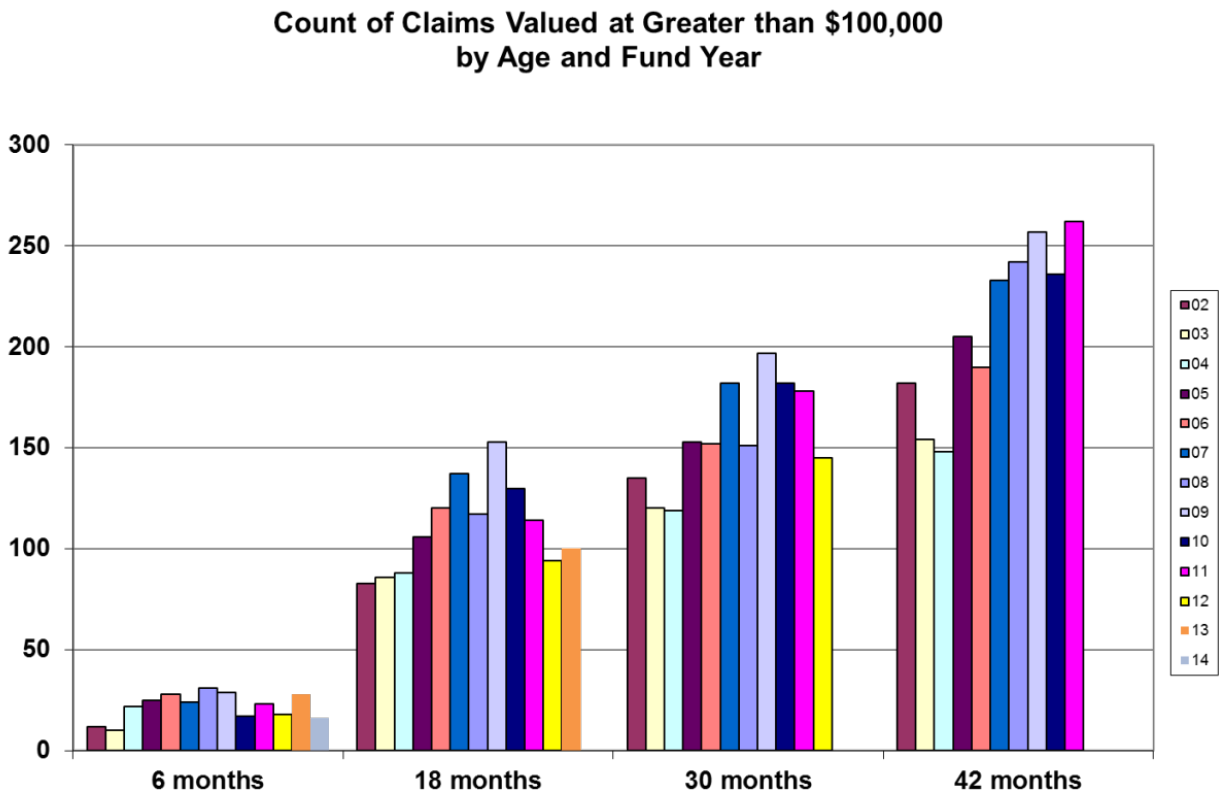
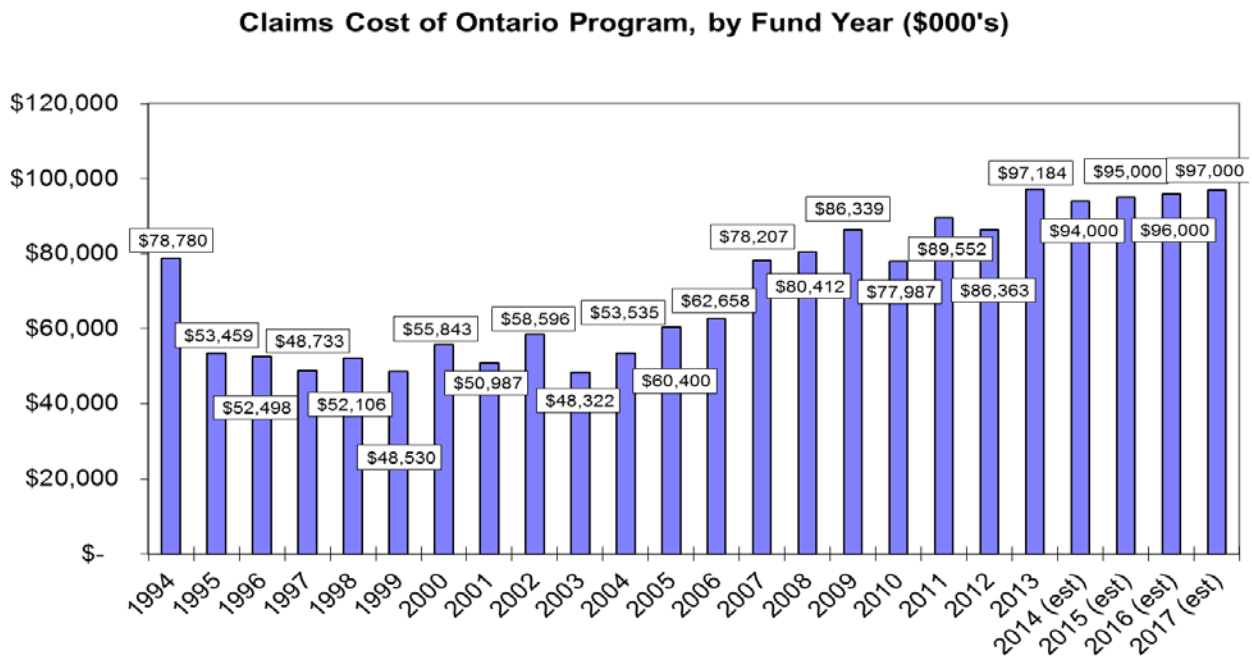

Count of Claims Valued at Greater than $100,000
by Age and Fund Year
300
250
200
150
100
50
0
6 months
18 months
30 months
42 months
02
03
04
05
06
07
08
09
10
11
12
13
14

50. For 2015, LAWPRO expects direct claims costs alone to be $95.0 million (see chart following). LAWPRO estimates total Program funds (that is, claims costs plus general expenses) required for 2015 to be $121.2 million. This estimate is slightly above the current forecast of total Program funds needed for 2014, which is approximately $120.7 million.



Risk Rating

(a) Background

51. As already discussed in this report, the Task Force Report concluded that the cost of insurance under the Program should generally reflect the risks.

52. Specifically the Task Force Report indicated that "… as a fundamental, shaping principle, the cost of insurance should generally reflect the differences in risk history, differing risks associated with different areas of practice, and differing volumes of practice. But no insurance program can be solely risk-reflective and there must be some sharing and spreading of risk[4]."

53. In keeping with this approach, LAWPRO regularly conducts detailed analyses of the risks associated with the Program. The earlier results of these analyses are summarized in previous

[4] 1994 Task Force Report, at page 17.

Reports to Convocation. These analyses concluded that the practice of real estate and civil litigation represented a disproportionate risk when compared to other areas of practice, and that lawyers with a prior history of claims have a greater propensity for future claims than do other lawyers.

54. The objective of risk rating was finally achieved in 1999 by applying various discounts and additional levies (such as the real estate and civil litigation transaction levies and claims history levy) to the Program.

55. Risk rating, however, is not static. Because the relationship between the cost of claims and different areas of practice may change, LAWPRO must continue to monitor the Program to ensure that risk rating continues to be achieved. The results of these earlier risk analyses are re-evaluated each year, and the factors used to assess risk and determine premium under the Program are re-evaluated for degree of relevance. The factors currently used to match risk to premium include area of practice, years in practice, claims history, liability for partners and associates, and size of practice.

56. As in the past, LAWPRO's risk analysis also examined the degree of specialization, size of firm, and geographic location of practice as possible factors to be used in assessing risk and setting premiums. The potential factors were examined individually and on a combined basis to determine any correlation or dependencies.

57. In 2014, this review has reaffirmed the overall validity of the rating structure currently in place, subject to certain adjustments in magnitude. The results of the customary re-evaluation of the earlier risk analyses are addressed in this report at paragraphs 62 to 79.

(b) Practice Trends

58. LAWPRO's present risk analysis reaffirms the results of its last report indicating that the practice of real estate and civil litigation represent a disproportionate risk when compared to other areas of practice. In particular, the analysis indicates that overall real estate and civil litigation represent a disproportionate risk when compared to other areas of practice. These two areas of practice represent 63 per cent of the claims reported and 68 per cent of the claims costs under the Program in 2013.

59. In particular:

a) Real estate claims costs have trended upwards in the 2001 to 2013 period with real estate accounting for 28 per cent or more of costs consistently over this time. Since 2004, costs in this area of practice have increased almost 135 per cent;

b) In 2013, the exposure relating to the practice of civil litigation again was substantially more than the traditionally seen, with civil litigation accounting for 35 per cent of the claims reported and 32 per cent of the claims costs under the Program (well above the traditional levels of 27 per cent and 18 per cent seen in the 1989-94 period);

c) In 2013, the nature of claims against civil litigators was also reaffirmed, with missed limitation period claims alone accounting for almost 45 per cent of litigation claims, whereas general conduct or handling of the matter accounting for about 55 per cent of these claims; and

d) Lawyers with a prior claims history continue to have a considerably greater propensity for claims than other practising lawyers. Lawyers with claims in the prior 10 years were more than three times more likely to report a claim during the past year than those with no claims in the prior 10 years.

60. The result of this analysis are summarized in the graphs contained in **Appendix "B"** of this report.

(c) Risk Management Initiatives

61. A principal mandate of LAWPRO is to help the legal profession manage the risk associated with practice. This is accomplished by providing lawyers with information, tools and resources that help them manage risk and practice in a more risk-averse fashion. Among LAWPRO's major risk management initiatives are:

- **TitlePLUS® Program:** TitlePLUS insurance is a competitive title insurance product that has made a positive difference in the Ontario real estate market. It expands the choice offered to consumers and lawyers. It influences the behaviour of other title insurers. It

educates consumers and has expanded policy coverages available to them. It also provides education on title insurance and real estate trends to lawyers. The TitlePLUS program promotes real estate lawyers and recommends that consumers seek the advice of lawyers when closing their real estate transactions.

TitlePLUS staff have also given presentations at various CPD programs on title insurance and fraud prevention measures in real estate transactions. More presentations will take place in the coming months. These are designed to provide the legal profession, including new lawyers entering practice, with the tools they need to manage risk and avoid claims under both the professional liability and TitlePLUS programs.

"TitlePLUS Today", the Department's news bulletin, is sent regularly to subscribing lawyers across Canada, providing legal and underwriting updates on current national real estate issues. Also, in recognition of the role support staff play in real estate transactions, the Department publishes "TitlePLUS Tips", a bulletin written especially for support staff in the offices of subscribing lawyers.

In 2013, LAWPRO continued with its consumer education program which involved a media campaign highlighting the role of lawyers in real estate transactions and TitlePLUS insurance. Overall, the consumer education program involved 110 articles, with coverage in 91 publications (print and electronic). In total, this exposure generated over 10.7 million impressions.

- **practicePRO® Program:** Now in its 16th year, LAWPRO's successful risk management and claims prevention initiative is a recognized source of high-quality risk management tools and resources, both inside and outside of Ontario. This year, practicePRO staff helped lawyers avoid malpractice claims through articles in LAWPRO Magazine and other law-related publications, information on the practicePRO website and AvoidAClaim blog, social media, and live presentations and an exhibitor presence at CPD programs and other law-related events. The practicePRO program has significant presence in the legal community by maintaining relationships and actively working with its various constituents, including the Law Society, the Ontario and Canadian Bar Associations, local law associations, legal goods and service providers, the legal and mainstream press and others.

- **LAWPRO Magazine:** With its strong risk management focus, LAWPRO's flagship publication continues to play an important role in helping lawyers avoid malpractice claims. Through a special Annual Review issue of the magazine published each spring, LAWPRO provides lawyers with an overview of claims trends and an explanation of how these affected their premiums and LAWPRO's financial results. This Annual Review issue also provides information on LAWPRO's efforts to prevent claims and advance lawyers' interests with the government and public opinion. The September 2013 issue of LAWPRO Magazine celebrated the 15th anniversary of the practicePRO program, included articles on the many risk management initiatives during that time, and took a look at future challenges and changes facing the legal profession. This issue also included the practicePRO 15th Anniversary Pullout, a four page brochure with the best claims prevention advice and resources. The December 2013 edition focused on "Cybercrime and law firms" in an effort to alert lawyers to the many dangers of cybercrime and what steps they and their firms can take to protect themselves. LAWPRO also produced webzines in the areas of criminal law, sole and small firm practice, communications issues and litigation practice.

- **Fraud:** In terms of the risk they present to the Program, fraud-related claims are an ongoing and significant concern for LAWPRO. LAWPRO continues to take steps to combat fraud through measures within its own operations, its relationship with the legal profession, and by working as occasions arise with law enforcement, land registry, banking, insurance and other organizations and industries also affected by fraud. The Fraud Fact Sheet was reprinted in 2013 and was widely distributed to lawyers. This resource was also downloaded nearly 9,000 times from the practicePRO website in 2013. As mentioned above, the December 2013 issue of LAWPRO Magazine focused on cybercrime prevention, with an emphasis on recognizing and preventing various types of cyber-related frauds. As well, the AvoidAClaim blog has become an increasingly important tool for alerting lawyers to the latest email and online fraud scams as they happen. It averages almost 640 visitors a day and had 252 fraud-related posts made to it in 2013. Lawyers from all over Ontario and elsewhere arrive at the blog when they conduct an internet search of the names of fraudsters pretending to be prospective clients,

often because the matters appear to be suspicious. The information provided by LAWPRO has helped many Ontario lawyers avoid being duped.

- **Consultations:** The practicePRO program actively worked with various entities to ensure that professional liability and risk management concerns were taken into account when policy issues were under discussion. LAWPRO made submissions to the Law Society on a variety of formal and informal consultations, including providing suggestions on where and how risk management content could be incorporated into the Law Society of Upper Canada's Law Practice Program and amendments to the Lawyer Annual Report. LAWPRO met with and provided submissions to court staff and members of the Rules Committee on changes to Rule 48 to attempt to address the increase in administrative dismissal-related claims. A presentation on common areas of claims and risk management was done at a meeting of the Federation of Law Societies, and in response to a staff request, further information and comments on the National Entry To Practice Competency Profile For Lawyers And Quebec Notaries were provided. In response to their requests, information was provided to various members of the CBA Futures Task force.

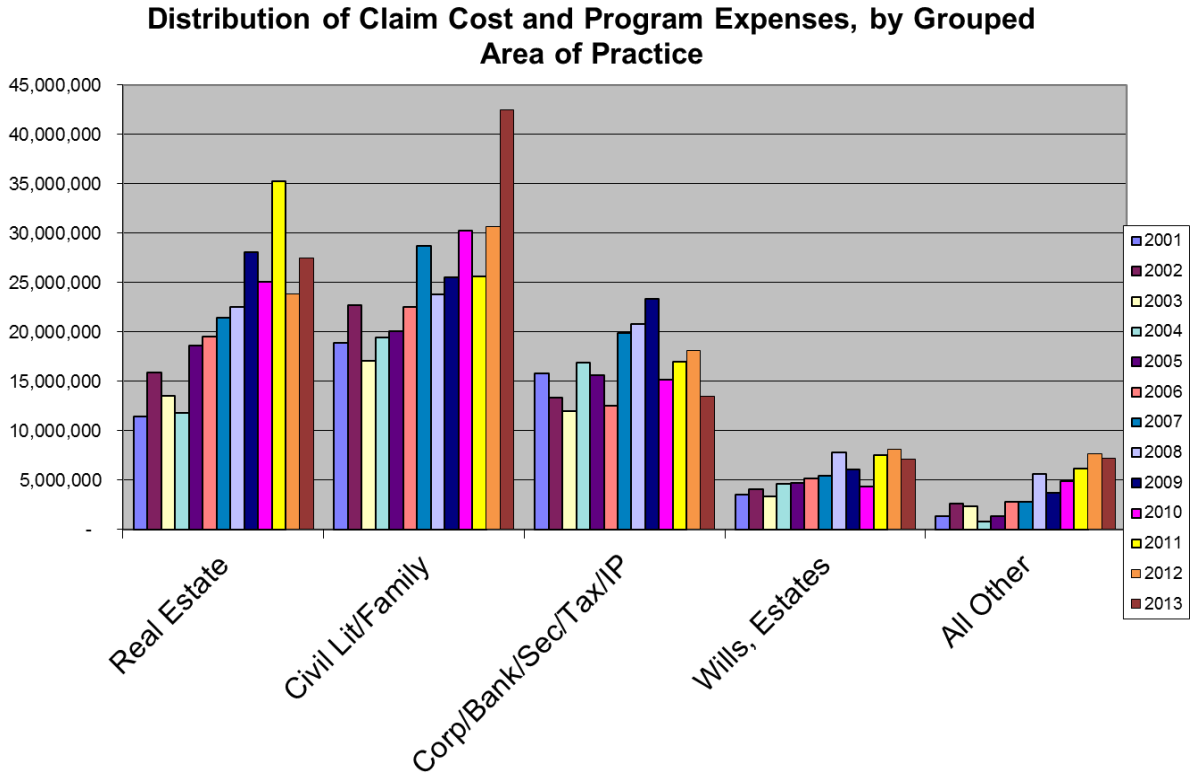
- **practicePRO Lending Library:** To help lawyers improve their practices, this library makes 120 of the best books on law practice, technology and risk management topics available on loan for free to all Ontario lawyers. In 2013, 209 books went out on loan to 138 lawyers.

- **The LAWPRO Risk Management Credit:** This premium credit offered under the Program is another significant LAWPRO risk management initiative. In 2001, a premium credit of $50 was first offered to lawyers using the practicePRO Online Coaching Centre, an Internet-based, self-coaching tool that helps lawyers enhance their business and people skills. The premium credit was broadened in the following year to provide a $50 credit (to a maximum of $100 per lawyer per year) for designated law-related CPD programs completed by the lawyer. For a credit on premiums for 2015, lawyers must have participated in LAWPRO-approved CPD programs between September 16, 2013, and September 15, 2014. In addition to the Online Coaching Centre, 270 programs qualified for the credit during this period. These programs had approximately 53,000 attendees.

Prior to the implementation of the Risk Management Credit, most CPD programs focused solely on substantive law. Due to the Risk Management Credit and the Law Society's new focus on mandatory ethics and professionalism content, a significant number of Ontario CPD programs have been broadened to include risk management and claims prevention content.

(d) Revalidating Risk Rating

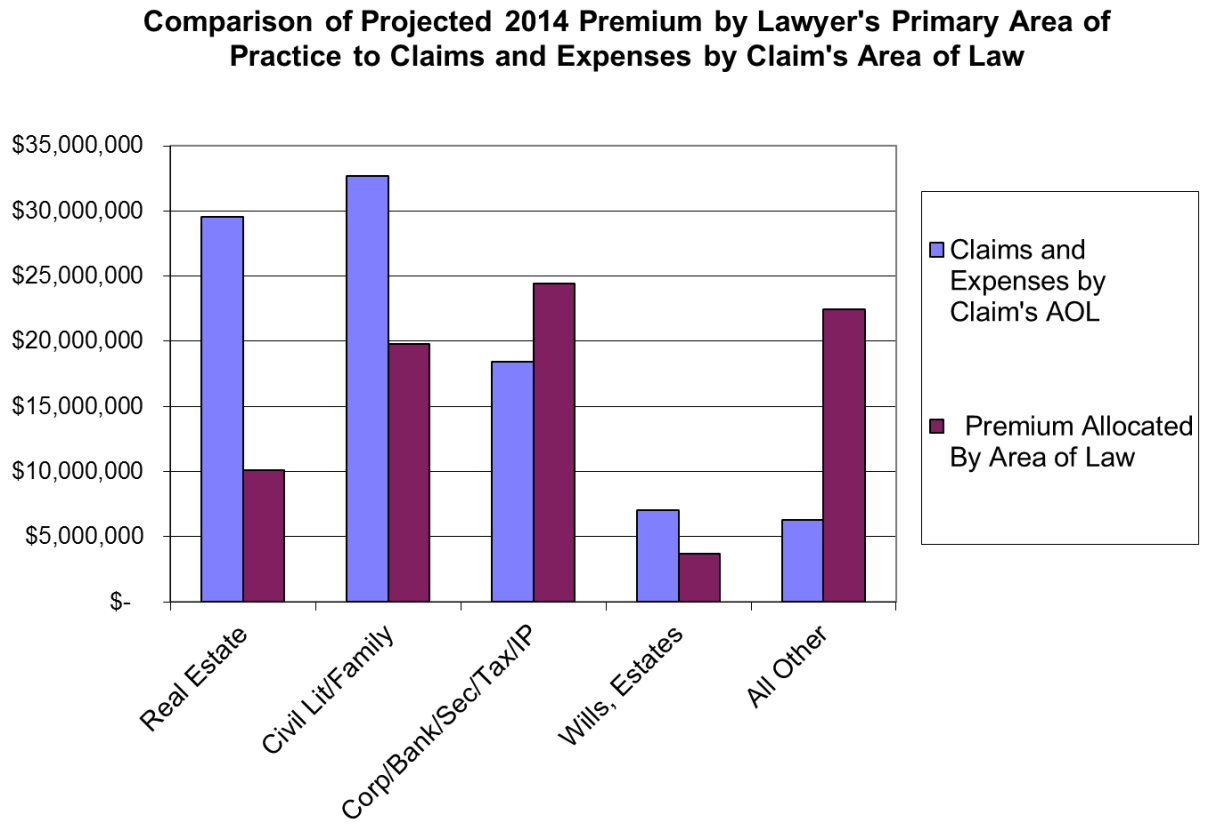
62. It is important to periodically re-evaluate the Program by area of practice to ensure that it continues to be effective in its risk rating. The following chart shows the distribution of ultimate expected claims costs by detailed area of practice since 2001 (being Fund Year Z).



63. Apparent from this chart are the significant and growing claims costs in many practice areas and the fact that real estate and litigation continue to be higher risk on a consistent basis over a multi-year period.

64. The fact that few lawyers practise exclusively in one area provides a compelling reason to group together common or related areas of practice. However, to ensure that risk rating is being

achieved, the Program's anticipated losses and related costs must be compared to the premiums. Based on the most recent loss experience under the Program (including that seen under the Program up to December 31, 2013), the following chart compares the anticipated losses and costs distributed by area of law to the proposed base premiums by primary area of practice. The premiums in this chart include the proposed base premiums with real estate practice coverage, innocent party and base premium adjustments, but exclude transaction levies and claims history surcharges.



65. The shortfall between the anticipated claims costs and expenses to base premiums is particularly significant for the areas of real estate law and civil litigation.

66. The latest Program statistics indicate that without the benefit of the transaction and claims history levy revenues, the 2015 base premium would be about $10,000 for those whose primary area of practice is real estate.

67. Past Reports to Convocation have discussed the importance of using the transaction and claims history surcharge levies as premium, to avoid any substantial dislocation among the bar in the higher risk areas of practice which would otherwise occur with risk rating[5].

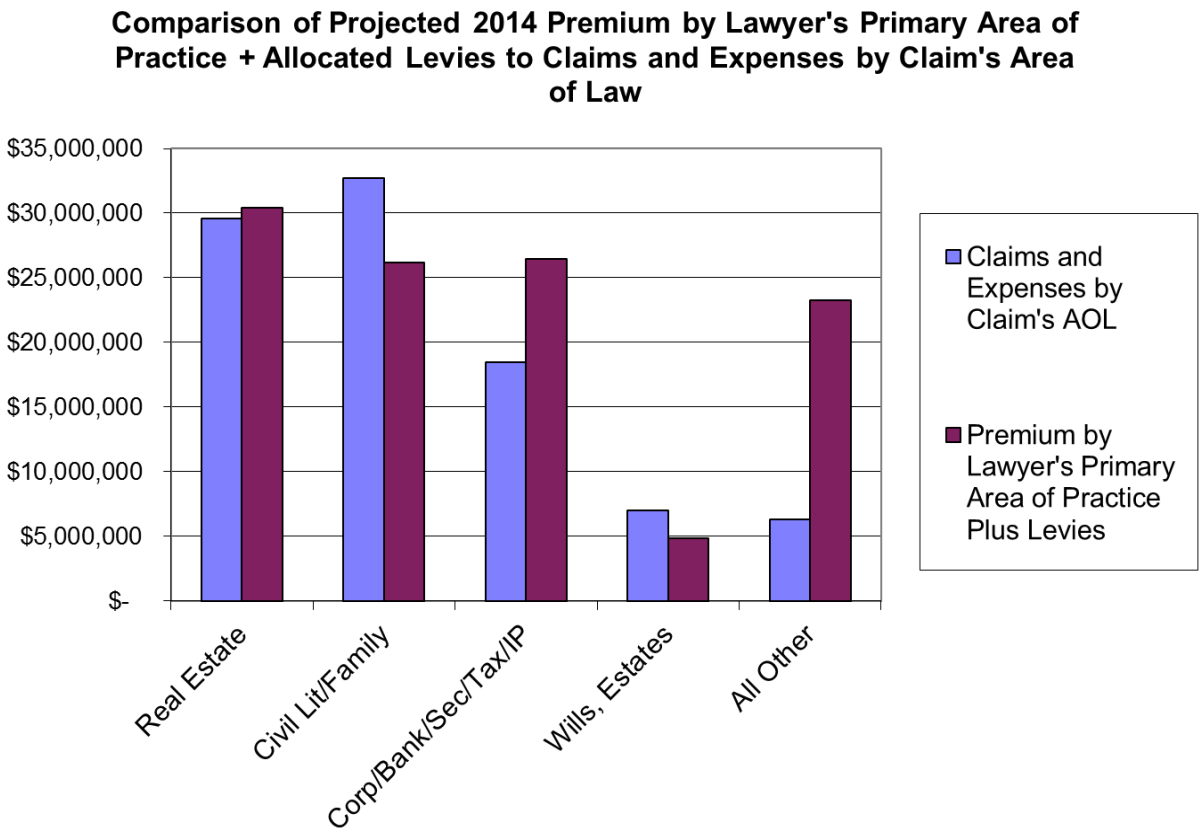
68. By including the transaction and claims history surcharge levies as in recent years, a shortfall for real estate and civil litigation claims costs is largely overcome. Therefore, it is proposed to maintain the transaction levy at the same level for 2015.

69. In April 2008, LAWPRO introduced a Real Estate Practice Coverage Option ("REPCO"). One REPCO claim has arisen as of June 30, 2014, representing a limit loss of $250,000 which was paid out. LAWPRO is maintaining an actuarial loss reserve for potential incidents that have occurred but have not yet been reported to the company. (Since the essence of REPCO coverage is to compensate for an act of fraud by the insured lawyer, it is unlikely that there will be an immediate report by the lawyer involved; therefore, LAWPRO is making a conservative assumption that there will be often be delays in reporting under this coverage.) To acknowledge the promising results to date, the price of the REPCO coverage was decreased by a prudent $100, to $400 from $500, for the 2010 Program, and by a further $150 to $250 per lawyer in 2012.

70. Accordingly, the premium for the Real Estate Practice Coverage Option ("REPCO") will be $250, that same amount charged in 2012 through 2014.

71. The following chart compares the anticipated premiums sorted by the lawyer's primary area of practice (plus the claims history surcharge, REPCO premium and transaction levies as revised) to the anticipated claims costs and expenses for each area of law.

[5] 1999 LAWPRO Report to Convocation, pp. 18 – 22; 1998 LAWPRO Report to Convocation, pp. 35 – 37; and 1996 LAWPRO Report to Convocation, pp. 32-36.



72. This comparison indicates that, with the benefit of the transaction and claims history surcharge levies, and including the REPCO premium, there is a more acceptable correlation between revenues and claims for the major practice areas.

73. The graph does indicate some subsidy by area of practice, especially by the practitioners in the "All Other" category. This subsidy changes somewhat over time and may vary considerably from year to year for the smaller practice areas, if they were broken down in greater detail.

74. The area of wills and estates has experienced an increase in claim costs over the past decade. Given the relatively small number of practitioners in this area, a few large claims often skew the results. LAWPRO will continue to monitor these results and propose any action, if appropriate, at a future date.

75. Appreciating the foregoing variables and possibilities of comparison by area of practice, it appears that the Program does substantially meet its objectives of risk rating, and that the proposed Program will continue to do so in the coming year. Although some subsidy may exist

for certain areas of practice, when taking into account operating costs and commercial realities, the cost of insurance under the Program is considered to generally reflect the risk. Notably, the Task Force Report acknowledged that "…no insurance program can be solely risk-reflective and there must be some sharing and spreading of risk[6]."

76. Other aspects reviewed in the analysis included the exposure based on the size of the firm, year of call, geographic location and prior claims history. The overall results of this analysis reaffirm the premium discounts already in place, including the surcharge applied to practitioners with a prior claims history. The results of this analysis are reproduced in select graphs in **Appendix "B"**.

77. Although the volume (size) of practice may not be wholly determinative of risk, the transaction levies do reflect the volume of business transacted in a practice as well as the higher risk associated with real estate conveyancing and civil litigation.

78. Accordingly, the LAWPRO Board is satisfied with the continued use of transaction and claims history levy revenues as premium, with the result that the cost of insurance under the Program continues to generally reflect the risk.

79. Various examples of premiums which would be charged to members depending on the nature of their practice are summarized in **Appendix "C"** of this report.

Reinsurance and Capital Preservation

80. LAWPRO annually assesses its need for reinsurance based on its capital position and its claims results and volatility.

81. In its early years, LAWPRO purchased Program-wide quota share reinsurance. A stronger financial position and more stable claims experience enabled the company to cease reinsuring the Program with quota share reinsurance starting in 2003. In addition to relying on LAWPRO's own capital, the resources of the E&O Fund up to a $15 million cap were effectively relied on starting in 2003. An enhanced retrospective premium endorsement provided that for certain years actual loss experience above a certain threshold would be borne by the E&O Fund through additional premiums. On the other hand, actual loss experience below a certain threshold would trigger a

[6] 1994 Insurance Committee Task Force Report, at page 17.

refund on premiums to the E&O Fund. The E&O Fund has used the Premium Stabilization Fund ("PSF") as a mechanism to fulfill its potential obligation for additional premiums and as a place to hold premium refunded.

82. Given the current uncertain environment for future claims, transaction levies and investment income, and the rapidly declining balance of the PSF, it was decided in September 2009 that LAWPRO would achieve greater Program stability by retaining in the company any future favourable claims development. As a result, the refund aspect of the retrospective premium endorsement was not continued in the 2010 Program.

83. As already noted, under the endorsement as drafted in certain years before 2010, additional premium payments relating to past insurance fund years were potentially required as final claims costs emerged. Accordingly, recognizing the decreased size of the PSF and not wanting to place undue pressure on the E&O Fund as a whole, the threshold for the additional premium aspect of the retrospective premium endorsement was increased in 2010**.**

84. For 2015, it is proposed that there continue to be a $15 million dollar cap on the E&O Fund's exposure to provide additional premium to LAWPRO. As in 2010 through 2014, to the extent that the net loss ratio exceeds the anticipated loss ratio for the year by an absolute 10 per cent, the E&O Fund would cover the losses. The 2010 through 2015 backstop provisions will be evaluated separately, with the $15 million limit shared by the six fund years. The lower likelihood of a payout by the E&O Fund in this regime, as it commenced on January 1, 2010, makes the protection more akin to a catastrophic coverage, providing payout only in the unlikely scenario that an insurance fund year experienced significant deterioration from its initial expectations.

85. By relying on its own resources and the $15 million backstop from the E&O Fund as described above, LAWPRO will not need to pursue the expensive course of purchasing reinsurance on a Program-wide basis.

86. For 2015, LAWPRO will again look to purchase reinsurance protection against the possibility of multiple losses arising out of a common event or nexus, as it has since 2005 (the "Clash Excess of Loss Reinsurance"). This protection against aggregated losses extends across both the professional liability and TitlePLUS programs, and offers some measure of protection

against a series of claims, such as fraud-related claims where the fraudster targets more than one lawyer, or a single defect in title affecting an entire condominium project.

87. Since January 1, 2013, LAWPRO has purchased an additional $20 million limit above what had been the existing $10 million limit under the Clash Excess of Loss Reinsurance (for a possible total limit of $30 million in coverage above LAWPRO's retained exposure). This additional $20 million layer covers multiple claims that directly or indirectly relate to class proceedings. In 2015, LAWPRO will again look to purchase the higher layer of protection against the possibility of class proceedings against multiple insureds.

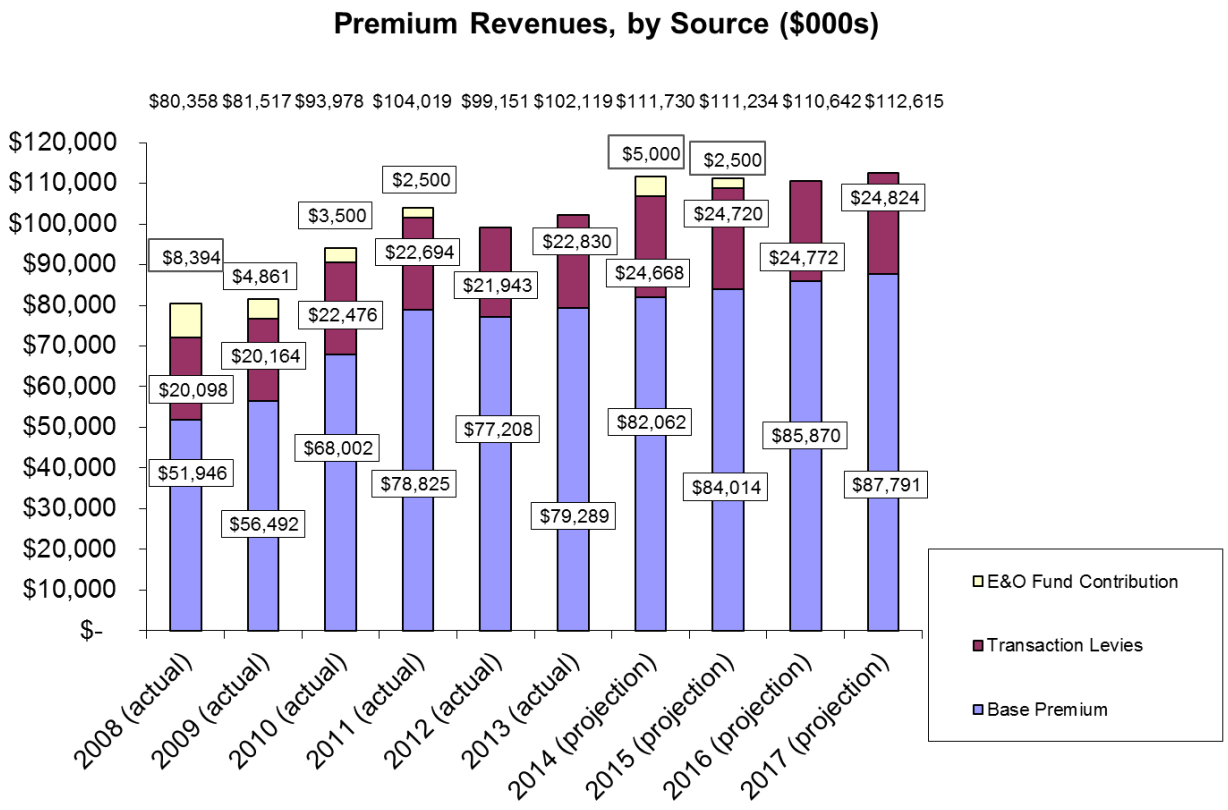
88. Accordingly, 100 per cent of the premiums and losses for the Program will again be retained by LAWPRO in 2015, subject to limited capital backstop protection provided by the E&O Fund, and reinsurance protecting the Program from multiple losses arising out of a common event or nexus.

Revenues

89. To meet the total expected Program obligations for 2015, LAWPRO first evaluates its likely investment income, and then considers premium sources. By way of contrast with some recent years (when there was no contribution from the E&O Fund to minimize the base premium), premium revenues to meet fiscal requirements for 2015 will come from three principal sources: the base premium[7], the E&O Fund, and levy surcharges.

90. The projected premium revenues from these three sources are as follows:

[7] "Base premiums" includes base premiums with applied discounts or charges, as well as innocent party and REPCO premiums.



(a) Investment Income

91. LAWPRO takes full advantage of the time between the collection of premiums and the payment of claim costs by investing any available funds into a well-diversified portfolio of fixed income and equity securities. LAWPRO uses the resulting investment income to help pay operating and claims expenses, thereby reducing the amount of funds that must come from premium sources.

92. LAWPRO provides further stability to the Program by segregating into a separate portfolio (the liability-matched portfolio) sufficient money to pay anticipated future claims costs, with any surplus capital held in a different portfolio. The securities in the liability-matched portfolio consist of high-quality government and corporate fixed income securities, with the future cash inflows to the company arranged to coincide with the expected payout patterns of the future claim costs. The surplus portfolio consists of a prudent mix of fixed income and equity securities.

93. During recent years, investment returns have weakened as the worldwide credit crunch resulted in some depressed equity and fixed income prices. In addition, with central banks such as the Bank of Canada lowering their overnight interest rates to rock-bottom levels, the rates of return on fixed income securities have also dropped significantly. For LAWPRO, the downward pressure on returns is exacerbated as fixed income securities mature and need to be reinvested at these low rates. Although the Bank of Canada has increased its overnight interest rates from its historic low, it will likely be some time before interest rates available upon purchasing new fixed income securities equal the rates that have been available to LAWPRO in the past.

94. LAWPRO's prudent investing philosophy helped protect its portfolios (both liability-matched and surplus as described above) from significant losses of principal during the economic turbulence of recent years. Further, the company's portfolio has been well-positioned to participate in the recent recovery in the equity markets. However, as a result of continued market uncertainty, the company has set its expected return on investments for 2015 at 3.35 per cent, slightly lower than the 3.55 per cent originally projected for 2014, and significantly lower than the 5 per cent (or higher) in previous years.

(b) Levy Surcharges

95. The Ontario real estate market has been quite resilient in the last few years, but there are indications that the market will be varied in the near term. Statistics published by Canada Mortgage and Housing Corporation in August 2014 indicate that the number of resale transactions increased by 0.5 per cent in 2013, and is forecast to decrease 0.5 per cent in 2014 but then increase by almost 2.5 per cent in 2015. Regarding new housing starts, after a 20 per cent decrease in 2013, results are forecast to decrease by a further 6 per cent in 2014 before stabilizing by being flat in 2015.

96. At present, the levy surcharges include a $50 civil litigation transaction levy and a $65 real estate transaction levy, as well as a claims history levy surcharge[8]. Revenues from these levy surcharges are applied as premiums, to supplement the base levy.

[8] The claims history levy surcharge ranges from $2,500 for a lawyer with one claim paid in the last five years in practice, to $25,000 for a lawyer with five claims paid in the last five years in practice (an additional $10,000 is levied for each additional claim paid in excess of five).

97. Civil litigation and claim history levy surcharge revenues have been quite stable over time, while the revenue from real estate transaction levies declined by approximately 50 per cent between 1999 and 2009 (prior to the increase in levy for the 2010 Program).

98. The increased use of title insurance is considered to be largely responsible for a reduction in the count of real estate transaction levies since 1999. Lawyers acting for those obtaining an interest or charge in the land in many instances are not required to pay a transaction levy, where the interests of all parties obtaining an interest or charge in the property are title-insured, and the acting lawyer or lawyers are provided with the appropriate release and indemnity protection by the title insurer, based on a standard form agreement entered into between the title insurer and the Law Society on behalf of Ontario lawyers.

99. It is estimated that more than 90 per cent of residential real estate transactions in Ontario are title-insured[9]. In recent years, the number of real estate transaction levies collected has moved in tandem with residential real estate sales. This indicates a maturity or saturation of this market for title insurance.

100. More recently, the number of transaction levies stabilized as a result of the solid Ontario real estate sales. As of July 2014, transaction levy revenues are largely in-line with expectations at $0.1 million under budget.

101. To account for ongoing uncertainties in the real estate market and the prospect of a shortfall, a conservative approach has been taken in estimating revenues from levy surcharges for 2015.

102. As described above in this report, the use of transaction levies ensures an element of risk rating in the insurance Program, as both real estate and civil litigation continue to represent a disproportionate risk when compared to other areas of legal practice. The use of levies also avoids the substantial dislocation which likely would occur if the base premiums were increased to reflect the risk, and reflects the consensus reached with the affected sectors of the bar and others in the profession as the most equitable way to achieve risk rating when introduced in 1995.

103. For 2015, LAWPRO estimates transaction levy revenues at $24.7 million.

[9] LAWPRO makes this estimate based on the correlation between real estate sales data and transaction levy filings.

(c) E&O Fund

104. Since the introduction of the 1999 Program, any receipts in excess of those budgeted from the transaction levies and claims history surcharges collected in the year have been held within the PSF component of the E&O Fund. They have been managed on a revolving account basis and applied to the Program. These funds are used to guard against any future shortfall in levy receipts in a given year, appreciating the difficulties in forecasting transaction levy revenues in a changing economic climate, and acted in some years as a buffer against the need for increases in base premium revenues.

105. Because of the obligation to meet its retrospective premium obligation for 2009, which involved a payout of $13 million given the one-time retrospective impact of the HST, the PSF was exhausted as of December 31, 2009. While in recent years the E&O Fund has held over $60 million of surplus, the vast majority of those funds have already been committed for specific purposes, such as the $15 million backstop (see paragraphs 80 through 88) and the E&O Fund's investment in LAWPRO shares.

106. Given the low remaining available surplus balance, effective the 2014 Program the guarantee mechanism relating to claims history surcharges was discontinued. Discontinuing the remainder of the E&O Fund's guarantee mechanism (i.e., relating to transaction levies) would better align the Program with both the risk transfer requirements pursuant to IFRS 4 *"Insurance Contracts"* and the Office of the Superintendent of Financial Institutions' ("OSFI") views on related party transactions.

107. Therefore, the Program will discontinue the transaction levy guarantee mechanism effective January 1, 2015 and an amount of $2.5 million (LAWPRO's current best estimate of the remainder rationally being held for this previously revolving account) is anticipated to be drawn from that surplus and applied towards the premium under the 2015 Program. This will help to address the continued high claims costs experienced by the Program and near-term capital pressures (see below). Note that the current LAWPRO five-year projection does not assume further contributions from the E&O Fund to support the base rate premium.

(d) Capital Requirements

108. As a final consideration before determining the base premium, LAWPRO must consider its capital needs. Canadian regulators use the Minimum Capital Test in order to assess capital adequacy of a property and casualty insurer. The MCT is a risk-based ratio calculation which compares the insurer's capital or net assets available to the "capital required." Through the capital required component of the test, regulators prescribe certain additional capital or margins that must be held based on the various types of assets and liabilities on the insurer's balance sheet.

109. A significant margin requirement relates to the 15 per cent additional capital that must be held for all the net claims liabilities on the books that relate to commercial liability (which includes professional liability coverage). Given the steady historical growth of LAWPRO's net claims liabilities over the last decade or so, even a net income of $5 million can often lead to a decline in LAWPRO's MCT ratio. As a very general rule of thumb, LAWPRO requires in the neighbourhood of $5 million to $7 million of either net income or increased after-tax net unrealized gains on its surplus portfolio[10] to achieve a stable to slightly increasing MCT ratio.

110. The determination of a specific insurer's "ideal" MCT ratio is no easy task, as the current industry metrics are primarily designed simply to identify levels that are too low. Canadian regulators require that insurers do not fall below various MCT levels, such as the 100 per cent minimum and 150 per cent supervisory levels. In addition, working in conjunction with LAWPRO, the regulators have accepted 180 per cent as the internal target level. All of these figures represent minimum MCT levels, not ideal operating targets in and of themselves.

111. Subject to future regulatory direction in this regard, the Board believes that a long-term operating MCT target in the neighborhood of 220 to 230 per cent balances LAWPRO's risk profile and its unique ability to set premiums and raise capital, which differ significantly from those of other commercial insurers in Canada. An MCT in this range would allow LAWPRO some capacity to absorb unexpected losses or changes in market conditions, and have time to implement a strategy to restore capital levels to the desired range.

[10] Increases in net unrealized gains relating to the liability-matched portfolio, as well as realized gains, are included in net income.

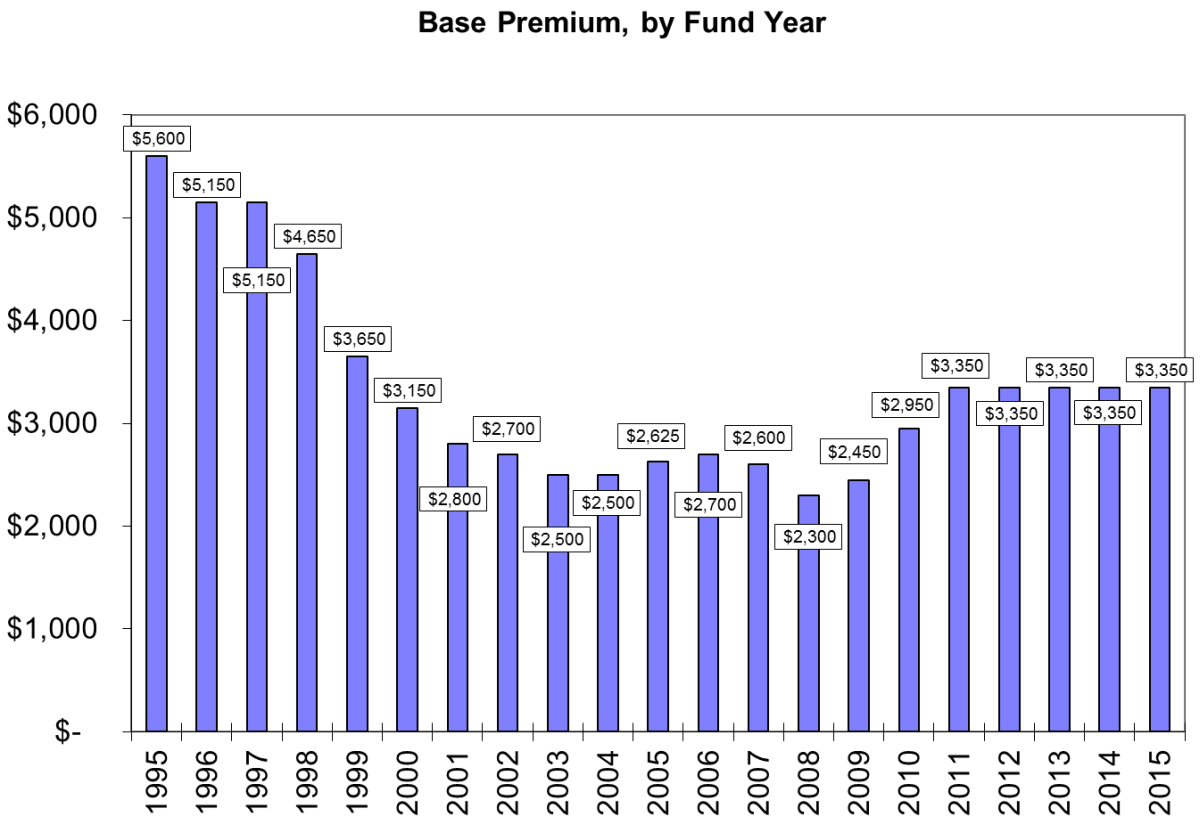
112. With LAWPRO's MCT at 239 per cent as of June 2014, slightly above the Board's preferred long term range, key near-term trends must also be considered. For example, the Canadian insurance regulators have nearly completed a multi-year plan to change the manner in which the MCT ratio is calculated. Based on OSFI's communication of new rules that are effective January 1, 2015, LAWPRO's MCT ratio is estimated to drop about 35 percentage points (though subject to temporary phase-in relief). In addition, OSFI has released Guideline *E-19 Own Risk Solvency Assessment (ORSA)*, which will fundamentally change the manner in which an insurer's regulatory internal target ratio will be calculated. As a result, LAWPRO's regulatory capital will be under significant pressure in the near to medium term.

113. Given LAWPRO's current capital levels as well as near-term challenges, the premium for 2015 and onwards must be set at a level that generates significantly more than a break-even result, allowing the company to continue a phase of capital ratio stabilization and replenishment.

(e) Base Premiums

114. Based on the previous discussion of Program costs, sources of revenue and capital needs, the base premium will be set at $3,350 per member to account for a continued elevated level of claims experience and the likelihood of continuing economic uncertainty. In summary, the 2015 proposed base premium is based on the following key assumptions:

- 25,563 practicing insured lawyers (full-time equivalents);
- $121.2 million in anticipated total Program costs (paragraph 50);
- $24.7 million in budgeted transaction levy revenues (paragraph 103);
- $2.5 million to be drawn from the E&O Fund on account of the premium, due to the discontinuation of the guarantee mechanism relating to transaction levies (paragraph 107); and
- 3.35 per cent return on investment (paragraph 94).



115. At this time, the Board is satisfied that this base premium rate appropriately recognizes the uncertainties in emerging claims experience and economic conditions, and allows the Program to continue to operate on a self-sustaining basis while protecting the company's overall financial position. The rate is consistent with information provided in the Report to Convocation in recent years. It was repeatedly noted that the historically low base premium (for example, less than $2,500 per insured lawyer) may not be sustainable in future years, as higher claims costs had already begun to emerge. In particular, the beneficial 2008 base premium level was a method of giving the benefit to the bar during 2008 of some superior 2007 investment results and favourable claim reserve development for earlier fund years. As noted earlier, investment returns in the current market are lower than in 2006 and 2007, and claims experience in terms of frequency and severity has deteriorated. Also, the full impact on the Program of Ontario's adoption of HST has now been evaluated and factored into the premium calculations. It should be noted that a base premium of $3,350 per lawyer in 2015 is significantly lower than premiums charged in the past. In fact, if inflation were removed, this premium would be the equivalent to about $2,300 in 1995 dollars, compared to the $3,350 actually being charged now.

116. In setting a base rate for 2015, LAWPRO tested its five-year planning horizon under various scenarios. Overall company results are projected to exceed break-even, thus allowing LAWPRO to both stabilize and strengthen its capital position for the possible challenges of coming years. Many factors influence this forecast, most significantly interest rates and claims experience. The results of this forecast cannot be considered definitive in nature and further base rate increases may be required in future years.

117. Accordingly:

a) The base premium is $3,350 per lawyer for 2015, the same base premium charged in 2011 through 2014;

b) Revenues from real estate and civil litigation transaction levies collected by the E&O Fund during the year are budgeted at $24.7 million for the purposes of establishing the base premium for 2015 and other budgetary purposes;

c) The Errors and Omissions ("E&O") Fund will discontinue its practice of guaranteeing the level of transaction levies collected and forwarded to LAWPRO, effective for the 2015 Program (the guarantee mechanism for claims history surcharges was discontinued effective for the 2014 Program). As a result, $2.5 million (approximately $100 per insured lawyer) is expected to be drawn from the available surplus in the E&O Fund built up in prior years and applied to the 2015 insurance premium; and

d) The premium for the Real Estate Practice Coverage Option will be $250, the same amount charged in 2012 through 2014.

(f) Other Program Features (or Adjustments)

118. With the exception of the changes specifically described in this report, all aspects of the Program for 2015 will remain unchanged from the Program now in place.

119. As detailed in **Appendix "A"**, subject to the noted changes, the current Program for lawyers in private practice encompasses the following:

- standard practice coverage, including Mandatory Innocent Party Coverage;
- coverage options, including Innocent Party Buy-Up, Part-Time Practice, Restricted Area of Practice and Real Estate Practice.

120. The current Program also provides for premium discounts and surcharges. Discounts and surcharges expressed as a percentage of premium include:

- New Lawyer discount;
- Part-Time Practice discount;
- Restricted Area of Practice Option discount;
- adjustments for deductible options and minimum premiums; and
- a surcharge in the event that no completed application form is filed.

121. Discounts and surcharges expressed as a stated dollar amount include:

- the Mandatory Innocent Party premium;
- optional Innocent Party Buy-Up premium;
- the Real Estate Practice Coverage premium;
- premium discount for early lump sum payment;
- e-filing discount; and
- Continuing Professional Development discount.

122. Subject to the changes identified earlier in the report, the remaining exemption criteria, policy coverage, coverage options, and premium discounts and surcharges in place in 2014 will remain unchanged for the 2015 Program.

CONCLUSION

123. The LAWPRO Board considers the Program changes to be appropriate and consistent with its mandate as set out in the 1994 Insurance Committee Task Force Report. The LAWPRO Board offers this Program of insurance for 2015 and asks for Convocation's acceptance of this Report at the September Convocation, so that the 2015 Program can be implemented by January 1, 2015.

ALL OF WHICH LAWPRO'S BOARD OF DIRECTORS RESPECTFULLY SUBMITS TO CONVOCATION.

September 2014

Original signed by Susan T. McGrath

Susan T. McGrath
Chair of the Board
Lawyers' Professional Indemnity Company

Original signed by Ian D. Croft

Ian D. Croft
Vice-Chair of the Board
Lawyers' Professional Indemnity Company

Appendix "A"

The Standard Insurance Program Coverage for 2015

Eligibility

- Required of all sole practitioners, lawyers practising in association or partnership, paralegals acting in partnership with lawyer(s) and lawyers practising in a Law Corporation, who are providing services in private practice.
- Required of all other lawyers (e.g. retired lawyers, in-house corporate counsel and other lawyers no longer in private practice) who do not fully meet the Program exemption criteria.
- Available to lawyers who do meet the exemption criteria but opt to purchase the insurance coverage.

Coverage limit

- $1 million per CLAIM/$2 million aggregate (i.e. for all claims made in 2015), applicable to CLAIM expenses, indemnity payments and/or cost of repairs together.

Standard DEDUCTIBLE

- $5,000 per CLAIM applicable to CLAIM expenses, indemnity payments and/or costs of repairs together.

Standard base premium

- $3,350 per insured lawyer.

Transaction Premium Levy

- $65 per real estate transaction and $50 per civil litigation transaction;
- No real estate transaction levy generally payable by transferee's lawyer if title-insured.

Premium reductions for new lawyers

- Premium for lawyers with less than 4 full years of practice (private and public):
  - ◊ less than 1 full year in practice: premium discount equal to 50 per cent of base premium;
  - ◊ less than 2 full years in practice: premium discount equal to 40 per cent of base premium;
  - ◊ less than 3 full years in practice: premium discount equal to 30 per cent of base premium;
  - ◊ less than 4 full years in practice: premium discount equal to 20 per cent of base premium.

Mandatory Innocent Party Coverage

Eligibility

The minimum coverage of $250,000 per claim/in the aggregate must be purchased by paralegals in partnership with lawyer(s) and all lawyers practising in association or partnership (including general, CLP, MDP and LLP partnerships), or in the employ of other lawyers.

The minimum coverage must also be purchased by all lawyers practising in a Law Corporation, where two or more lawyers practise in the Law Corporation.

Premium

$250 per insured lawyer.

2015 Program Options

1. Deductible option

$Nil deductible

- Increase in premium equal to 15 per cent of base premium ($502.50 increase).

$2,500 deductible applicable to claim expenses, indemnity payments and/or costs of repairs together

- Increase in premium equal to 7.5 per cent of base premium ($251.25 increase).

$2,500 deductible applicable to indemnity payments and/or costs of repairs only

- Increase in premium equal to 12.5 per cent of base premium ($418.75 increase).

Standard insurance Program: $5,000 deductible applicable to claim expenses, indemnity payments and/or costs of repairs together

- Base premium of $3,350 per insured lawyer.

$5,000 deductible applicable to indemnity payments and/or costs of repairs only

- Increase in premium equal to 10 per cent of base premium ($335 increase).

$10,000 deductible applicable to claim expenses, indemnity payments and/or costs of repairs together

- Decrease in premium equal to 7.5 per cent of base premium ($251.25 decrease).

$10,000 deductible applicable to indemnity payments and/or costs of repairs only

- Increase in premium equal to 7.5 per cent of base premium ($251.25 increase).

$25,000 deductible applicable to claim expenses, indemnity payments and/or costs of repairs together

- Decrease in premium equal to 12.5 per cent of base premium ($418.75 decrease).

2. Innocent Party Sublimit Coverage Options

Innocent Party Coverage Sublimit Buy-Up: For lawyers practising in associations, partnerships and Law Corporations

Lawyers practising in association or partnership (including general, CLP, MDP and LLP Partnerships) or a Law Corporation (with more than one practising lawyer) or paralegals in partnership with lawyers can increase their Innocent Party Coverage in two ways:

Increase coverage sublimit to:	Additional annual premium
$500,000 per claim/aggregate	$150 per insured lawyer
$1 million per claim/aggregate	$249 per insured lawyer

Option Innocent Party Sublimit Coverage: For sole practitioners and lawyers practising alone in a Law Corporation

Coverage sublimits

- $250,000 per claim/in the aggregate
- $500,000 per claim/in the aggregate
- $1 million per claim/in the aggregate

3. Practice Options

Restricted Area of Practice Option

Eligibility

Available only to lawyers who agree to restrict their practice to criminal[11] and/or immigration law[12] throughout 2015.

Premium

Eligible for discount equal to 50 per cent of base premium, to a maximum of $1,675[13].

Part-Time Practice Option

Eligibility

Available only to part-time practitioners who meet the revised part-time practice criteria.

Premium

Eligible for discount equal to 50 per cent of base premium, to a maximum of $1,675.

Real Estate Practice Coverage Option

Eligibility

All lawyers who intend to practice real estate law in Ontario in 2015 must be eligible for and apply for this coverage option.

"ELIGIBLE" means eligible to practice real estate law in Ontario in accordance with the *Law Society Act*, R.S.O. 1990, c. L.8. Categories of lawyers who would not be eligible to practice real estate law in Ontario, include:

- Those who are in bankruptcy;
- those who have been convicted or disciplined in connection with a real estate fraud;
- those under investigation, where the Law Society obtains an interlocutory suspension order or a restriction on the lawyer's practice prohibiting the lawyer from practicing real estate, or an undertaking not to practise real estate.

Premium

$250 per insured lawyer

4. Premium Payment Options

Instalment Options

- Lump sum payment by cheque or pre-authorized bank account debit: eligible for $50 discount
- Lump sum payment by credit card
- Quarterly instalments
- Monthly instalments

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[11] Criminal law is considered to be legal services provided in connection with the actual or potential prosecution of individuals, municipalities and government for alleged breaches of federal or provincial statutes or municipal by-laws, generally viewed as criminal or quasi-criminal.

[12] Immigration law is considered to be practice of law dealing with any and all matters arising out of the *Immigration and Refugee Protection Act* (S.C. 2001, c.27) and regulations, and procedures and policies pertaining in this report, including admissions, removals, enforcement, refugee determination, citizenship, review and appellate remedies, including the application of the *Charter of Rights and Freedoms* and the *Bill of Rights.*

[13] The maximum premium discount for Restricted Area of Practice, Part-Time Practice options and the New Practitioners' discount combined cannot exceed 50 per cent of the base premium.

5. E-filing Discount

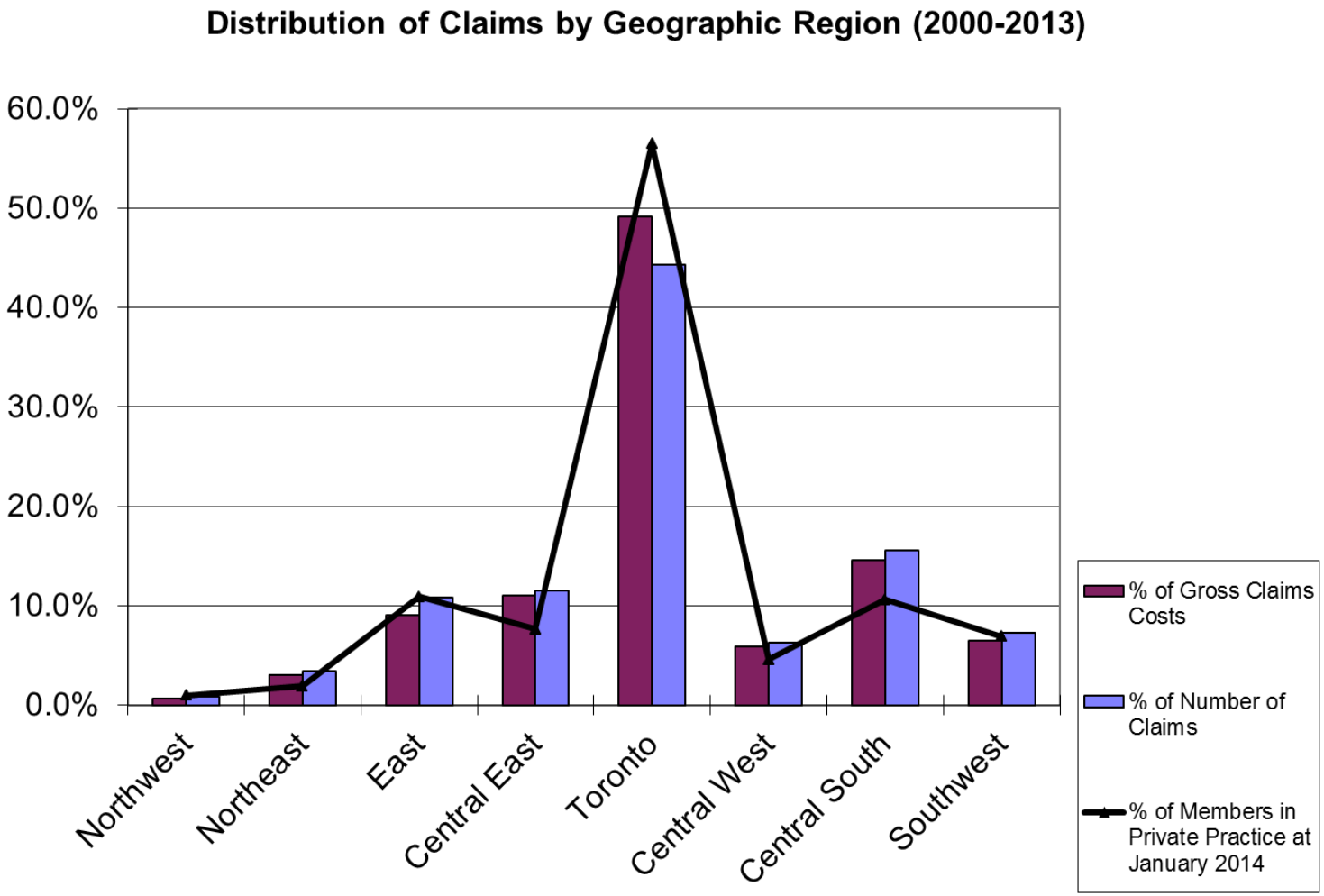
- $25 per insured lawyer (if filed by November 1, 2014)

6. LAWPRO Risk Management Credit (previously the Continuing Professional Development, or CPD, Premium Credit)

- $50 per course, subject to a $100 per insured lawyer maximum discount, will be applied under the 2015 insurance Program.
- LAWPRO will collect data for pre-approved legal and other educational risk management courses taken and successfully completed by the insured lawyer between September 16, 2014, and September 15, 2015, where the lawyer completes and files the required LAWPRO Risk Management Credit online declarations by September 15, 2015 (in anticipation of the 2016 Program).
- LAWPRO's Online Coaching Centre is included as a pre-approved course, where the insured lawyer completes at least three modules between September 16, 2014, and September 15, 2015.

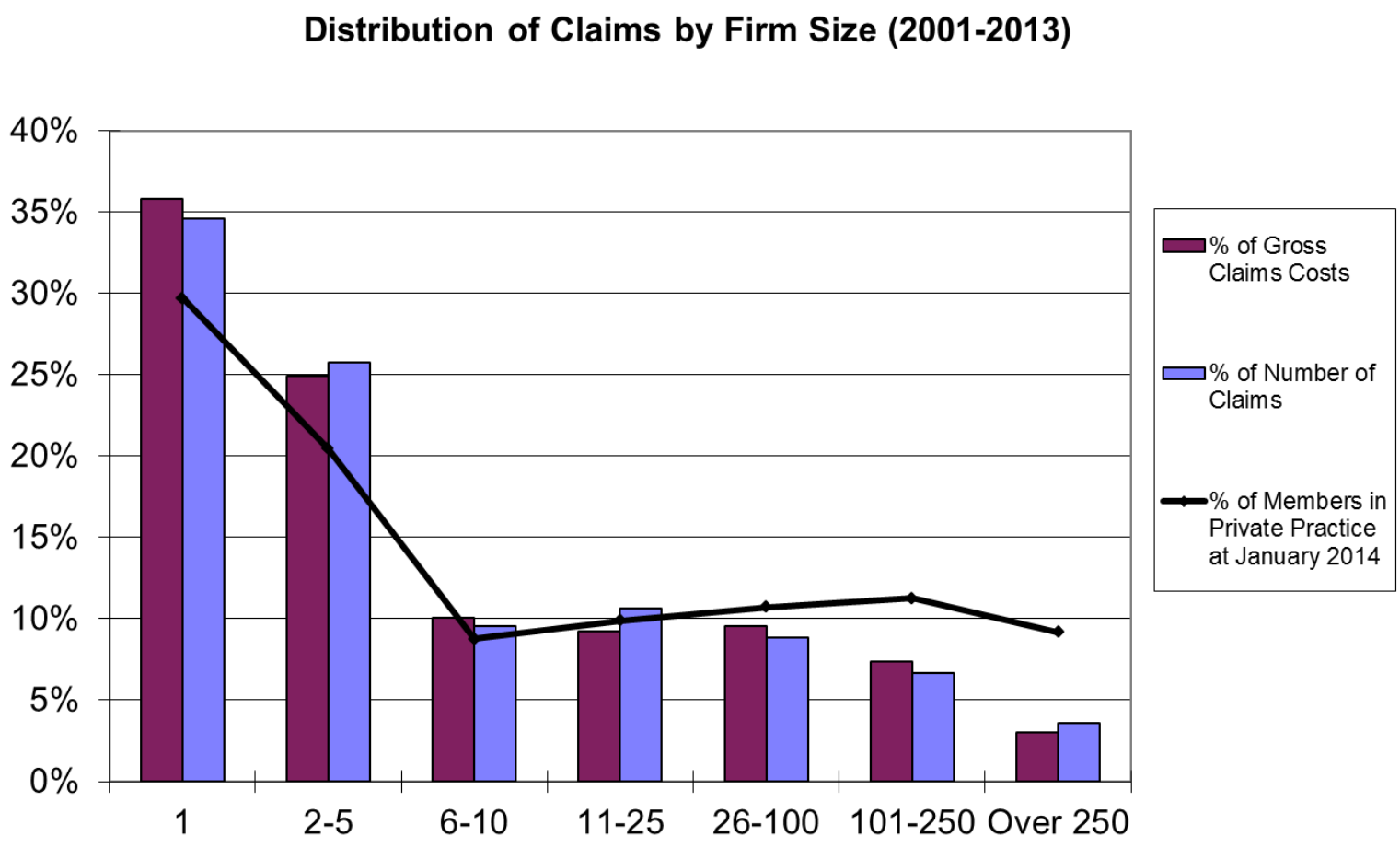
Appendix "B"

Distribution of Claims by Geographic Region



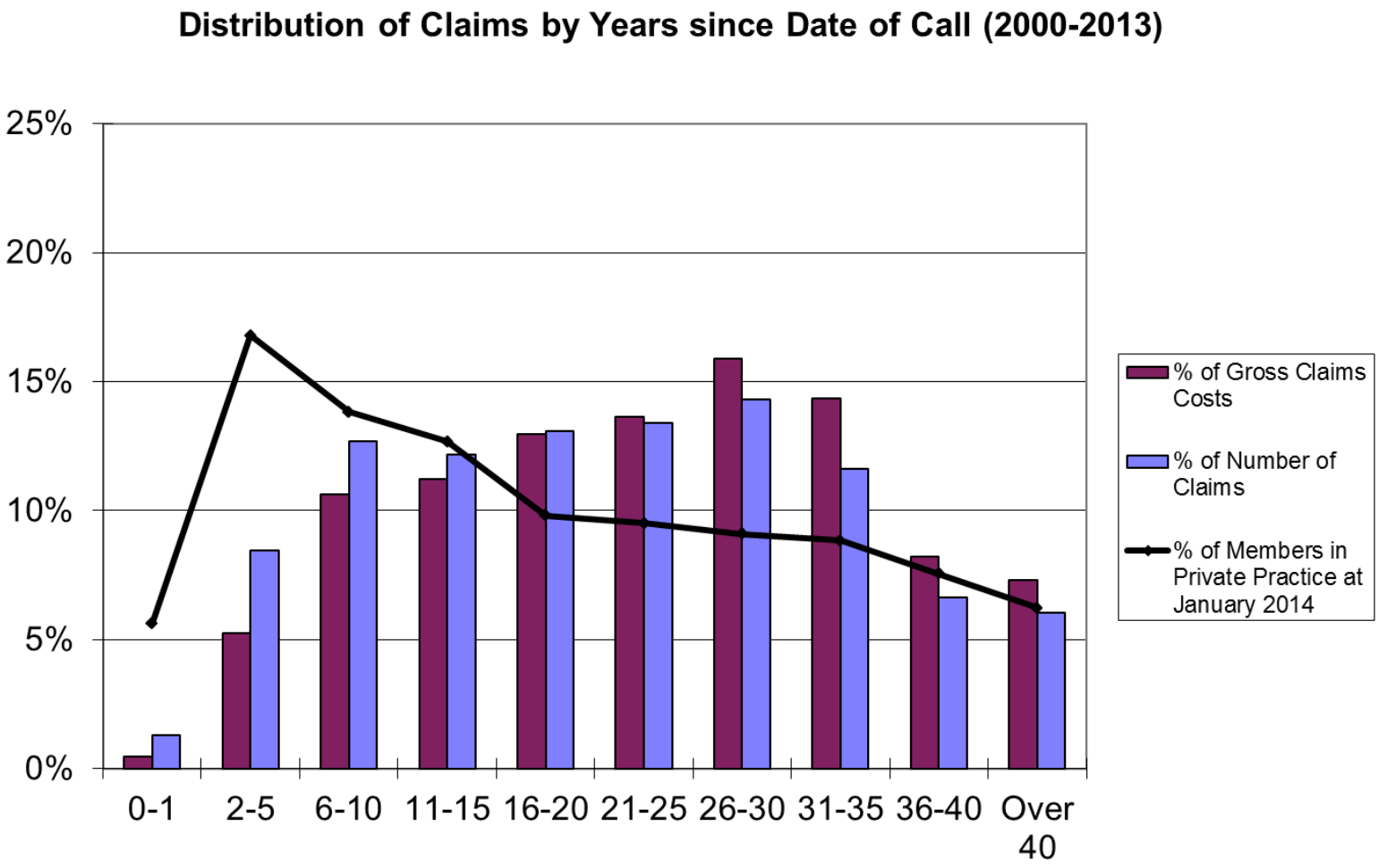
Appendix "B"

Distribution of Claims by Firm Size



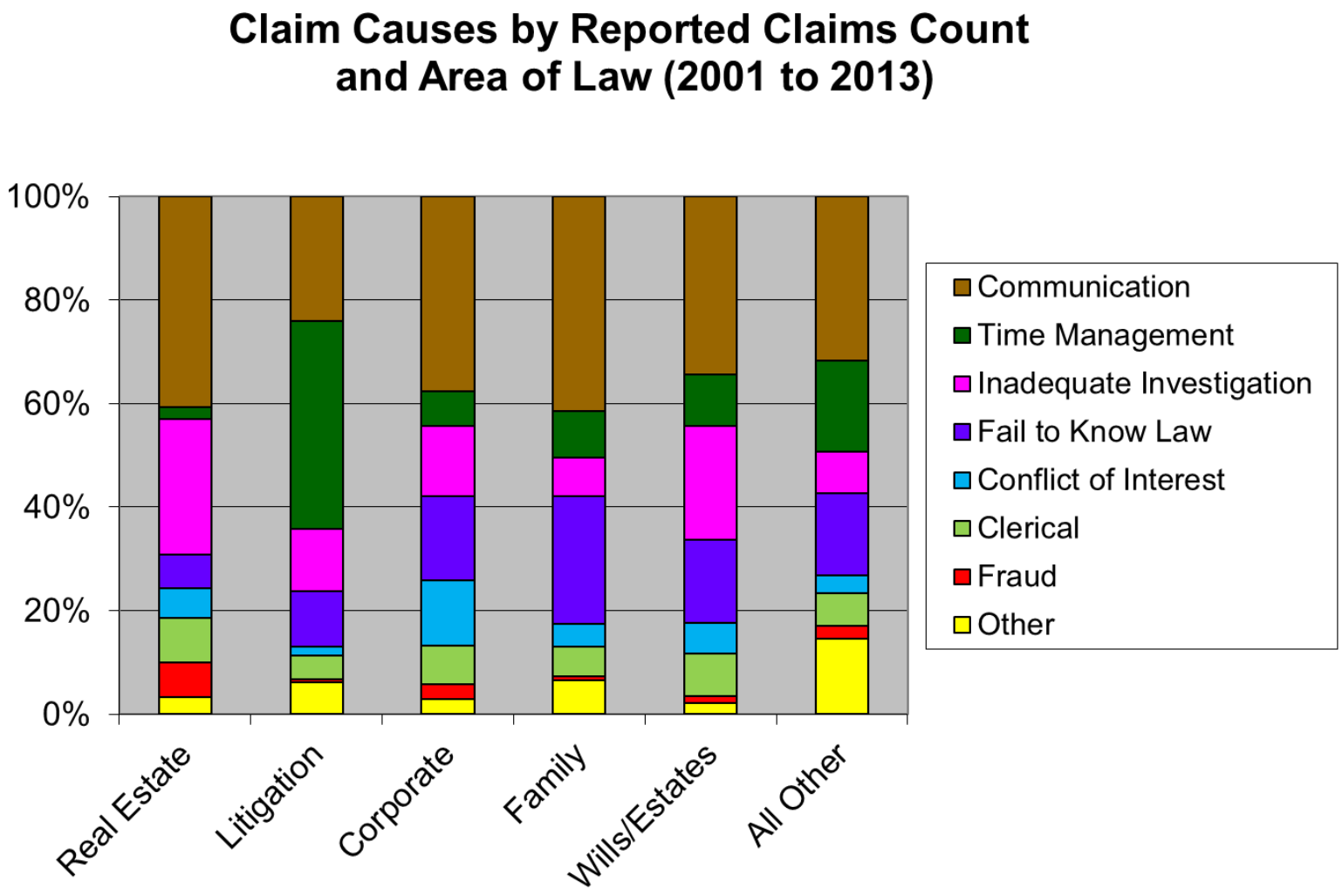
Appendix "B"

Distribution of Claims by Years Since Date of Call



Appendix "B"

Claims Causes by Reported Claims Count and Area of Law



Communications: Communication-related errors (including poor communication, not keeping clients informed or failing to obtain client consent) are the biggest causes of claims in all areas of law (except litigation, where it is the #2 cause) and in firms of all sizes. While the most numerous claims, they are at the same time the most easily prevented. Lawyers can reduce their exposure to these types of claims by controlling client expectations, actively communicating with the client at all stages of a matter, documenting advice and instructions and confirming in writing what work was done on a matter at each step along the way.

Time management: These kinds of claims include failing to ascertain a deadline, failing to calendar the deadline, and failing to react to the deadline even when it was known. These lapses often become claims when a limitation period ends up being missed or an action is administratively dismissed due to failing to move the litigation forward appropriately. There are also claims resulting from procrastination when a lawyer lets files that require work languish for extended periods of time. Time management claims are heavily concentrated in the litigation field, as it is so reliant on deadlines. They are also high in the intellectual property area. Practice management software and tickler systems can help prevent these claims, as can lawyers building in more time cushions so that they aren't undone by unexpected delays.

Inadequate investigation: Modern technology and busy practices may be behind the tendency of lawyers to give quick legal advice without taking extra time to dig deeper or ask appropriate questions on a client's matter. LAWPRO has seen a big increase in these types of claims in real estate, litigation and will/estates areas of law. High-volume real estate practices often mean lawyers don't have enough time to ask the clients about their plans for the property, and as a result don't do the necessary searches or obtain the proper title insurance.

Failure to know/apply the law: These claims result from a lawyer not having sufficient or current knowledge of the relevant law on a matter in which he or she is working. Extensive federal and provincial legislation, as well as voluminous case law, help make this the second-most-common type of claim in family law. This category also includes failing to know or appreciate the consequences of tax law in corporate/commercial matters. Lawyers can best avoid this type of claim by sticking to the law they know best and not "dabbling" in other areas.

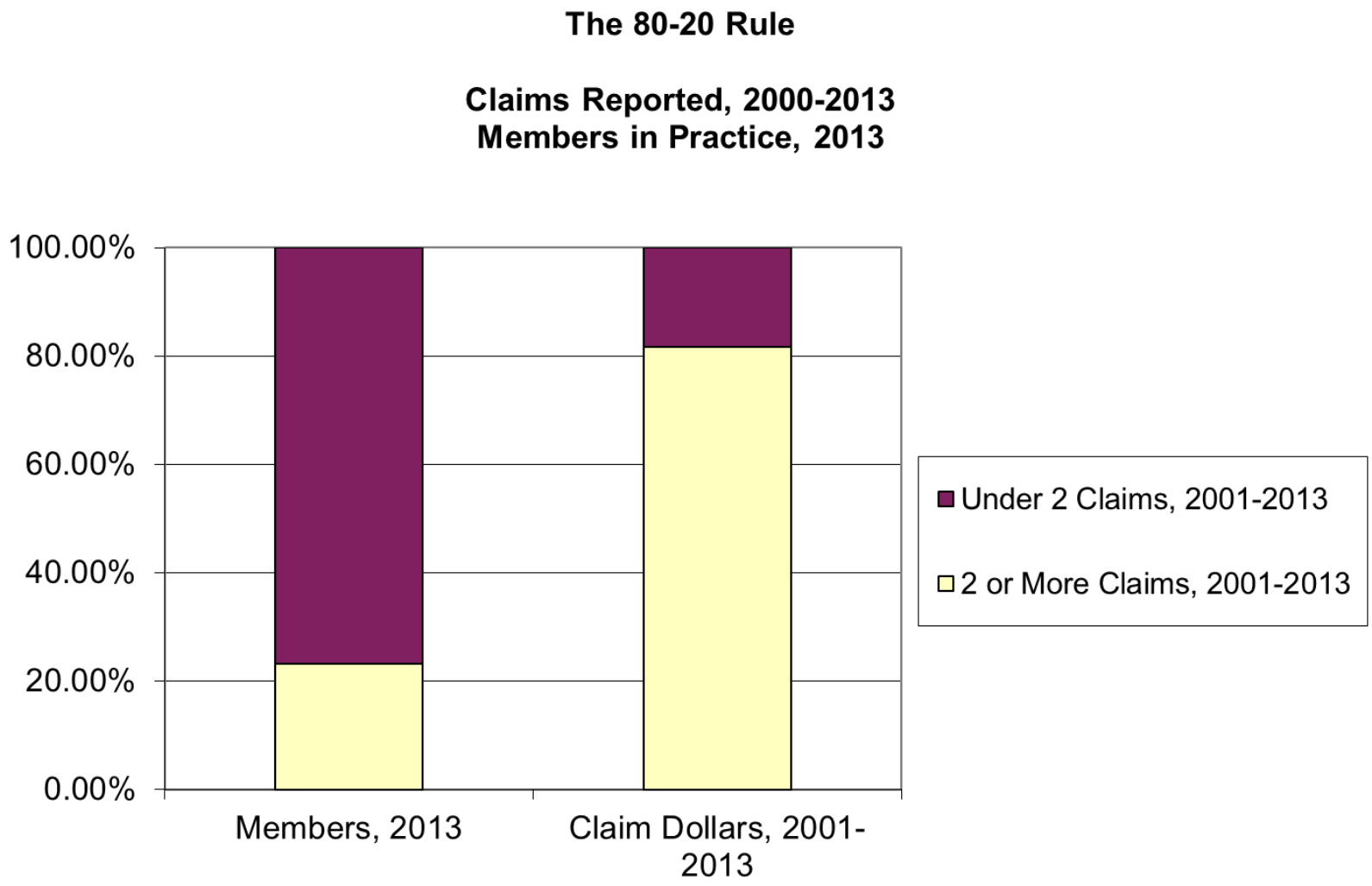
Conflict of interest: There are two types of conflict claims: the first arises when conflicts occur between multiple current or past clients represented by the same lawyer or firm. The second is a conflict that arises when a lawyer has a personal interest in the matter. As they regularly act for multiple clients/entities, real estate and corporate commercial lawyers experience proportionately more conflicts claims than other areas of law, while litigators have a relatively low rate of conflicts claims.

Clerical errors: These types of errors include things such as simple clerical mistakes, errors in mathematical calculation, work delegated to an employee or outsider that isn't checked and failures to file documents. As important as delegation is to the efficient functioning of a law firm, lawyers need to take the time to review the work as they are ultimately responsible for it.

Fraud: Fraud continues to be a significant and costly problem for LAWPRO. Lawyers are reporting attempted frauds to LAWPRO on a daily basis. Fraudsters are successfully duping lawyers and law clerks, and it's not just real estate lawyers who are being targeted. Litigation, business and family law lawyers are the regular targets of bad cheque scams involving debt collections, spousal support payments and business loans. Through our efforts, Ontario lawyers are clearly more aware of frauds, but ever more sophisticated frauds mean lawyers must continue to keep their guard up.

Appendix "B"

The 80-20 Rule



Appendix "C"

Premium Rating Examples

Premium Rating Examples (In Dollars)

	1995	2000♦♦	2005♦♦	2010♦♦♦	2013♦♦♦to 2015♦♦♦
Base premium	$5,600	$3,150	$2,625	$2,950	**$3,350**
Examples:					
1. Sole Practitioner Practising Real Estate Law - $10,000 defence & indemnity deductible - early lump sum payment discount - early e-filing of application	$5,600*	$2,714	$2,228	$3,054	**$3,274**
2. Firm Practitioner Practising Real Estate Law - $25,000 defence & indemnity deductible - $250,000 Mandatory Innocent Party cover - early e-filing of application	$6,000*	$2,956	$2,497	$3,206	**$3,406**
3. New Lawyer Practising in Association - first year in practice discount - $250,000 Mandatory Innocent Party cover - $10,000 defence & indemnity deductible - early lump sum payment discount - early e-filing of application	$3,900*	$1,704	$1,428	$1,724	**$1,599**
4. Criminal Lawyer (sole practitioner) - Restricted Areas of Practice discount - $10,000 defence & indemnity deductible - early lump sum payment discount - early e-filing of application	$5,600*	$1,454	$1,178	$1,474	**$1,349**
5. Part-time Lawyer (in association) - Part-time Practitioner discount - $1,000,000 Optional Innocent Party cover - $10,000 defence & indemnity deductible	$6,000*▸	$2,153	$1,877	$2,048	**$1,923**
6. Firm Practitioner with 1 Claim - claim history levy surcharge - $5,000 defence & indemnity deductible - $250,000 Mandatory Innocent Party cover	$8,500*	$5,900	$5,375	$5,700	**$6,100**
7. Sole Practitioner with 2 Claims - claims history levy surcharge - $5,000 defence & indemnity deductible	$10,600*	$8,150	$7,625	$7,950	**$8,350**

***** Subject to a $6,000 defence and indemnity deductible (adjusted to $7,500 in the case of an insured with one previous claim, or $8,500 in the case of two previous claims).

▸ Subject to $250,000 Innocent Party cover only, additional limits not available.

♦ Members are also required to pay a $25 levy for each civil litigation or real estate transaction not otherwise excluded.

♦♦ Members are also required to pay a $50 levy for each civil litigation or real estate transaction not otherwise excluded.

♦♦♦ $65 per real estate transaction and $50 per civil litigation transaction. Premium for the Real Estate Practice Coverage Option was also applied and is included in the calculated premium amounts for these years.

Appendix "D"

LAWPRO Vision, Mission & Values

LAWPRO®

Our vision

To be regarded as the preferred insurer in all markets and product lines in which we do business.

Our mission

To be an innovative provider of insurance products and services that enhance the viability and competitive position of the legal profession.

Our values

Professionalism

Individually and as a team, we hold ourselves to the highest professional standards.

We deliver programs and services known for quality and cost-effectiveness, and for being practical, helpful and relevant.

We demand the best of ourselves every day and in everything we do.

Innovation

We foster a climate in which creativity, innovation and change can flourish.

We share ideas, skills and knowledge and encourage continual learning.

We value teamwork and collaboration, and the diverse strengths and perspectives of others.

Integrity

We act with the highest levels of integrity in all of our interactions and decisions.

We aim to always be consistent, fair, ethical and accountable.

Service

We strive for excellence in customer service.

We share our knowledge, experience and expertise with our customers and with each other, so that together we can identify, prevent and solve problems.

We take the time to listen and understand, so we can respond effectively and empathetically to our customers and to each other.

We demonstrate courtesy and genuine respect for all.

Leadership

We try to make the world a better place, and to that end lend our energy and expertise to many communities.

Appendix "E"
LAWPRO Statement on Corporate Social Responsibility

LAWPRO®

Statement on Corporate Social Responsibility

LAWPRO's vision is to be regarded as the preferred insurer in all product lines and markets in which it does business.

Implicit in this vision – and in the values that support our vision – is a commitment to being a responsible, involved and accountable citizen of the many communities in which we hold membership: the employer community, the insurance community, the legal community, and of course the larger community in which we all live.

The LAWPRO Corporate Social Responsibility Statement is informed by this spirit of community and accountability, while acknowledging that that we are governed and profoundly shaped by our unique role as the provider of the primary professional liability insurance program for all lawyers in Ontario. Our social responsibility commitment as a corporate body is focused on four principal areas:

Providing a healthy and rewarding workplace

We respect and value our employees and the vital role they play in enabling the company to fulfill its mandate. To that end we adopt policies and practices that not only comply with applicable law and fair labour practices, but also respect diversity, promote inclusion and fellowship, cultivate professional growth through education and service, and promote health, safety and wellness, in the workplace and in personal life.

Respecting the environment

We believe that individually and as a company we have a role to play as stewards of our environment and its resources. To that end we support and promote initiatives in our company that help advance the goal of a sustainable environment.

The company supports the work of its employee-led Green Committee, which aims to educate LAWPRO employees about the role individuals and organizations can play in protecting and improving the environment. LAWPRO also has spearheaded a company-wide campaign to reduce reliance on paper and related products, and facilitate use of technology in all aspects of the company's operations. The company actively encourages initiatives such as these that meet a dual mandate of being stewards of the environment and the bar's resources.

Fostering the legal community

We view a committed, healthy and diverse bar as essential to the functioning of a democracy and to the protection of individual rights in society.

We have over the years provided financial and in-kind support to organizations that promote and deliver lawyer wellness programs. As well, we make available wellness information and resources electronically at no cost.

We support and sponsor a range of legal-related charitable and non-profit causes that advance the role and reputation of lawyers in our community and, by implication, foster access to justice in Canada. We also work to support charitable initiatives which have captured the interest and imagination of the bar and their clients. We promote the enrichment of the bar through our promotion of legal education, both internally and externally, and by fostering the building of relationships within the legal community.

Supporting the broader Canadian community

We acknowledge that, as highly skilled and employed individuals, we are among the fortunate in our community. LAWPRO employees give back by selecting five registered charities annually and partner with the company to fundraise for their benefit. In addition, each LAWPRO employee may request one "charity day" per year to undertake work for the registered charity of the employee's choice.

We actively contribute to the advancement of the Canadian insurance industry, and engage in a dialogue with government in the interests of the bar and the Canadian consumer.

We promote inclusion by working to expand the range of our materials available in both official languages and by providing materials in other languages based on level of demand.

February 2012

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