



MARTINE M. MORIN

CALLED TO THE BAR?

LAWPRO's Kim Barbosa hears lots of questions from friends and colleagues about LAWPRO insurance and the responsibilities of a new lawyer. Kim articulated at LAWPRO and will rejoin the company as Associate Claims Counsel following her upcoming call to the bar. Below she puts some of these questions and concerns to LAWPRO Unit Director and Counsel, Martine M. Morin.



Time to think about insurance



KIM BARBOSA

KIM: I am a new lawyer, do I need LAWPRO insurance?

MARTINE: If you will be in private practice the answer is yes. All lawyers engaged in private practice are mandated by the Law Society of Ontario to purchase coverage from LAWPRO. If you are going to practise after your call to the bar, you will need to complete a New Applicant Application form available in the My LAWPRO portal.

If you are not in private practice and meet certain criteria, you are likely exempt from the mandatory insurance requirement. If you will not be practising immediately after your call, you need to complete an Application for Exemption. After you receive your LSO number you can log on to the MY LAWPRO portal to apply for insurance or exemption.

KIM: What exactly is the insurance provided by LAWPRO?

MARTINE: LAWPRO provides lawyers with professional liability insurance. For example, if you make an error in the performance of legal services, you will want coverage for damages or the expenses involved in defending a negligence action or repairing the error.

KIM: Is there a cost involved? Who pays it?

MARTINE: Lawyers in private practice pay an annual LAWPRO insurance premium. Many, but not all, law firms / employers will pay the premium for the lawyers practicing at the firm. However, this is a private issue between you and your employer or principal and should be addressed up front to avoid any surprises. It is your responsibility to ensure that your LAWPRO premiums are paid. You may be entitled to LAWPRO's new lawyer discount which is 50% of the base premium in your first year of practice reducing each year to 20% in your fourth year.

I would likewise encourage new lawyers to discuss responsibility for the potential costs of a LAWPRO claim with their employer at the outset. Under certain circumstances, you may face the cost of a deductible or a claims history levy surcharge.

KIM: How much insurance do I need?

MARTINE: LAWPRO's Primary Policy has a limit of \$1,000,000 per claim. You could face personal liability for amounts in excess of this limit. If you will be working on large or complex files, you should consider excess insurance (i.e., additional insurance over and above the LAWPRO limit) or ensure that the firm you will be working for has adequate insurance coverage in place.

KIM: Who decides whether to report a claim to LAWPRO - the firm or the associate? What if the associate is instructed not to report?

MARTINE: As someone insured with LAWPRO, the Policy and the LSO Rules of Professional Conduct require you to report any

alleged, actual or possible errors to LAWPRO. Failure to report or reporting late, may result in a denial of coverage. Here is a helpful article on when to report a claim to LAWPRO: <https://www.practicepro.ca/wp-content/uploads/2020/09/This-is-not-a-claim.pdf>

KIM: New lawyers are afraid of making a mistake. Should they be?

MARTINE: Many, if not most, lawyers worry about making a mistake! The fact is that almost half of all lawyers will have a LAWPRO claim at some point in their career. This is where LAWPRO steps in to help. If you have to report a claim, your file will be assigned to a LAWPRO claims professional who is there to help you.

KIM: What steps can be taken to minimise my risk of facing a malpractice claim?

MARTINE: A great start is to establish good habits of documenting your files and diarizing due dates. Communication breakdowns and time management are the most common causes of claims, not mistakes of law.

KIM: It can be difficult to ask for help. Where can you go for help?

MARTINE: I would encourage new lawyers to look for mentors both inside and outside of their firms. Joining your local bar association or getting involved in the legal community may help you to expand your network of colleagues at various stages of practice. The Law Society of Ontario (LSO) has a Coach and Advisor Network and a Practice Management Helpline.

LAWPRO's risk management initiative, known as practicePRO, offers a number of free resources, checklists, and precedents on the [practicepro.ca](https://www.practicepro.ca) website or you can email questions to practicepro@lawpro.ca.

Of course, if you have or think you might have made a mistake you can contact LAWPRO at claims@lawpro.ca.

KIM: How can I learn more about my duties and obligations as a lawyer?

MARTINE: Start by reviewing the Rules of Professional Conduct. There are also a number of great Continuing Professional Development (CPD) programs offered by various legal providers both online and in person. Do not underestimate the value of these programs! Both the LSO and LAWPRO offer numerous free online programs. See the LSO's CPD On-Demand on their website and LAWPRO CPDs can be viewed at [practicepro.ca/cpd](https://www.practicepro.ca/cpd). PracticePRO has a whole host of resources for new lawyers at [practicepro.ca/newlawyers](https://www.practicepro.ca/newlawyers) ■