

Banack's Bencher News #95

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LAWPRO 2011: LawPro base premiums for 2011 will increase by \$400.00 to \$3,350.00. This increase reflects claims' costs, size of claims and the obligation to satisfy a minimum capital test, being a mandatory solvency requirement set by the Financial Services Commission of Ontario. In September 2009, LawPro had projected the possibility of a special one-time levy to address the introduction of HST. However, LawPro's Board has decided not to proceed with the levy because of the \$8 million settlement of the Ernst & Young/Tillinghast litigation which was used to replenish the Errors & Omissions Insurance Fund. Unchanged for 2011 are transaction premium levies, the requirement to maintain mandatory innocent party coverage and premium reductions for new lawyers. Premiums continue to be increased in circumstances where practitioners have prior claims. It remains the case that 80% of claims are incurred by 20% of lawyers and almost 65% of all claims are made by sole practitioners and those practising with less than 10 lawyers in the office.

LAW SOCIETY 2011 BUDGET: The annual 2011 budget review process began with staff consideration through the Spring and Summer. The Finance Committee will review the staff-prepared budget shortly and there will be a Bencher information session following October Convocation. The 2011 Budget must be considered in November Convocation. The budget will certainly necessitate an increase in 2011 dues.

UNBUNDLING LEGAL SERVICES: The provision of limited legal services is a fact today. The Law Society is considering specific rules which should apply to unbundled litigation services. Some common unbundled services include providing confidential drafting assistance, limited court appearances, legal information and advice under a limited scope retainer or providing services to a court-connected or non-profit legal service program. This is an important development that will work its way through Convocation following consultation with numerous legal organizations. Please have your say.

ELECTRONIC FILING: Convocation has approved the amendments needed to implement an earlier decision that in 2011, lawyers and paralegals will be required to file annual reports with the Law Society by electronic means rather than paper. Accommodation in exceptional circumstances will still be available.

DISCIPLINE RECORDS/PARDONS: The possibility of expunging a Law Society discipline record has been under consideration since at least 1999. In 2007, by a substantial majority vote of 33 to 9, Convocation confirmed that there are no circumstances in which a discipline or conduct record should be vacated. In May 2010, the Professional Regulation Committee was asked to reconsider whether after some time, a pardon could be issued. The Committee did so. It sees no reason to change Convocation's 2007 decision. In other words, lawyers are not able to secure a pardon for any prior discipline or conduct sanctions.

DISCRIMINATION AND HARASSMENT: The Law Society's Discrimination and Harassment Counsel reported for the period from January 1 to June 30, 2010. The report was in part very disturbing because in the 6 month reporting period, 103 individuals complained about discrimination or harassment by a lawyer, law student or paralegal in Ontario. This is the single highest number of complaints received in any 6 month reporting period since the inception of the program. The report describes the types of complaints arising from issues of disability, sex, sexual orientation, race and age. The services available to complainants are broadly intended to provide support for such inappropriate behaviour. As a profession, we must act to eliminate the cause of these complaints. For the assistance of Counsel, contact 1-877-398-1100 or assistance@dhcounsel.on.ca.

PARENTAL LEAVE ASSISTANCE PLAN: The 2009 Law Society three-year pilot program provides sole and small firm practitioners \$750.00 per week for 12 weeks to cover, among other things, expenses associated with maintaining practice costs during a maternity, parental or adoption leave. Since 2009, 30 parental leaves have been approved at a cost to the profession of \$239,000.00. However, beginning January 2011, the Federal Government has made available Special Benefits that self-employed persons may apply for paternity, parental, adoption, sickness or compassionate leave assistance. It is necessary to be careful to avoid any conflict between the Law Society Plan and the Federal Government's new Special Benefits. For further information, consult the Law Society website at www.lsuc.on.ca.

LAWYER AND PARALEGAL PORTAL: The roll out has begun for portal access to allow secure, online email communication with the Law Society. This will facilitate changes in our practice information and allow easy recording of continuing professional development activities. By the end of December, all lawyers/paralegals will receive email advice from the Law Society to register for access.

CONVOCATION REPORTS: All reports to Convocation can be viewed at <http://www.lsuc.on.ca/news/>. In order to more fully understand the issues facing Convocation, you may wish to review previous editions of Banack's Bencher News at http://www.kmlaw.ca/publications/banacks_bencher_news_home.aspx.

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