



Tab 3

**Secretary's Report
October 29, 2015**

Amendment to By-Law 6

Purpose of Report: Decision

**Prepared by the Policy Secretariat
Jim Varro (416-947-3434)**

FOR DECISION

AMENDMENT TO BY-LAW 6

Motion

1. That Convocation make the amendments to By-Law 6 [Professional Liability Insurance] as set out in the motion at [Tab 3.1](#) respecting professional liability insurance coverage for professional corporations of lawyer and licensed paralegal shareholders.

Issue for Consideration

2. Amendments are proposed to By-law 6 to make it clear that paralegal shareholders of combined licensee professional corporations (i.e. with both licensed paralegal and lawyer shareholders) are to be insured through LawPRO.
3. This form of insurance was approved by Convocation on September 24, 2015 when it approved LawPRO's program of insurance for 2016. The Program offered by LawPRO was amended to include this coverage. The LawPRO Program Report included the following at paragraph 8(v):

To better avoid the possibility of duplication of claims, overlapping coverage and potential stacking of policy limits with paralegal insurer policies, for 2016 the Program policy will be amended to insure all licensee shareholders (i.e., including paralegal shareholders) of combined licensee professional corporations that are duly authorized by the Law Society. To assist in avoiding possible costs of cancellation of insurance, any such paralegal shareholders whose existing insurance expires mid-year in 2016 will not be required to carry the Program insurance until expiry of their existing insurance in 2016...

4. As a result, amendments to By-Law 6 are required to reflect this change.
5. The amendments prepared by the Law Society's Office of General Counsel, in consultation with operational staff who deal with licensees who establish professional corporations, appears at [Tab 3.2](#), in both track changes and clean versions.

THE LAW SOCIETY OF UPPER CANADA

**BY-LAWS MADE UNDER
SUBSECTIONS 62 (0.1) AND (1) OF THE *LAW SOCIETY ACT***

**BY-LAW 6
[PROFESSIONAL LIABILITY INSURANCE]**

MOTION TO BE MOVED AT THE MEETING OF CONVOCATION ON OCTOBER 29, 2015

MOVED BY

SECONDED BY

THAT By-Law 6 [Professional Liability Insurance], made by Convocation on May 1, 2007 and amended by Convocation on June 28, 2007, February 21, 2008, September 24, 2009, November 24, 2011, September 27, 2012, April 25, 2013, and October 24, 2013, be further amended as follows:

- 1. Effective January 1, 2016, subsection 12(1.1) of the English version of the By-Law is revoked and the following substituted:**

Insurance to be maintained under policy issued by the Lawyers' Professional Indemnity Company

(1.1) A licensee who holds a Class P1 licence shall maintain insurance against professional liability under a policy of professional liability insurance issued by Lawyers' Professional Indemnity Company if,

- the licensee is a partner in a partnership where licensees who hold a Class L1 licence are also partners and the business of the partnership is the practice of law in Ontario or the provision of legal services in Ontario; or
- the licensee is a shareholder in a professional corporation where licensees who hold a Class L1 licence are also shareholders and the business of the professional corporation is the practice of law in Ontario and the provision of legal services in Ontario.

- 2. Effective January 1, 2016, subsection 12(1.1) of the French version of the By-Law is revoked and the following substituted:**

Assurance à maintenir en vertu de la police émise par l'Assurance responsabilité civile professionnelle des avocats

(1.1) Un ou une titulaire de permis de catégorie P1 souscrit une assurance responsabilité civile professionnelle émise par l'Assurance responsabilité civile professionnelle des avocats:

- a) si la ou le titulaire de permis est associé d'une société en nom collectif qui exerce le droit ou offre des services juridiques en Ontario et que les titulaires de permis de catégorie L1 y sont également associés;
- b) si la ou le titulaire de permis est actionnaire d'une société professionnelle qui exerce le droit et offre des services juridiques en Ontario et que les titulaires de permis de catégorie L1 y sont également actionnaires.

3. Effective January 1, 2016, section 12 of the English version of the By-Law is amended by adding the following subsection:

Transition

(1.2) Despite subsection (1.1), a licensee described in subsection (1.1) whose existing insurance policy expires in 2016 shall not be required to maintain insurance against professional liability under a policy of professional liability insurance issued by Lawyers' Professional Indemnity Company until the expiry of her or his existing insurance policy in 2016.

4. Effective January 1, 2016, section 12 of the French version of the By-Law is amended by adding the following subsection:

Transition

(1.2) Malgré le paragraphe (1.1), la ou le titulaire de permis décrit au paragraphe (1.1) dont la police d'assurance arrive à échéance en 2016 n'est pas tenu de souscrire une assurance responsabilité professionnelle émise par l'Assurance responsabilité civile professionnelle des avocats jusqu'à l'échéance en 2016 de son assurance responsabilité professionnelle existante.

5. Effective January 1, 2017, subsection 12(1.2) of the By-Law is revoked.

Tab 3.2

PROPOSED AMENDMENTS TO BY-LAW 6

CURRENT VERSION

Insurance to be maintained under policy issued by the Lawyers' Professional Indemnity Company

12. (1.1) A licensee who holds a Class P1 licence and who is a partner in a partnership that includes licensees who hold a Class L1 licence, where the business of the partnership is the practice of law in Ontario or the provision of legal services in Ontario, shall maintain insurance against professional liability under a policy of professional liability insurance issued by Lawyers' Professional Indemnity Company.

REVISED VERSION - MARKED

Insurance to be maintained under policy issued by the Lawyers' Professional Indemnity Company

12. (1.1) A licensee who holds a Class P1 licence shall maintain insurance against professional liability under a policy of professional liability insurance issued by Lawyers' Professional Indemnity Company if,

(a) and who the licensee is a partner in a partnership that includes where licensees who hold a Class L1 licence are also partners, and the business of the partnership is the practice of law in Ontario or the provision of legal services in Ontario; or

(b) the licensee is a shareholder in a professional corporation where licensees who hold a Class L1 licence are also shareholders and the business of the professional corporation is the practice of law in Ontario and the provision of legal services in Ontario, where the business of the partnership is the practice of law in Ontario or the provision of legal services in Ontario,

~~shall maintain insurance against professional liability under a policy of professional liability insurance issued by Lawyers' Professional Indemnity Company.~~

Transition

(1.2) Despite subsection (1.1), a licensee described in subsection (1.1) whose existing insurance policy expires in 2016 shall not be required to maintain insurance against professional liability under a policy of professional liability insurance issued by Lawyers' Professional Indemnity Company until the expiry of her or his existing insurance policy in 2016.

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REVISED VERSION - CLEAN

Insurance to be maintained under policy issued by the Lawyers' Professional Indemnity Company

12. (1.1) A licensee who holds a Class P1 licence shall maintain insurance against professional liability under a policy of professional liability insurance issued by Lawyers' Professional Indemnity Company if,

- (a) the licensee is a partner in a partnership where licensees who hold a Class L1 licence are also partners and the business of the partnership is the practice of law in Ontario or the provision of legal services in Ontario; or
- (b) the licensee is a shareholder in a professional corporation where licensees who hold a Class L1 licence are also shareholders and the business of the professional corporation is the practice of law in Ontario and the provision of legal services in Ontario.

Transition

(1.2) Despite subsection (1.1), a licensee described in subsection (1.1) whose existing insurance policy expires in 2016 shall not be required to maintain insurance against professional liability under a policy of professional liability insurance issued by Lawyers' Professional Indemnity Company until the expiry of her or his existing insurance policy in 2016.