PLF inBRIEF

ISSUE 142 | MAY 2023

Malpractice Prevention Education for Oregon Lawyers

Excess Coverage: What Is It and Does My Firm Need It?

By Melanie Hughes

When deciding whether to purchase excess coverage, a good first step is to evaluate the level of risk generated by your firm's legal work. Will the firm's or members' assets be exposed if a large claim is filed? If the answer is "maybe" or "yes," it might be time to consider adding excess coverage.

A discussion about excess coverage would not be complete, however, without reference to primary coverage. Every attorney in private practice whose principal office is in Oregon must carry PLF Primary Coverage, unless they qualify for an exemption. The coverage limit for 2023 is $300,000, with an additional $75,000 claims expense allowance. This coverage renews annually on January 1, though an attorney can activate or drop coverage anytime if their situation changes and they become eligible for coverage or an exemption midyear.

In contrast to primary coverage, which is issued to individual attorneys, PLF Excess Coverage is underwritten, optional, and sold only to firms (including sole practitioners). Thus, profiles of the firm and member attorney(s) are subject to specific underwriting criteria, and the premiums will vary to reflect risk disparities among firms. The PLF offers two excess limits for new applicant firms — $700,000 and $1.7 million, with up to $9.7 million for renewing firms or firms with prior excess coverage. (Higher limits are subject to meeting additional underwriting criteria.)

PLF Excess Coverage stacks on top of the PLF Primary Coverage limit as an additional layer of malpractice protection. It serves to reduce exposure to the firm and/or the member attorney if a claim should exceed the primary limit. Excess coverage is available on the commercial market as well as through the PLF. Most Oregon law firms meet the PLF's underwriting criteria, and all firms are welcome to apply. If it appears a firm does not meet the criteria after submitting an application, the firm is notified and given the opportunity to provide additional information in their favor or withdraw their application.

Like the PLF Primary Plan, PLF Excess Coverage is also "claims made." This means that coverage is not triggered unless the plan is in force when the claim is reported **and** the work giving rise to the claim occurred after the retroactive date listed on the coverage. Even if the plan was in effect when the work giving rise to the claim happened, the coverage would not be triggered if the plan was not in force when the claim was actually *reported* to the PLF. For this reason, it is prudent to renew your plan annually to avoid any gaps in coverage.

One notable difference between the two plans is the automatic inclusion of a Cyber Liability & Breach Response Endorsement under the Excess Plan, with a limit of $100,000 for firms of 1 to 10 attorneys, and $250,000 for firms with 11 or more attorneys. Additional cyber liability coverage is available for purchase on a separately underwritten basis up to $1 million. With law firms increasingly the targets of cybercrime, this benefit offers peace of mind as firms adapt to the ever-changing cyber security landscape.

New firms can submit Excess applications throughout the year via the online Excess Portal. Firms with limited or no prior acts coverage may be eligible for a discount on the cost of their first year of PLF Excess Coverage. Renewing firms wanting to bind 2024 Excess coverage with a January 1 effective date must apply between October 23 through December 8, 2023.

If you would like to learn more about or apply for PLF Excess Coverage, please visit our website, email *excess@osbplf.org*, or call 503.924.4177 to speak with an underwriter for answers to firm-specific questions.

Melanie Hughes is a PLF Professional Liability Underwriter.