



## Frequently Asked Questions About the Professional Liability Fund

*By Teresa A. Statler, Chair, PLF Board of Directors*

As a board member and now chair of the OSB Professional Liability Fund, I hear a lot of comments and questions from lawyers about what the PLF does and does not do. I am taking this opportunity to dispel some misconceptions and share answers to some of our most common questions.

The PLF is an independently managed quasi-subdivision of the Oregon State Bar. Currently, Oregon is the only state in the country that requires lawyers to have malpractice coverage. We have our own board of directors, appointed by the OSB Board of Governors, which consists of nine members (seven attorneys and two public members) from across the state.

Your communications with the PLF are protected by statute as well as OSB and PLF policies and are exempt from ORPC 8.3(c)(3). All claims information is confidential. All communication with our Oregon Attorney Assistance Program and our PLF practice management advisors is also confidential. These confidentiality protections prevent the Oregon State Bar, including regulatory services (discipline), the Board of Governors, and all other OSB-related entities, from accessing the information.

What are we doing to keep PLF coverage affordable? We work hard to keep the annual assessment both stable and as low as possible. The current \$3,500 assessment hasn't changed since 2011. We also offer discounts for new

lawyers: 40 percent in the first year of coverage and 20 percent in the second and third years.

The assessment is set at the amount our actuaries predict will provide sufficient income during the year to cover the cost of claims and operating expenses. The cost-of-claims figure is based on predictions of the number of claims and the projected cost of those claims. Approximately 75 percent of your assessment dollars covers claims, and 25 percent goes to operations.

The assessment does not fully cover our claims costs, so the PLF relies on investments to make up the difference and to provide a reserve for significant losses. Because the PLF relies on its investment income to help pay for claims and operations, it must charge lawyers who pay in installments a finance charge to account for that loss of investment income.

Why do all lawyers pay the same amount, even part-time lawyers and lawyers who have never had claims? The fund is a shared-risk pool. To keep the assessment stable and affordable for all lawyers, we do not “underwrite” – or charge based on practice area, claims experience, or other factors. A single assessment also ensures that everyone has coverage and that all practice areas are equally accessible. A significant increase in rates for lawyers in some practice areas could substantially decrease the number of lawyers who are able to afford to practice in that area of law.

What areas of law generate the most claims and the most expensive claims? The most claims are generated by domestic relations (1,371 – 17 percent), personal injury (1,262 – 15 percent), and debtor-creditor/bankruptcy (1,111 – 13 percent).

The most expensive areas of law based on total indemnity paid are personal injury (\$13,739,057 – 20 percent), real estate (\$9,822,761 – 14 percent), and business law (\$8,593,521 – 12 percent).

What about expenses by size of firm? For claims opened in 2017, so far we have spent \$6.52 million on claims against sole practitioners, \$1.64 million for small firms (2-5 lawyers), and \$1.71 million for claims against large firms (15 or more lawyers).

People also ask what other benefits they get from the liability fund. Twenty-five percent of our operating budget is devoted to loss prevention programs. The PLF produces more than 400 downloadable practice aids, maintains a library of 90 CLEs in various formats, and publishes four handbooks that are free to OSB members.

PLF claims attorneys field over 1,000 calls a year from covered parties about potential mistakes, risks, and coverage.

The fund's four practice management advisors field calls and make office visits to help lawyers with office systems, trust accounting, cyber protection, and similar issues. In 2016, they made 246 office visits throughout the state to work one-on-one with lawyers and staff on practice management systems.

Finally, the Oregon Attorney Assistance Program provides support to lawyers with career or life transitions, mental health and addiction issues, and other impediments to successful practice. Communication with the OAAP is completely confidential, except as provided under ORS 419B.010 (child abuse) and ORS 124.060 (elder abuse), or to avert a threat to your safety or that of another person. Your communications will not affect your standing with the Professional Liability Fund or the Oregon State Bar. No one outside the OAAP is provided any information about who uses the OAAP's services or for what purpose. ■

Ms. Statler has a solo immigration law practice in Portland and has been an OSB member since 1991.