



PLF Celebrates 40 Years

By Carol J. Bernick, PLF Chief Executive Officer

Forty years ago, a group of insightful colleagues joined together to solve a professional problem: Legal malpractice coverage for Oregon lawyers was hard to get and very expensive. The number of commercial carriers offering coverage in Oregon had dwindled to two, and the terms of coverage were steadily deteriorating. Commercial carrier malpractice rates more than tripled in a single year, without clear relationship to claims in Oregon.

The visionary response of these Oregon lawyers and the Oregon State Bar was to create our own mandatory legal malpractice fund. At the time, Oregon’s requirement that lawyers in private practice carry malpractice insurance was unprecedented in the United States. A mandatory self-insured fund was also unknown in the nation. Remarkably, 40 years later, Oregon is only one of two states to require that lawyers be covered for malpractice – and it is still the only state to offer its own malpractice fund.

The PLF has grown in many ways over the past 40 years, guided by experience and changes in the legal profession. In 1978, coverage was limited to \$100,000, with a separate \$50,000 available for defense costs. Once the \$50,000 defense was exhausted, the covered party had to pay for the remaining cost of defense. Excess coverage was available, but the PLF had no formal excess program. The Loss Prevention Program was still in its infancy, and the Oregon Attorney Assistance Program (OAAP) had not yet begun.

In 2018, basic coverage includes \$50,000 for claims expenses and \$300,000 for indemnity and, if necessary, additional defense costs. The PLF Excess Program now offers up to \$9.7 million in excess coverage per firm and serves over 2,100 lawyers in 700 firms. Loss Prevention has evolved into a comprehensive Personal and Practice Management Assistance Program, helping thousands of lawyers each year. The OAAP helps approximately 700 lawyers a year. The PLF’s practice management advisors make over 250 office visits and answer over 750 informational calls annually, teach dozens of CLEs throughout the state, and publish nearly 400 practice aids.

The PLF was fortunate to be guided by the following attorneys and public members who have served on its Board of Directors over the past 10 years. The PLF board members who served during the first 20 years were featured in the 20th anniversary issue of *inBrief*, August 1998, and those who served the next 10 years were featured in the August 2008 issue of *inBrief*. We express our deepest appreciation for all the board members’ service.

PLF BOARD MEMBERS 2008–18

Tim Martinez*	2003-2018
William Carter	2008-2012
Laura Rackner	2009-2013
Valerie Fisher	2010-2014
Guy B. Greco	2010-2014
John A. Berge	2011-2014
Valerie D. Saiki*	2011-2015
Robert D. Newell	2012-2016
Oscar Garcia	2012
Julia Manela	2012-2016
Teresa A. Statler	2013-2017
Dennis H. Black	2014-2018
Ira R. Zarov	2014-2015
Saville W. Easley	2015-2019
Robert W. Raschio	2015-2019
Molly Jo Mullen	2016-2020
Tom Newhouse*	2016-2020
Megan Livermore	2017-2021
Holly Mitchell	2017-2021
Susan Marmaduke	2018-2022

* Public member

In a Class by Itself

The uniqueness of the PLF extends beyond the fact that it is the sole mandatory legal malpractice insurance program in the United States. The PLF stands at the vanguard as an innovative program for providing covered parties with services and support in the most cost-effective, efficient, responsive, and responsible way possible.

Distinctive PLF features include high-quality practice aids and handbooks, remarkable staff continuity, the OAAP, the Practice Management Advisor program, the individual and collective expertise of the claims attorneys, and the absence of a deductible. The PLF's openness to "repairs" (legal assistance to fix the problem and get the case back on track) also has no comparison.

Each of these features serves the dual purpose of high-quality services and cost control. For example, the absence of a deductible fosters timely claim reporting and often presents an opportunity to correct mistakes and avoid or reduce damage claims. Claims attorney responsiveness is yet another example. In an average month, the claims department answers over 100 informational calls from lawyers with questions that span a wide range of practice areas. Although some of these calls are about new claims, the majority of the inquiries are from attorneys seeking advice on how to avoid malpractice in a specific instance.

Part of the Culture

Over the 40 years since its inception, the PLF has become a readily accessed and trusted part of Oregon's legal culture. In an average five-year period, nearly 60% of Oregon lawyers in private practice have contact with the PLF. If we include the number of lawyers who avail themselves of the PLF's CLE seminars and materials, practice aids, handbooks, and other educational and support resources, that figure rises even higher. These access figures attest to the trust and confidence Oregon lawyers have in the PLF.

The PLF's unique success shows in other ways as well. First, the mandatory nature of coverage means there are no uninsured attorneys in private practice in Oregon. Compare this with other states, where some sources estimate that as many as 25% to 35% of lawyers have no professional liability insurance. Second, virtually all meritorious claims are settled through the lawyer's basic coverage. Over the last 10 years, more than 98% of claims on which indemnity was paid were settled within the \$300,000 limit. On the other side of the coin, if the claim is not meritorious, it is defended. Approximately 68% of claims against covered parties are closed with no damages paid to the claimant.

Many other factors have contributed to the PLF's continued success – the Board of Governors' recognition of the importance of PLF independence in handling claims, the composition of the PLF Board of Directors that includes seven attorney volunteers from diverse geographical and practice areas and two public members, and the PLF's 40-year commitment to being a constructive force in Oregon's legal culture. Most important, however, has been the overwhelming support of Oregon lawyers for the PLF and its role in the legal community.

A Shifting Tide

Effective January 2018, Idaho became the second state to require lawyers to have malpractice coverage. At least two other states are seriously considering making legal malpractice coverage mandatory. The PLF frequently represents the ideal mandatory malpractice program to the many lawyers and leaders in other states who debate and grapple with these issues. In my view, it deserves to be by any measure.

As we pause at this 40-year mark to reflect and look forward, we also renew our commitment to operating as transparently as possible, seeking the most balanced solutions, and being guided by a deep-rooted dedication to Oregon lawyers. ■