

Frequently Asked Questions Errors and Omissions and Cybersecurity Insurance

I. Errors and Omissions Coverage

1. Is errors and omissions insurance mandatory for limited licensees in Saskatchewan?

Yes. To be licensed as a limited licensee in Saskatchewan, licensees must purchase annually from the Canadian Lawyers Insurance Association (CLIA) insurance with up to \$1 million of coverage for each occurrence, to an annual maximum of \$2 million for all errors reported during the year.

2. How does a limited licensee apply for errors and omissions insurance from CLIA?

Individuals that have applied for and been approved for a limited licence through the Law Society of Saskatchewan are approved for errors and omissions insurance through CLIA.

3. What services does the CLIA Errors and Omissions policy cover?

The CLIA policy covers an occurrence which is defined as “an error in the rendering of professional services”:

Professional Services means the practice from an office in Canada, of the laws of Canada, its Provinces and Territories, conducted by an **Individual Insured** in such **Individual Insured’s** capacity as a member in good standing of the **Law Society** and shall be limited to permitted services provided by a Limited Licensee in accordance with the Limited Licence issued by the Law Society to the Limited Licensee but does not include **Incidental Services** or **Ancillary Activities**.

Incidental Services means services that are connected with and incidental to the practice of law, including services as an executor, administrator, trustee, personal representative, committee, guardian, or patent or trademark agent.

Ancillary Activities means activities of a quasi-legal or non-legal nature (including, without limiting the generality of the foregoing, financial, investment and accounting services, brokerage services, and real estate development and appraisal) that are ancillary to or independent of the practice of law and are provided by an **Insured** for compensation or personal benefit referable specifically to those activities.

4. Is a limited licensee in Saskatchewan with a practice in another jurisdiction outside of Saskatchewan covered in the other jurisdiction under the CLIA Errors and Omissions Policy?

No. The CLIA policy only applies to legal services permitted by the Law Society of Saskatchewan. Therefore, only legal services provided in Saskatchewan are covered under the CLIA Policy.

5. Will the CLIA Errors and Omissions Policy cover claims that arise after a limited licensee is no longer in practice or licensed?

Yes, the CLIA policy responds to errors in the rendering of professional services if the limited licensee was insured by CLIA at the time of the error, even if the claim is made after the limited licensee is no longer practicing and is no longer insured. The relevant language of the policy is in the definition of individual insured:

Individual Insured means a person who has caused or is alleged to have caused an **Occurrence** and who is a member or former member of the Law Society who:

(a) was required to be insured by mandatory insurance at the time the Occurrence took place or is alleged to have taken place;

6. Does CLIA provide excess insurance to limited licensees?

Excess insurance over the \$1 million professional liability insurance policy is not yet available to limited licensees through CLIA.

7. How does a limited licensee report an errors and omissions claim?

To report a potential claim, limited licensees should use the Liability Claim Reporting Form supplied by the Saskatchewan Lawyers' Insurance Association (SLIA). SLIA administers claims on behalf of CLIA in Saskatchewan. The form is available on the SLIA [website](#) and a completed form should be sent by email to lindamarie@slia.ca.

8. What is the deductible?

The deductible is \$5,000 per occurrence, except for claims arising as a result of:

(i) missed limitation periods or the handling of a real estate matter, in which case the deductible is \$7,500 per **Occurrence**; or

(ii) an **Insured's** representation of two or more parties adverse in interest, in which case the deductible is \$10,000 per **Occurrence**.

9. What happens after a limited licensee has reported a claim?

The claim is assigned to claims counsel who will confirm coverage. If the claims counsel identifies any potential exclusions or breaches of policy conditions that place coverage in issue, they will initiate a coverage review. Claims counsel will then investigate the claim, and contact the limited licensee to discuss the claim and request any additional information that will assist in the investigation.

SLIA may retain counsel to provide an opinion or defend the claim. The claim may be settled or defended by SLIA, as it deems appropriate after a review of the claim and the relevant facts, evidence, legislation and legal principles. Once claims counsel has completed a review of the claim, SLIA will review its position with the limited licensee. Once the investigation has been

completed, either the claims counsel or defence counsel will present SLIA's position to the claimant.

10. What and when should a limited licensee report?

CLIA's policy is a claims made and reported policy, which requires that the claim be reported during the same policy period that a limited licensee became aware of a claim or potential claim or ought to have become aware. A limited licensee must report a claim during the policy period as follows:

Claim means an allegation of an **Occurrence** or a demand for money, property or services arising out of an actual or alleged **Occurrence**, including the threat or institution of a suit or other legal proceeding, that is made against one or more **Insureds**...

Condition 4.2 Claims Made:

This Part A gives the described coverage to an **Insured** for any **Occurrence** in respect of which:

(a) the initial **Claim** is made during the **policy period** and reported in writing to the **Insurer** during the **policy period**; or

(b) a potential **Claim** is reported in writing to the **Insurer** during the **policy period**, which shall be considered a **Claim** made during the **policy period**;

provided that the **Insured** had no knowledge before commencement of the **policy period** of the **Claim** or potential **Claim** and could not reasonably have foreseen before commencement of the **policy period** that a **Claim** might arise.

When the **policy period** expires, the **Insurer** shall be free of liability for **Occurrences** except for those in respect of which a **Claim** has been made or is considered to have been made during the **policy period** under paragraph (a) or (b) above.

Failure to report during the policy period could result in coverage being lost.

11. Should a limited licensee try to fix the problem?

No. Coverage might be denied if a limited licensee tries to remedy the problem on their own without notifying SLIA.

12. What is the limitation period for a legal malpractice claim?

The limitation period for negligence is two years, subject to facts which may render a claim "discoverable" at a later time.

13. Should a limited licensee retain their file?

Yes. A limited licensee should maintain all personal notes, memos or drafts relevant to the case, including jotted ideas on scraps of paper, and old telephone and electronic communications. Have all parties involved (client, staff, etc.) make a record which describes the events

surrounding the error. Make all records, details and file material available as requested by SLIA counsel. For a property claim, certificate of title, title abstract, search notes, and survey plans, are generally always relevant. DO NOT ATTEMPT TO BEAUTIFY A FILE.

14. What is a limited licensee's involvement following reporting?

A limited licensee's communication, cooperation, and duty to provide any additional information that will assist in the investigation is required by the CLIA policy. Interfering with the process could result in loss of a limited licensee's coverage. SLIA will contact a limited licensee with respect to all major decisions related to their claim. SLIA has the exclusive right and authority to control the conduct of the defence and enter into a compromise or settlement without the consent or knowledge of the limited licensee.

15. What happens if a claim becomes a lawsuit?

Not all incidents reported proceed as a lawsuit. If a claim against a limited licensee does become a lawsuit, SLIA may retain counsel to provide an opinion or defend the claim. The claim may be settled or defended by SLIA after a thorough review. Once claims counsel has completed a review of the claim, SLIA will review its position with the limited licensee. Once the investigation has been completed, either the claims counsel or defence counsel will present SLIA's position to the claimant.

16. What actions should a limited licensee avoid when there is a claim?

It is a condition of the policy that the limited licensee not make any admissions of liability:

Admission of Liability. The **Insured** shall not make any admission nor take any other action that might reasonably be expected to prejudice conduct of the defence unless the **Insurer** is aware of and consents to the admission or action in advance.

17. Will information a limited licensee provides to CLIA or SLIA be shared with the Law Society of Saskatchewan?

No. This information is entirely confidential and is solicitor-client privileged. An exception to this is any request for a Certificate of Standing or Application to Act as Principal (for lawyers). The Law Society will request and be provided with a list of all open claims and the total of all indemnity paid on closed claims. Judicial Checks are also subject to this exception and will include in addition to the above, a list of all closed claims. These are all listed on a "no-names" basis.

II. Cyber Coverage

1. Are limited licensees provided cyber coverage?

Mandatory cyber coverage is included. However, coverage is only for the legal services permitted by the limited licence and the policy does not provide cybersecurity for the entire organization that may employ the limited licensee. The organization or employer should have its own cyber security coverage in place as may be required. Note that Stand-Alone Cyber Coverage is currently not available to limited licensees.

See the [CLIA Cyber Insurance Overview](#) for more information.

2. What are the cyber coverage eligibility requirements?

Good data, computer and network hygiene is critical for any business. Several minimum standards are necessary for coverage.

See [Cyber Coverage Eligibility Requirements](#) for more information.

3. How should a limited licensee manage and report a cyber attack?

See [Managing and Reporting a Cyber Attack](#) for more information on identifying whether a cyber attack has occurred and next steps.