



POSITIONING YOUR RISK TO REDUCE PROFESSIONAL LIABILITY COSTS

By W. Brian Ahern

Many lawyers opt to go without professional liability insurance due to cost. However, with the right strategies, a law firm or sole practitioner can best position their risk and ensure they are presented with the most competitive premium and comprehensive program.

It is important to note that obtaining insurance shouldn't be just about getting the best price. You must also consider the carrier's rating and financial size, policy form, the reputation of the insurance company and how they handle claims. Many law firms turn to an experienced broker that can assist with this due diligence process.

Bar Endorsed Programs

Finding affordable coverage may be as simple as turning to your bar association. Some bars can save members up to 20 percent with substantive coverage enhancements. Members of the State Bar of Arizona can tap into the expertise of a Bar endorsed insurance brokerage that has relationships with more than 25 insurance carriers.

One strategy for minimizing insurance costs is to look for additional benefits offered within a program. Law firms in Arizona that employ a full-time legal administrator can receive additional credits on their premiums by going through the State Bar's exclusive program with XL Insurance. Credits may also be given for attending MCLE risk management seminars and for having attorneys that are certified legal specialists.

Positioning the Risk

Positioning your practice in a way that appeals to insurance underwriters is key to maximizing savings. Disclosing as much information as possible about the attorneys in your firm, your practice manage-

ment procedures, the services provided, the skills you've developed, and even previous malpractice claims can make a big difference in how an insurance underwriter views your potential risk.

Attorneys Roles

In the eyes of insurance companies, not all attorneys are equal. When applying for professional liability insurance, be sure to indicate which attorneys are full time, part time or of counsel. Indicating the number of hours an attorney bills can save you from being charged a full rate for attorneys working less than full time. If your firm has of counsel attorneys, define what their role is within your organization, how many hours they bill, do they have their own letterhead or do they use the firm's, and do your of counsel attorneys carry their own coverage.

Good Practice Management

Underwriters want to see that your firm is well managed. Provide the insurance company with a description of your client intake methods that demonstrate that you "understand who your client is" before you are engaged. Also provide well crafted engagement letters and disengagement letters and show that your firm has a good conflict check system in place. If your firm has trust accounts use 'evergreen' retainer agreements which require a minimum balance be maintained within the trust.

Note what seminars your firm attorneys attend that contribute to their practice and risk management skills. Underwriters want to see that attorneys are striving to make themselves better lawyers.

Money Management

Be diligent about your accounts receivable. Underwriters don't want to see that

your clients owe you significant amounts of money. If you find yourself in that position, explain why and the methods you are using to collect the funds. When you sue a client for fees, there is a strong likelihood that the client will file a cross-complaint for malpractice.

Previous Claims

If your firm has a previous malpractice claim, it is important to disclose to an insurance carrier what risk management procedures you have put in place to avoid future claims and explain in detail why another claim is unlikely. If the claim was ill-founded, specifically state why.

Firm Services and the Web

Unique and unusual services can be a red flag to an insurance underwriter. If your firm offers services out of the norm, provide a detailed explanation of the services. Be sure that the skills you state on your insurance application mirror those on your web site. Web site text can be held as misrepresentation in a malpractice claim so accurately and thoroughly state what you do.

Application and Marketing

Think of the insurance application as a marketing document. Provide a reflection of who your firm is and take pride in who you are. Also take the time to properly complete the application. Careful and thorough completion could result in significant cost savings.

W. Brian Ahern, RPLU, is CEO/President of Ahern Insurance Brokerage (AIB), one of the largest independently owned insurance brokerage firms specializing in the insurance needs of law firms. AIB presently insures over 2600 law firms and is the Endorsed Broker for the San Diego County Bar Association.