

Marketing Update

The Sales & Marketing Department of Minnesota Lawyers Mutual Insurance Company (MLM) is very pleased to partner with Legal Mutual. With similar philosophies on serving the needs of Maryland attorneys, the partnership allows Legal Mutual to utilize all the resources of MLM to fill those needs like never before. Our risk management, claims and support staff are poised and ready to provide expert, reliable, and personable services to the Maryland legal marketplace.

From a functional perspective, one of the first steps MLM took was to give Legal Mutual policyholders the ability to utilize the online application that has been in use by MLM policyholders since 2001. This capability reduces the time spent filling out paper applications and submitting them via mail or fax. In certain instances, it can result in an "automatic" quote, with no need for human interference.

The Sales & Marketing department places special emphasis on understanding, developing, and maintaining relationships with Maryland attorneys. As part of the long range planning process, a specific business plan has been put in place that identifies the makeup of the attorney population, issues and trends affecting attorneys, various groups and events important to attorneys, and how attorneys are being served by the various lawyers professional liability carriers.

From this business plan a comprehensive marketing and communications plan has been put in place and is managed by a Regional Sales Director. Who better to serve the role as the Maryland Regional Sales Director than Kay G. Kenny, a 30-year veteran of the Maryland insurance industry, with 21 of those years working with lawyers professional liability, first as an agent, then from the company side, when she joined Legal Mutual in 1989 as Sales Director. Kay holds a degree in Education from the University of Maryland, is a huge Baltimore Ravens fan and resides in Baltimore with her husband. •

Underwriting Philosophy

Minnesota Lawyers Mutual (MLM) is a mutual company founded by lawyers to provide a stable Lawyers Professional Liability Insurance market regardless of market conditions. It is our goal to provide a consistently priced product which is responsive to the needs of our policyholders.

MLM currently provides an LPL market in 34 states. We are looking to insure, from an underwriting standpoint, average to above average firms. Our average firm size is slightly over two attorneys, although we do provide a market for certain mid-to larger-size firms.

We pride ourselves in our service standards, and our ability to consistently provide better than industry service. Confidential information about our insureds is protected to assure privacy.

We are able to profitably provide a market for smaller firms because of our highly automated environment. For example, over three-fourths of our renewal policies are renewed "automatically" following pre-selected criteria. We are very selective up front from an underwriting standpoint, with the understanding that most of our insured firms will stay with MLM for a long time. Our renewal retention is well over 90%.

MLM is an admitted company, and, as such, will file all of our rates, rules and forms with state insurance departments. We will comply with the specifics of our filings, and with general state regulatory requirements. We comply with the spirit as well as the letter of state regulation.

MLM has selected certain Areas of Practice as potentially more hazardous, and in need of more rigorous underwriting. The following AOP's require supplemental applications and somewhat more time to underwrite:

- Securities
- Mass Tort/Class Action
- Real Estate and Title Agency
- Bankruptcy/Collections
- Intellectual Property/Patent
- Environmental
- Entertainment

The need for individual factors in decision making is also important. MLM believes in collaboration and encourages discussion between the Underwriter, the Area of Practice Specialized Underwriter and the Underwriting Director. •

THE SOLICITOR

Legal Mutual
Liability Insurance Society of Maryland

You may notice that Legal Mutual looks a little different these days.

As you know, Legal Mutual has gone through quite a few changes during the past few months — it entered into a management agreement with Minnesota Lawyers Mutual, has a new online application process, and now, a new logo.

You'll notice the graphic is an illustration of the dome on the Maryland State House. As the State House is the oldest structure in the US that still holds legislative sessions, and Legal Mutual was created by the legislature, it seemed appropriate to use this graphic to exemplify the relationship between Legal Mutual and the lawyers of Maryland, as well as Legal Mutual's continued commitment to the state's lawyer community.

It is Legal Mutual's hope to be recognized as a stable, permanent provider of services and insurance to the legal community of Maryland. We are excited to share this new "face" with you and hope you will continue to rely upon Legal Mutual as Maryland's professional liability insurer of choice. •

Dear Readers:

On behalf of Legal Mutual of Maryland, it is my pleasure to 're-introduce' our risk management newsletter, *The Solicitor*. We hope, over time, that this publication will come to serve as your primary source of risk management and professional liability information. Accordingly, we welcome any questions, comments, or suggestions you might have regarding content, format, or style.

Most of you are aware that effective October 1, 2006, Legal Mutual entered into a management agreement with Minnesota Lawyers Mutual (MLM). Under the terms of that agreement, MLM assumed 'day-to-day' responsibility for Legal Mutual's underwriting, claim, risk management, and marketing functions. Legal Mutual continues to operate as a Maryland insurance company offering 'lawyers professional liability' (LPL) policies to the Maryland legal community — as it has since 1988.

With any significant business combination, participants are likely to encounter unexpected issues; the Legal Mutual/MLM arrangement has been no exception. We have done our best to address those issues in a timely and thoughtful manner and thank all of you for your patience during the process. If we failed to meet your expectations during the transition, rest assured that we are working diligently to correct any remaining issues. Going forward, we will do everything we can to provide Legal Mutual customers with a wide array of risk management services, a broad coverage form, and top flight customer service at a competitive price. If we miss the mark, don't hesitate to let me know.

By way of background, MLM was formed by the Minnesota Bar in the spring of 1982 and, along with Legal Mutual, is a member of the National Association of

Bar Related Companies (NABRICO). As MLM prepares to celebrate its 25th Anniversary, we've had an opportunity to reflect on the many challenges and (fortunately) accomplishments it has experienced along the way, including the following:

- Licensed in all 50 states; 'filed' and writing business in 34;
- Best's Rating of A VI;
- Over \$50M in surplus supporting roughly \$30M in written premium;
- Assets of more than \$90M;
- Policyholder dividends declared and paid for 18 consecutive years;
- Online, real-time insurance application and underwriting;
- Highly regarded annual CLE seminars.

We recognize that this list of achievements is meaningless to you if we are not, first and foremost, a 'good partner' for Legal Mutual. It is our sincere desire to provide Maryland lawyers — through Legal Mutual — with a positive and productive risk management experience. We look forward to working with you in the future and thank you in advance for your support. •



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Client Communication and Malpractice: A View from Claims

Timothy J. Gephart, Vice President, Claims
Minnesota Lawyers Mutual Insurance Company

More often than not, failing to provide a client with sufficient information is cited as the error leading to the malpractice claims asserted against attorneys. One of the most effective tools in malpractice prevention is proper communication with the client. Rule 1.4 of the Maryland Rules of Professional Conduct states:

Rule 1.4 Communication

(a) A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(f), is required by these Rules;
- (2) keep the client reasonably informed about the status of the matter;
- (3) promptly comply with reasonable requests for information; and
- (4) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Maryland Lawyers' Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Lawyers should always give the client the opportunity to maintain a well-documented record of what has transpired during the course of representation. Practically speaking, this can be accomplished by a number of methods, such as forwarding copies of documents received by you and

sent by you to the client, with the materials sent to the client stamped "For your information-no response required". The client should also receive written documentation of each conversation they have with you about their case. While it does take time to provide this documentation, it is time well spent in the event a malpractice claim is asserted against you. A letter written to the client will carry greater weight than a file memo and will not take any longer to complete. Standard office procedure should call for everything received in regard to a client's case to be forwarded to the client unless the client specifically instructs otherwise. Those instructions should then be clearly documented in your file. In addition to keeping the client informed in regard to the status of their case, the procedure outlined above will cut the number of telephone inquiries the client makes seeking status reports.

The client should also receive a short note from their lawyer each time their case is reviewed on regular diary. Even if nothing is going on, a short note to that effect will let the client know you have not forgotten about their case.

Supplying the client with a folder to be used as a repository for the materials sent to them during the course of the representation can also act as a risk control technique. The folder should contain information about the firm; general information on the firm's billing practices, and an outline explaining what the client can expect as their case progresses. You should make it clear to the client that they will be billed for all telephone calls to their lawyer. Often, the client does not understand this practice, and is shocked when the first bill is received. Discuss the

information contained in the folder with the client during the initial interview with the client, and instruct the client to bring the folder to each client/lawyer meeting.

Rule 1.4 charges the lawyer with the responsibility of providing the client sufficient information to make informed decisions regarding the representation. Remember that it is the client's responsibility to ultimately make the decisions regarding their case. This is an extremely important issue. Do not let the client pressure you into making their decisions. The information and advice given to the client and the decision made by the client must be documented, especially if the client does not choose to follow the advice. In those cases, the advice given and a discussion of the implications of the client's decision should be memorialized in a letter to the client. The letter should be sent to the client certified, return receipt requested.

Claims alleging that damages were caused as a result of a decision being made without the client having sufficient information to make an informed consent are being seen with increasing frequency. A well-documented file will provide the foundation for a strong defense of such claims.

The process of settlement negotiations should also be thoroughly documented. All settlement offers must be relayed to the client, and the client's decision regarding the offers should be memorialized by means of a letter to the client. If possible, a court reporter can be utilized to make a record of a settlement. A client who has been well informed while their case was pending and who feels they have been given the information necessary to make an informed decision will most likely feel good about the decision that is ultimately made.

While the issues addressed above may seem basic and common sense-type issues, claims continue to be asserted against lawyers who have somehow failed in practicing sound communication principles. Honing communication skills will go a long way in controlling the risk that a client will assert a legal malpractice claim. •

MLM Member Services

Minnesota Lawyers Mutual Insurance Company was created by lawyers nearly 25 years ago out of a need to provide a stable resource for attorneys seeking insurance. Also since that time, MLM has been committed to making the profession better by educating lawyers about avoiding malpractice claims.

Every year, the Member Services Department at Minnesota Lawyers Mutual produces live seminar events for our insureds and the general legal community. This year, over 6800 lawyers across the country registered for a CLE seminar hosted by MLM.

Also in 2006, MLM representatives were invited to speak at over 40 national and local gatherings of lawyers, where over 5000 lawyers heard our risk management professionals speak on topics of malpractice avoidance, ethics, and legal technology.

We believe that providing educational resources for lawyers is one of the best ways to fight the steadily rising trend of legal malpractice claims. Our claim statistics indicate that about 47% of the errors reported by our insureds to MLM are substantive errors, meaning the lawyer reporting the claim just didn't fully understand the area of law involving the activity where the claim arose. Another 9% of errors are intentional wrongs where coverage may not apply.

The rest of the claims — just over 40% — come from errors that are wholly preventable. Errors such as administrative

mistakes resulting from a failure to properly maintain calendars, procrastination, or failure to react to a calendaring system. Also included in this list of preventable errors are mistakes involving poor client relations — claims where the lawyer failed to communicate properly with the client or follow their instructions.

By offering high-quality educational services to our insureds, we seek to help keep loss down so the company can remain healthy and vibrant. The additional risk management tools and services we provide our insureds are of value to these lawyers who seek to operate a safe and profitable law practice.

Here are some of the things the Member Services Department can do for you:

- **Minnesota Lawyers Mutual's Risk Management Consultants**
MLM has risk management attorneys on staff to provide you confidential phone consultations on malpractice avoidance, claims repair, law office management, and malpractice insurance. Call 800-422-1370 at any time for the help you need to operate your law practice safely.

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- **Legal Technology Consultants**

For years, MLM has been a leader in providing innovative services to our insureds in the areas they need help the most. Our on-staff technology consultants understand the software and technology that is unique to lawyers. Contact our risk management technology advisors at 800-422-1370 for help with case management, time & billing, scanning files, or any other technology concern in your practice.

- **Practice Help Forms**

For over two decades, MLM has developed basic forms and information packages to help attorneys streamline their practice. They include engagement letters, non-engagement letters, closing letter, conflicts disclosure information, and other topical information packets on such things as file retention, selling your practice, and planning for retirement. We have the forms you need for starting a law practice or tuning up your old one.

- **Seminars for Local and Specialty Bars**

MLM is available to conduct seminars for your bar association or other groups of lawyers and their staff, on topics involving risk management, legal ethics, and law office technology. Our video vignettes are highly rated and graphically illustrate the results of a bad decision made in the course of handling a difficult legal matter. Our risk management professionals use the vignettes, based on MLM's real claims experience, to engage the audience in an interesting discussion on the best practices a firm should employ to avoid a malpractice claim or an ethics complaint.

MLM is proud of its history of providing top-quality services for lawyers and their staff, and we are pleased to be bringing these same services to the lawyers of Maryland. Call MLM today to speak with a risk management representative, and see what we can do for you. •