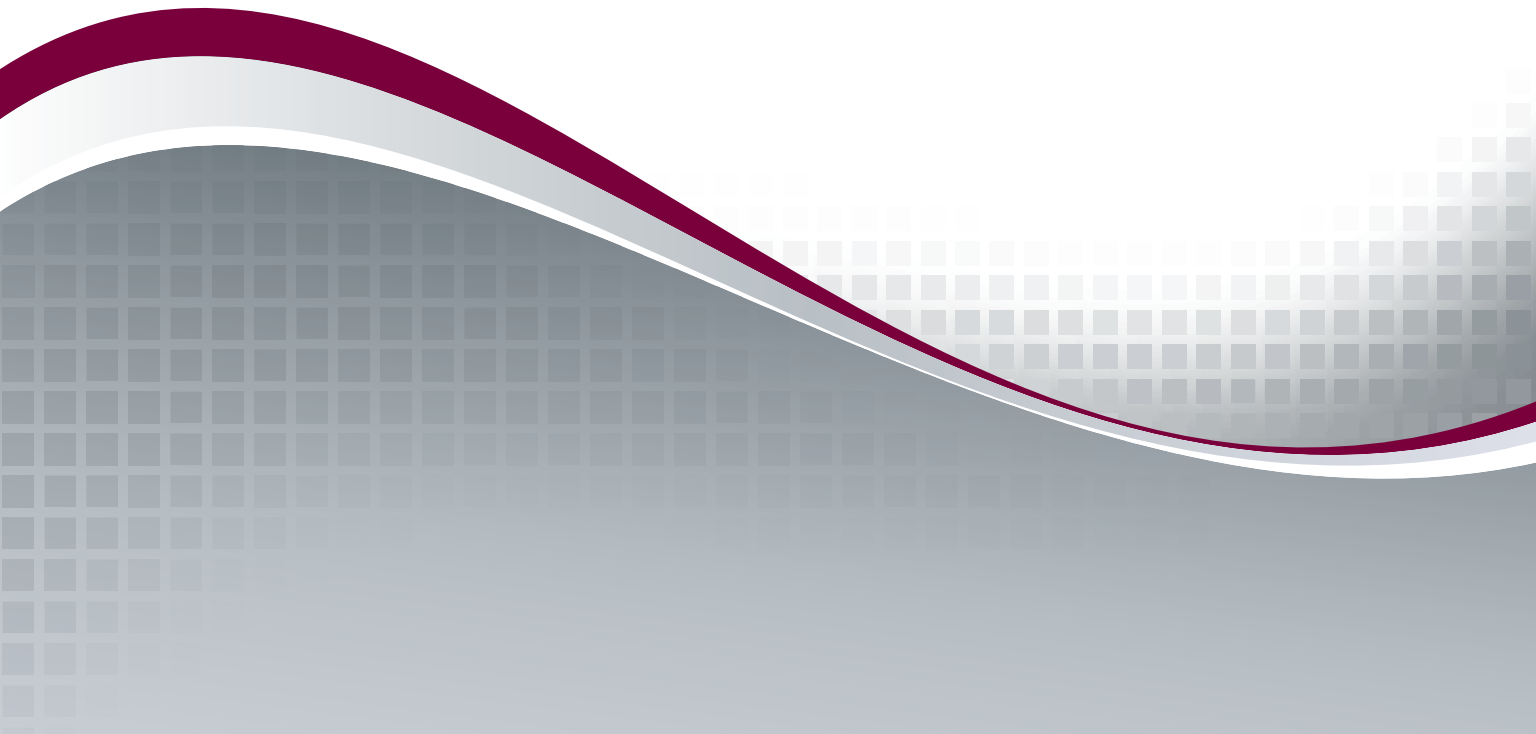


# LAWYERS' INSURANCE

## ASSOCIATION OF NOVA SCOTIA

ANNUAL REPORT 2021





## Nova Scotia Lawyers Assistance Program

# Confidential Referral and Short Term Counselling Program

Available to members of Nova Scotia's legal profession, as well as their staff and families.

Through our provider, **Homewood Health** short-term counselling and other resources are available for managing personal, family and life events as well as helping you take charge of your health and well-being.

Call in confidence from anywhere in Nova Scotia, **24 hours a day: 1 866 299 1299**  
**1 866 398 9505 (en français)**  
**1 888 384 1152 (TTY)**

Or log on to our website to access online wellness resources. Remember that your company name is **NSLAP: [www.nslap.ca](http://www.nslap.ca)**

# LAWYERS' INSURANCE ASSOCIATION OF NOVA SCOTIA

## ANNUAL REPORT 2021

### **Mission Statement**

The Lawyers' Insurance Association of Nova Scotia (LIANS), as established by the *Legal Profession Act*, conducts the mandatory professional liability insurance program for the benefit of the Members, which program includes providing risk and practice management (RPM) resources and administering the Society's Lawyer Assistance Program (LAP).

### **Vision**

To be recognized by the Members and similar insurance programs in Canada for the superior quality and management of its professional liability and RPM programs and to continually meet its goals and objectives.

To achieve its vision, LIANS is guided by four strategic directions:

- (1) Maintain financial stability and strength
- (2) Oversee the Lawyers Assistance Program and assist Legal Services Support (LSS) through RPM initiatives
- (3) Ensure member satisfaction with LIANS, both organizationally and with its claim handling
- (4) Develop appropriate governance policies, procedures and controls

# REPORT FROM THE CHAIR OF THE BOARD

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*ROBYN L. ELLIOTT, QC*  
*Chair*

Robyn L. Elliott QC  
of Elliott Law Inc. is  
Chair of the Board  
of Directors  
and a member of  
the Investment  
Committee

**As I prepare this LIANS 2021 Annual Board Chair Report, the world continues to grapple with uncertain times. In the context of this uncertainty, LIANS fared quite well in 2021. It was a stable and largely uneventful year.**

239 new claim files were opened in 2021 (246 in 2020; 277 in 2019). Claims severity continued to trend higher year-over-year resulting in larger indemnity payments and higher defence costs. LIANS closed 280 matters in 2021. Consistent with recent years, approximately 90% of matters resolved without any indemnity payment being made.

The levy for 2021-2022 was \$1,944.00 for full practicing members (\$2,119.00 in 2020-2021 and \$1,995.00 in 2019-2020 & 2018-2019). This was accomplished, in part, by distributing a portion of LIANS's excess surplus to members by way of a levy credit. In setting the levy, the Board aims, where prudent, to maintain stability in the levy from year to year. As such, the Board was pleased to be able to bring the 2021 levy back down to under \$2,000.00 per year, while meeting all LIANS' objectives.

Throughout 2021, the LIANS Board continued to manage LIANS' investment portfolio with a view to promoting reasonable growth while limiting risk in uncertain times. In this endeavour, the Board was supported by its Investment Committee under the able leadership of Charles Thompson. The resulting 9.7% return on investment earned in 2021 exceeded the benchmark of 8.4%. The bulk of this return came from equity funds with fixed income funds contributing to a lesser degree.

Overall, 2021 was a better year operationally for LIANS than 2020. Our Director of Insurance, Lawrence Rubin, and administration staff continued to manage day-to-day

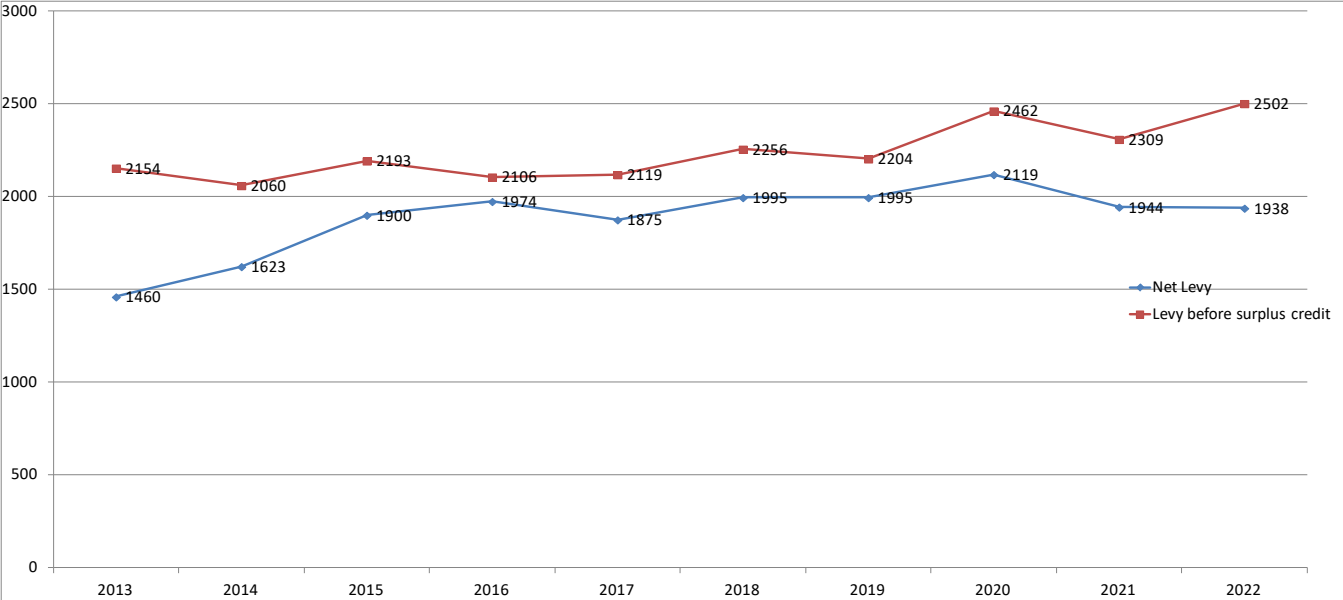
operations carefully and pragmatically. 2021 produced a better than budget excess of revenue over expenditures.

As 2021 began, the Board welcomed new members Michelle Chai, Jade Pictou and Ivo Winter to the team. This was after bidding a grateful farewell to Raffi Balmanoukian, Glen Campbell and Jennifer Pavlov at the end of 2021. Thank you all for your service to the profession and to LIANS. 2021 governance work continued through LIANS Board and its Committees – Audit, Claims, Governance, Investment and Lawyers Assistance Program. Thank you to all 2021 Board and Committee volunteers for your dedication and contribution to LIANS.

This is my final Report as Board Chair. Thank you for the opportunity to serve in the role. LIANS is now under the Board leadership of Charles Thompson. Charles knows LIANS very well and will continue to be an asset to the Association as Board Chair. I wish Charles, Lawrence and the rest of the team the best moving forward.

***Robyn L. Elliott QC***  
***Chair***

# INSURANCE LEVY: 10-YEAR HISTORY



# PROGRAM REPORT

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**LAWRENCE RUBIN,**

*Director of*

*Insurance*

## Claims Management

Some have told me that my annual reports tend to lean to gloom. That is certainly not my intention but this is insurance and when reflecting on the lay of the land, when considering the observable and quantifiable trends, I won't disagree that I might tend to lean to pessimism. But there is an upside because once you see negative trending, you know where you have to focus to try and change it. You know what you have to talk about. With that introduction, let's discuss the year that was and what I think the year that is will look like.

To talk about 2021, we have to start with 2020 as by the Fall of that year, we started to see the predicted calming and normalizing of the impacts of the pandemic. This carried into 2021 and though we did experience some lingering pandemic effects last year, through it all, we had very few hiccups. We provided our services uninterrupted at pre-pandemic levels and in the face of increasing claim severity – which we expect to continue – we ended the year within our January budget projections and were able to hold the 2022-2023 full practicing levy payable at last year's number.

Thus overall, and in no way suggesting that 2021 was without challenges for there were several, the year was a welcome – and positive – change from the early months of the pandemic, the challenges of last year being more in line with the usual challenges we see relative to the parameters we expect.

But this is not to suggest that we are heading back to the pre-pandemic normal, for I do not think we are or will. 2022 is presenting new, not insignificant, challenges that may become the new normal.

Each January we prepare a budget that includes claim projections for the next 12 months, even though a lot can happen between January and December. In 2020, defence costs paid in the year were 1% below our January projection but indemnity payments were 40% over. For 2021, defence costs were 6% below the January projection and indemnity payments were 17% below. But those percentages are not an accurate year-over-year

comparison because we increased both projections for 2021, which projections are maintained this year. As a more direct year-over-year comparison, if we used the 2020 projections for 2021, defence costs would have been over the projection and indemnity slightly under by 8%. Overall, we consider our estimates for 2021, and now 2022, to be accurate predictors of what we expect.

Looking at indemnity payments, a significant difference between 2021 and 2020 was that last year, these payments were spread more evenly among files whereas in 2020, four claims accounted for a significant percentage of the total paid. But the trending is clear – claim severity is increasing and it has been for some time.

And 2021 saw the addition of another negative factor unseen for several years – inflation. It impacts all our costs, claim and administrative. At the time of writing, inflation, which for many years had hovered at or below 2%, is 7% and continues to trend upwards. You see it in everything you buy. Inflation is a component of the levy that we have no control over.

We also expect to see an increase in claim frequency. For some time, our open file count has been at the lower end of LIANS' historical range. Lower frequency can, to an extent, mitigate against the impact of increasing severity. Lower claim frequency has been a trend in professional liability insurance since the start of the pandemic but should, rather when, it increases, that too will add upward pressure to claim costs. And frequency is another factor LIANS cannot control. Though you can.

Despite all this, we do our utmost to provide your primary professional liability insurance coverage at the lowest possible price. Given the significant year-over-year increase in the 2022 gross levy (8.3% from 2021), some comments on how we establish the levy actually due are in order since it is maintained at last year's level.

The starting point for the levy is what the actuary determines the program requires to operate for the upcoming policy year. That amount is divided among the three levy paying categories by a formula, and then we

# PROGRAM REPORT

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reduce the levy that those in the full practicing category are required to pay, by providing a credit based on a percentage of the excess surplus in the program as confirmed by the actuary. In some years, the excess surplus increases over the prior year making more available for a credit, while in other years it decreases meaning less is available. This year's credit takes the levy for the 2022-2023 policy year down from the required \$2,502 to what you actually pay –\$1,938. But this has a potential cost to the program for when we reduce the levy, there is the immediate potential for an operating loss. This loss can be made up to a degree if, for example, new members exceed the number of members retiring but it is unlikely to be fully made up thus, as a result of the credit, we expect the levy revenue to be lower than what the actuary determines the program will require.

Over the past five years, the fiscal year average ratio of what we actually paid in claims and expenses relative to levy revenue was 103 which means that for every dollar of levy revenue we took in, we spent \$1.03. But when we factor in the unrealized investment gains to calculate our total operating ratio, the five year average reduces to something below 100, meaning when you include all our revenue including the unrealized investment gains, for every dollar earned we spent something less. This difference gets added to the surplus which is why it typically grows each year. The unrealized investment gain helps offset the levy deficiency from providing the credit. Which leads to another challenge we are currently experiencing – performance in the investment portfolio.

So far this year, investment markets have faced significant challenges and unless there is a continued reversal of the current trending (which some analysts and we ourselves are starting to see in specific areas), there is the possibility that the excess surplus account will shrink from last year meaning the levy deficiency may not be offset by investment gains. If that happens, less might be available for a surplus credit next year, meaning what is actually paid will be closer to the true cost of the insurance. Add in the previously mentioned increasing severity, inflation and expected

increase in frequency and you see what is concerning us.

The net result of all this is that we expect 2022 to be a very interesting year for the program. As I look at what is observable and quantifiable, though I am hopeful, I am just not sure if 2022 will be interesting in the best of ways for all our metrics.

The pandemic will continue to impact our business – and your practices – for the foreseeable future. There will be outbreaks. And no doubt restrictions. But one cannot help but think that soon, this will come to pass. And we do think there has been a positive from this, that the new ways of practicing – virtual meetings and signing of documents for example – that would have taken years to implement if there was less urgency have, because of the pandemic, quickly become commonplace and are here to stay.

## Claims

The number of claims reported in 2021 decreased slightly from 2020 reducing the ten-year average to 254 from 255. But if we remove years that are more than one standard deviation from the mean to account for anomalies, the average is 243, lower by three than the last two years. Though moderate fluctuation in new claims has little impact on the average experience, the reduced frequency we saw in 2020 that continued into 2021 has had an effect. An example of an anomaly is 2019's spike, attributed to lapses in practice management at two firms that accounted for 32 new matters that year.

YEAR	2021	2020	2019	2018	2017	2016	2015	2014	2013
FILES OPENED	239	246	277	237	285	245	258	283	234

# PROGRAM REPORT

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A concern we had early in the pandemic was that the numbers of lawyers leaving the profession might exceed those entering. As a long term effect that did not materialize, and the increasing member count combined with the reduction in frequency results in a reduction in the number of new claims / hundred lawyers.

## Claims Reported Per 100 Lawyers (2011-2021)

2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011
12	13	14	12	14	13	13	15	13	14	12

As claim severity, which can be seen by comparing the year-over-year change in the pre-credit levy, increases year-over-year, risk management becomes more important (which is not to suggest it was not important before now). Risk management can be described as the process of minimizing risk within an organization by identifying potential loss exposures and taking steps to minimize their financial impact. In our case, the financial impact of covered claims is borne, at first instance by LIANS and then by the Membership through the levy. As we often say, lawyers insured by this program are both their own risk managers and ours.

For lawyers, an aspect of risk management is practice management. What helps with this? The things you do, or should do, as you work on the file including making complete and contemporaneous notes of client conversations, meetings, advice given and instructions received. It includes not assuming what the law is but reviewing it if you are not certain. It includes proper staff training and supervision, especially of younger lawyers, made more important with the significant increases we are seeing in cyber and social engineering frauds and working from home. These are the things you, and only you, can do but are very important to what we do for you. Though a lack of notes alone does not make a claim indefensible, notes certainly assist in our response. As we start to see the financial impact of negatively trending metrics, the practice / risk management steps described here are things that you can do that will help control our claim costs, even if frequency increases.

Year-over-year increases in defence spending are attributed not just to increased complexity, severity and now inflation but also, as it always is, to unreasonable expectations. Our response to this is unchanged – we will not compromise our assessment of a claim just to save defence costs. Unreasonable expectations are potentially opportunistic, especially if entitlement to the damages being sought cannot be established. We believe we are reasonable and fair while staying within our mandate to conduct the mandatory professional liability program for the benefit of practicing lawyers.

To actual claims, in particular the practice areas that generate them and what percentage of our claim costs are spent on those areas, 2020 demonstrated some deviations from prior years that appear to have continued into 2021. Which means they may no longer be deviations.



# PROGRAM REPORT

## Cost of Claims by Area of Law: 2012 – 2021 (indemnity and defence costs combined but excluding internal administration costs)

Area of Law	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Administrative/Boards/Tribunals					<1%	<1%	<1%	<1%	2%	2%
Arbitration										
Bankruptcy/Insolvency/Receivership		<1%			<1%	<1%	1%	<1%		<1%
Civil Litigation	27%	24.5%	42%	16%	20%	21%	19%	33%	26%	31%
Commercial	6%	14.5%	11%	2%	7%	18%	6%	6%	4%	1%
Corporate	13%	11.5%	3%	4%	4%	1%	6%	5%	<1%	2%
Criminal	12%	<1%		<1%	3%	2%	7%	6%	4%	7%
Employment/Labour		1.5%			<1%	3%	2%	2%	10%	<1%
Estate Planning & Administration		5%	2%	4%	7%	11%		18%	1%	6%
Environmental		<1%	2%	<1%	<1%		2%	<1%	1%	4%
Immigration		<1%		<1%	2%			<1%		
Intellectual Property	1%	<1%			<1%					
Matrimonial & Family	5%	9%	3%	9%	8%	5%	3%	2%	1%	6%
Real Estate	36%	32%	37%	61%	44%	37%	52%	25%	37%	23%
Tax		<1%		<1%	2%	<1%	<1%		14%	15%
All other					<1%					<1%
	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

By practice area, for the most part, 2021's claim costs were within the ranges we saw in 2020. Some areas worth noting are tax, criminal, matrimonial and estates. A comment on tax. This practice area accounts for very few claims by frequency. But they are disproportionately expensive.

To estates and matrimonial, in past reports we have expressed our opinion that claims growth – both frequency and costs – will come from these areas. We did see increases in both these areas in 2021. It will be interesting to see where they continue to go.

Consistent with prior years, the usual suspects – real estate and civil litigation – combine for over half of all claims and claim costs.

The allegation of ineffective assistance of counsel in the conduct of a criminal defence continues to be vexing. We continue to see high frequency with related costs. Of these matters closed since 2017, 7% were granted a new trial based, in whole or in part, on an error of trial counsel, 36% were judicially dismissed and the rest were withdrawn. Though in the majority of these matters the allegation lacks substantiation, we are involved in them all. And we continue to see counsel who have had these allegations made against them pursuing similar allegations against others. As I have previously, and often, said, this is not to suggest, and we do not in any way mean to suggest, that lawyers should not pursue these matters if the allegation has merit. In fact, if there is merit, the matter should be taken on. But every lawyer who has been the subject of an ineffective assistance of counsel claim knows, and every lawyer should know, the legal test if they are going to raise the issue.

# PROGRAM REPORT

## Percentage of Claims by Area of Law: 2014-2021

Area of Law	2014	2015	2016	2017	2018	2019	2020	2021
Administrative/Boards/Tribunals	1%	3%	2%	2%	<1%	2%	1%	<1%
Arbitration								<1%
Bankruptcy/Insolvency/Receivership				<1%		<1%		<1%
Civil Litigation	21%	20%	15%	19%	22%	31%	23%	25%
Commercial	3%	6%	6%	7%	6%	4%	3%	4%
Corporate	3%	2%	4%	2%	2%	2%	3%	1%
Criminal	5%	7%	6%	9%	9%	8%	11%	9%
Employment/Labour		<1%	<1%	<1%	<1%	1%	1%	1%
Estate Planning and Administration	5%	7%	7%	8%	8%	7%	4%	8%
Environmental								
Immigration	<1%	<1%	1%	<1%	1%	<1%		
Intellectual Property		<1%				<1%	<1%	<1%
Matrimonial and Family	10%	9%	14%	11%	8%	10%	7%	12%
Real Estate	51%	43%	44%	39%	37%	33%	40%	33%
Tax	<1%	<1%		<1%	3%	<1%	1%	1%
All other	<1%	<1%		<1%	2%	1%	5%	2%
	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Claims based on missed limitations, both in specific subject statutes and general limitations as set out in the *Limitation of Actions Act*, continue. We also expect to see an increase in the future given uncertainty as to whether certain limitations continued to apply during the pandemic. If your matter has a limitation period, diarize it to a date in advance of the limitation date. If you wait to the last day, what do you do if your document is not accepted or the court or, in the case of a property matter, the registry office is closed due to weather or property online is having system issues?

Claims arising from lawyers providing legal services in other provinces also continue to be an issue. Lawyers should not assume that the laws and civil procedure rules of other jurisdictions are the same as those in Nova Scotia.

LIANS closed 280 files in 2021, 92% of which did not have an indemnity payment. This is the same percentage as 2020, and compares to 88% in 2019 and 92% in 2018, so very consistent. Most, but not all, of the claims that had an indemnity payment also incurred defence costs. Seventy percent of claims closed in 2021 did not incur defence costs (though some of those did incur an indemnity payment), up slightly from 2020 (66%) and higher than 2019 (62%) but on par with 2018 (72%) so also consistent despite the total paid increasing year-over-year. LIANS compares favourably on these measures to other jurisdictions. For example, the publicly reported 2021 closed file data for LawPRO (the Ontario mandatory program) has 13% of files closed in the year having an indemnity payment (LIANS 8%), 52% incurring defence costs only (LIANS 25%) and 35% closed with no payments at all (LIANS 67%). If nothing else, this reflects the amount of work we do in house.

Each year LIANS conducts a closed file satisfaction survey. For the 2021 survey, we received 63 responses for a 36% response rate. One hundred per cent of respondents (98% in 2020) indicated they were satisfied or very satisfied with the handling and 98% (93% in 2020) with the outcome. The 2020 results are in line with prior years, 2021's being somewhat better. But satisfaction rates like this, though nice to receive, are also problematic because there is always something that could be improved which is why it is important for those completing the survey to provide comments, even if satisfied with our work. We appreciate the time you take to complete the survey and especially your comments, invariably positive, about our staff and

# PROGRAM REPORT

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organization and we do act on those comments we receive that we can act on. We do not take our responsibilities lightly or your satisfaction with our work for granted. To the contrary, we strive to maintain the quality of our work and outcomes and your satisfaction.

LIANS also oversees a mentorship program that matches young lawyers with experienced practitioners. Mentoring facilitates professional and personal development. For young lawyers, in addition to improving camaraderie and helping address issues of stress and isolation they may experience, something more prevalent in these times, mentorship can enhance professionalism and lawyering skills by providing encouragement, support and contacts.

As a result of the pandemic, we have seen an increase in the isolation and stresses lawyers are experiencing. Young lawyers in particular are most definitely a group within this profession that has been significantly impacted by the pandemic, a fact that has not gone unnoticed by us. At this time, we have several mentees looking for mentors and would encourage anyone interested in assisting a young lawyer to contact us. And feel free to reach out to the young lawyers in your own firms. The Lawyers' Assistance program Committee is also working on a short survey that will be sent to a random selection of small firms to explore firm practices as they relate to some of the issues we are seeing with younger lawyers.

Lawyers should review the practice standards when appropriate. The Standards committees put a lot of work into drafting and updating standards to respond to changing law and new issues.

LIANS, established by the *Legal Profession Act*, is managed by a Board of Directors assisted by the Director of Insurance (who it appoints) and five committees. The Audit, Investment and Governance committees have responsibilities not unlike similar corporate committees. The large loss committee meets regularly to review active claims that come within its mandate and the Lawyers Assistance Program Committee oversees the LAP program. As Board and committee vacancies occur – and we expect to have several by the end of 2023 – we post notices soliciting expressions of interest to join and we invite all interested Members to apply. Next year, it is our intention to hold an information session for those interested in joining the Board prior the application date.

All of which brings me, as always, to those who get the credit for LIANS' successes and who I want to personally thank – our staff, the volunteers who sit on the Board of Directors and committees (their names are at the back of this annual report) and those who act as LAP peer volunteers and mentors for their time and effort, the Membership for your trust in us and understanding of our purpose and mandate and, last but certainly not least, our defence counsel. LIANS' success is the result of a group effort. Without everyone's contributions, LIANS could not operate as it does nor could it achieve the outcomes it does.

Before signing off, I want to thank our Board Chair, Robyn Elliot QC. Robyn joined the Board in 2017 and became Chair in 2019. It was she who steered LIANS through the pandemic. She has decided to step down from the Chair role this year but will remain on the Board. Our new Board Chair is Charles Thompson who also joined the Board in 2017.

We are available to answer any questions you may have about the program and welcome the opportunity to speak on topics within our purview.

***Lawrence Rubin, Director of Insurance***

# PROGRAM REPORT



**NATALIE J. WOODBURY**

*Chair*

*NSLAP Committee*

Natalie J. Woodbury is Chair of the Nova Scotia Lawyers Assistance Program, and member of the Claims Review Committee. She is a partner with BOYNECLARKE LLP.

## Nova Scotia Lawyers Assistance Program

I would first like to thank my fellow committee members, Jennifer Anderson, Sean Foreman QC, Marc Njoh and Krista Smith, for their dedication to the NSLAP. I would also like to recognize Lawrence Rubin, Director of Insurance, for his tireless efforts in this area.

Homewood Health (“Homewood”) continues to be the provider of services for the NSLAP. The range of services is constantly growing and includes counselling and related services for stress, depression, anxiety, psychological and emotional disorders, financial concerns, family issues, career development, health and fitness, and many more. Services are offered online, in person and by phone. There are also webinars and self-directed online tools and programs. I encourage you to visit their website at [www.nslap.ca](http://www.nslap.ca) to see their full range of offerings.

Overall usage for the year was up slightly from the prior year, with the main increase being in the area of counselling services. Our program usage was 2.1% higher than Homewood’s benchmark for usage in the legal industry generally. Members between the ages of 21-40 made up 58.6% of users, and members with less than 10 years practicing constituted 51.4% of users. People identifying as female continue to be the highest percentage of users at 77.3%.

The delivery method of counselling services is varied with telephone, video and online Cognitive Behavioural Therapy (CBT) being the primary methods of delivery. The use of video continues to grow and was 22.6% of the counselling method compared with 9.3% the prior year and 0% the years before that.

Of those accessing life smart/plan smart services the majority was for career counselling, stress solutions, nutritional counselling and relationship solutions.

We continue to hear stories of lawyers being overworked and overstressed. It seems that the demand for legal services continues to increase while at the same time

it is becoming more and more difficult to have enough lawyers, paralegals and support staff to manage this increasing workload. And on top of this, COVID is still lingering. We are not alone with these issues as many industries are facing these challenges, but it doesn’t make it any less difficult for our members. I encourage members to explore the services offered by Homewood and the NSLAP. If one type doesn’t work, maybe another will. Something might just click and make a positive difference to your health.

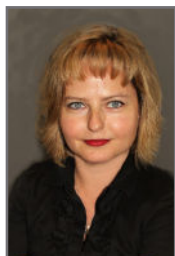
***The delivery method of counselling services is varied with telephone, video and online Cognitive Behavioural Therapy (CBT) being the primary methods of delivery. The use of video continues to grow and was 22.6% of the counselling method compared with 9.3% the prior year and 0% the years before that.***

In closing, I wanted to remind everyone, that the Committee is available to present information about the NSLAP, so please reach out to a Committee member or Lawrence Rubin if you would like more information.

***Natalie J. Woodbury***  
***Chair, NSLAP Committee***

# PROGRAM REPORT

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## **CYNTHIA NIELD,**

*Database and  
Information Officer*

Cynthia Nield oversees LIANS' software and systems technologies, and coordinates resources and events of the RPM program

## **Risk and Practice Management**

The Risk and Practice Management (RPM) program had another successful year providing the membership with resources and tools related to practice risks, and offering support to minimize their claims exposure.

### **Publications and Presentations**

We continue to distribute LIANSwers, our bimonthly electronic newsletter. The articles and information are to assist lawyers with the running of their practice, provide tips and guidance that could serve to avoid or mitigate a malpractice claim and to provide information on interesting cases that we come across. However, you should remember that this advice does not, nor is it intended to, replace your own exercise of professional judgment on a particular file. We monitor the number of visits per edition, and maintained a high readership rate of 39% this year, averaging 842 readers.

LIANS' website contains a wide variety of RPM resource material. According to our website analytics, the most often used resources are our sample retainer agreements and engagement letters, mortgage discharge escalation lists, limited scope retainer materials, table of limitation periods, information on succession planning and opening a law office, numerous sample letters / precedents / checklists / templates for notes to file; as well as the five Professional Standards Committees (Real Estate, Criminal, Family, Law Office Management, and Wills, Powers of Attorney and Personal Directives).

We continue to submit articles to InForum, the Nova Scotia Barristers' Society's online newsletter. These include fraud alerts, pertinent LIANS operational matters, and Lawyers Assistance Program articles and resources from Homewood Health™, our health and wellness assistance program provider. In addition to ongoing specialized programs such as Depression Care,

Trauma Care, and Online Cognitive Behavioural Therapy, Homewood continues to offer a wealth of resources and tools, including those specific to supporting its clients in response to the global pandemic.

### **LIANS Forums**

LIANS' online forums for Real Estate, Family Law, and Solo and Small Firm practitioners and their staff continue to be a resource for those looking to review professional information, and connect or consult with other practitioners. Membership among the three forums totals 278.

### **Fraud Alerts**

Lawyers continue to be popular targets as recipients of suspicious email and fraud attempts, particularly during the pandemic, when scammers are targeting distracted staff and impermanent workplaces in the hope that these vulnerabilities will delay detection of scams. LIANS' monitors these and will periodically notify the membership of new frauds and scams as we become aware of them. If you receive something that looks suspicious and you question its legitimacy, please contact us. We can advise if we are familiar with it or if it is a new scam worthy of a note to the profession. We maintain a list of the schemes we are aware of on our website as a reference tool for you.

### **LIANS/NSBS 13th Annual (Virtual) Conference**

As a result of the continued restrictions required by the global pandemic in 2021, we held our second fully virtual annual conference on November 24th using the Zoom video conferencing program. It was another great success, with 224 individual registrants for the conference who virtually attended the morning session, or the afternoon, or both.

# PROGRAM REPORT

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This was the third joint effort event to be hosted by both LIANS and the NSBS Legal Services Support team. The feedback received from the conference attendees was very positive, where 75% of attendees gave an overall rating of either “Very Good” or “Excellent”.

The sessions included:

## Morning - 9am-12pm

- **Land Registration Update: Registration, COVID-Related Issues and Other Developments** with Registrar General, Theresa Graham
- **Electronic Banking** with Jocelyn MacNeill, NSBS Trust Assurance Auditor
- **Implementing Alternative Fee Models in Your Practice** with Bob Carter QC and Julien Matte
- **Wills/POA Standards Committee Update** with Tim Matthews QC
- Morning break
- **Professional Ethics Hot Topics** with Elaine Cumming, NSBS Professional Responsibility Counsel
- **Working in Virtual Courts** with Thomas Kayter of the Truro Public Prosecution Service
- **Introducing the New NSBS Practice Resource Search Tool** with Collette Deschenes and Jennifer Pink, NSBS

- **Afternoon 1pm-4pm**
- **LIANS Update on Claims Trends & Cyber Security** with Lawrence Rubin, LIANS’ Director of Insurance
- **Representative Capacity** with Elaine Cumming, NSBS Professional Responsibility Counsel
- **Pitfalls of Family Law Outside of Halifax and Sydney** with Terry Sheppard QC, NSBS Family Standards Committee
- **Positive Practices and Advancements from Practising Through COVID** with Bernadine MacAulay and Rob McCleave, NSBS
- Afternoon break
- **Cloud Computing Checklist** with Paul Saunders of the LOMSC Technology Subgroup
- **Practical Application of the Equity Toolkit** with Jennifer Dickison and Jubanti Dhan Toppo of NSBS Equity & Access

We also offered a bonus conference session on December 7th entitled “Unlock and Create Space for Joy”, a wellness session hosted by Kim MacDonald from 13 FACTORS for Business Growth. We received 184 registrants for this session, and according to our follow-up survey, 94% of attendees gave an overall rating of either “Very Good” or “Excellent”

# PROGRAM REPORT

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## **Mentorship Program**

LIANS' Mentorship Program continues to grow and we will always accept new applicants. The program provides the membership with opportunities to network, gain knowledge about practice management issues, and receive support from the Risk and Practice Management Program.

The program currently has 218 participants, although we did note a significant drop in applicants looking to become a Mentor over the course of the pandemic, due no doubt to the time constraints of individuals maintaining their practice during uncertain times. To qualify as a Mentor, you must have at least nine years at the Bar. There are no requirements to qualify as a Mentee. This program is ongoing and LIANS reaches out to the members on a regular basis to encourage those interested to participate, especially in the recruit of applicants for a Mentor role.

## **Member Inquiries**

The program continues to provide one-on-one practice advice and assistance to members on topics such as insurance coverage matters, risk reduction, fraud, closing a practice, file retention, Client ID Regulations, the Lawyers Assistance Program and succession planning.

## **RPM and Legal Services Support**

LIANS continues to coordinate its RPM information and resources with the Society's Legal Services Support (LSS) initiative. As always, however, LIANS maintains the confidentiality of all claim-specific information it receives from a member..

***Cynthia Nield***  
***Database and Information Officer***

# SUMMARY OF FINANCIAL HIGHLIGHTS

## Notes to the Summary of Financial Highlights

LIANS' financial position remained stable at the end of 2021.

As in prior years, LIANS' surplus allowed for a subsidy to the gross levy charged for the mandatory insurance policy. The gross levy (being the actuarially determined required levy before applying a surplus credit) required for the 2021-2022 policy year was slightly lower than the prior year due to a reduction in the CLIA premium which gets factored dollar for dollar into the levy. In determining the credit that reduces the gross practicing levy, the Board of Directors, in accordance with its mandate to exercise prudent fiscal management of LIANS' assets, considered a variety of factors including the retention, surplus for the year, claims experience and the additional factor of the pandemic as it was continuing to affect our business and investment portfolio in April when the levy is determined. As a result of its analysis, for the 2021-2022 policy year, the Board approved a surplus credit larger than the prior year with the result that the net full practicing levy payable was lower for the 2021-2022 policy year than the prior policy year.

Total paid claims in 2021 (indemnity plus defence costs) was lower than the amount paid in 2020 with indemnity payments returning to the expected range. The cost of administration of the program was slightly higher than in 2020 (though administrative costs that year were offset by a reserve reversal that resulted in this expense appearing as a positive amount rather than a cost).

The significant increase in the 2021 year-end reserve as compared to 2020 was due to the combined effect of investment gains and the above mentioned reserve reversal. The 13% year-over-year increase in the investment portfolio was a positive outcome reflecting the market recovery from the effects of the pandemic. A similar gain is not expected this year as a result of the geo-political and economic effects that have been adversely affecting markets this year.

### Statement of financial position as at December 31

	2021 \$	2020 \$
<b>Assets</b>		
<b>Current</b>		
Cash	2,845,426	2,313,349
Accounts receivable	416,987	249,658
Government remittances receivable	12,776	-----
Levy receivable	621,982	698,550
Prepaid expenses	88,981	238,115
Recoverable unpaid claims and expenses	435,358	473,696
Investments	23,727,445	21,011,251
Property and equipment, net	6,245	8,649
<b>Total assets</b>	<b>28,155,199</b>	<b>24,993,268</b>
<b>Liabilities</b>		
<b>Current</b>		
Accounts payable and accrued liabilities	649,507	451,180
Unearned levy	1,591,372	1,591,810
<b>Total current liabilities</b>	<b>2,240,879</b>	<b>2,252,538</b>
Provision for levy deficiency	310,571	374,317
Provision for unpaid claims and expenses	10,937,928	9,577,362
<b>Total liabilities</b>	<b>13,489,378</b>	<b>12,204,217</b>
<b>Net assets</b>		
<b>Professional liability insurance reserve</b>	<b>14,665,821</b>	<b>12,789,051</b>

### Statement of revenue and expenditure for the year ended December 31

	2021 \$	2020 \$
Revenue	5,537,426	4,442,617
Insurance premiums	(322,433)	(320,915)
<b>Net revenue</b>	<b>5,214,993</b>	<b>4,121,702</b>
<b>Claims and expenses</b>		
Payments	1,951,730	2,304,117
Group deductible reimbursement	(111,920)	(73,640)
	1,839,810	2,230,477
Current period expense	1,335,158	285,722
<b>Total claims and expenses</b>	<b>3,174,968</b>	<b>2,516,199</b>
<b>Administration</b>		
<b>Total administration</b>	<b>1,104,670</b>	<b>(156,175)</b>
<b>Total expenditures</b>	<b>4,279,638</b>	<b>2,360,024</b>
<b>Excess (Deficiency) of revenue over expenditure before undernoted</b>	<b>935,356</b>	<b>1,761,678</b>
Return of CLIA surplus subscriber's equity	941,414	-----
<b>Excess (deficiency) of revenue over expenditure</b>	<b>1,876,770</b>	<b>1,761,678</b>
<b>Professional liability insurance reserve, beginning of year</b>	<b>12,789,051</b>	<b>11,027,373</b>
Excess of revenue over expenditures	1,876,770	1,761,678
<b>Professional liability insurance reserve, end of year</b>	<b>14,665,821</b>	<b>12,789,051</b>



# 2021-2022 BOARD, COMMITTEES & STAFF

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## BOARD OF DIRECTORS

Robyn Elliott QC, Chair  
Charles Thompson, Vice-Chair  
Sarah Almon  
Greg Barro QC  
Michelle Chai  
Sean Foreman QC  
Oliver Janson  
Joshua Martin  
Jade Pictou  
Ivo Winter  
STAFF: Lawrence Rubin

## STAFF

Lawrence Rubin, LL.B.  
*Director of Insurance*

Patricia Neild, LL.B.  
*Claims Counsel*

Lisa Wight, LL.B.  
*Claims Counsel*

Cynthia Nield, MLIS  
*Database and Information Officer*

Emma Pink  
*Executive Assistant to the Director  
(until August 2021)*

Alex Greencorn  
*Administrative Assistant*

## COMMITTEES

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Greg Barro QC  
Amy Bradbury  
STAFF: Lawrence Rubin

### Claims Review Committee

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Greg Barro QC  
Amy Bradbury  
Michelle Chai  
Sean Foreman QC  
Vernon Hearn  
Len MacKay  
Jade Pictou  
Ivo Winter  
Natalie Woodbury  
STAFF: Patricia Neild, Lisa Wight

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Jennifer Glennie  
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Oliver Janson  
STAFF: Lawrence Rubin

### Lawyers Assistance Program

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Jennifer Anderson  
Sean Foreman QC  
McFarlane Njoh  
Krista Smith  
STAFF: Lawrence Rubin

### LAP Peer Volunteers

Craig Berryman  
Devon Cassidy  
Patrick Cassidy QC  
Sean Foreman QC  
Michelle James  
Douglas Lloy QC  
Michael K. Power QC  
Nancy Rideout  
Kelly Rowlett  
STAFF: Lawrence Rubin



LIANS and the NSBS present

# The 14th Annual Fall Solo & Small Firm Conference

Details to follow

Sessions may be eligible as CPD hours

Stay tuned to [LIANS.ca](http://LIANS.ca) and [NSBS.org](http://NSBS.org)

