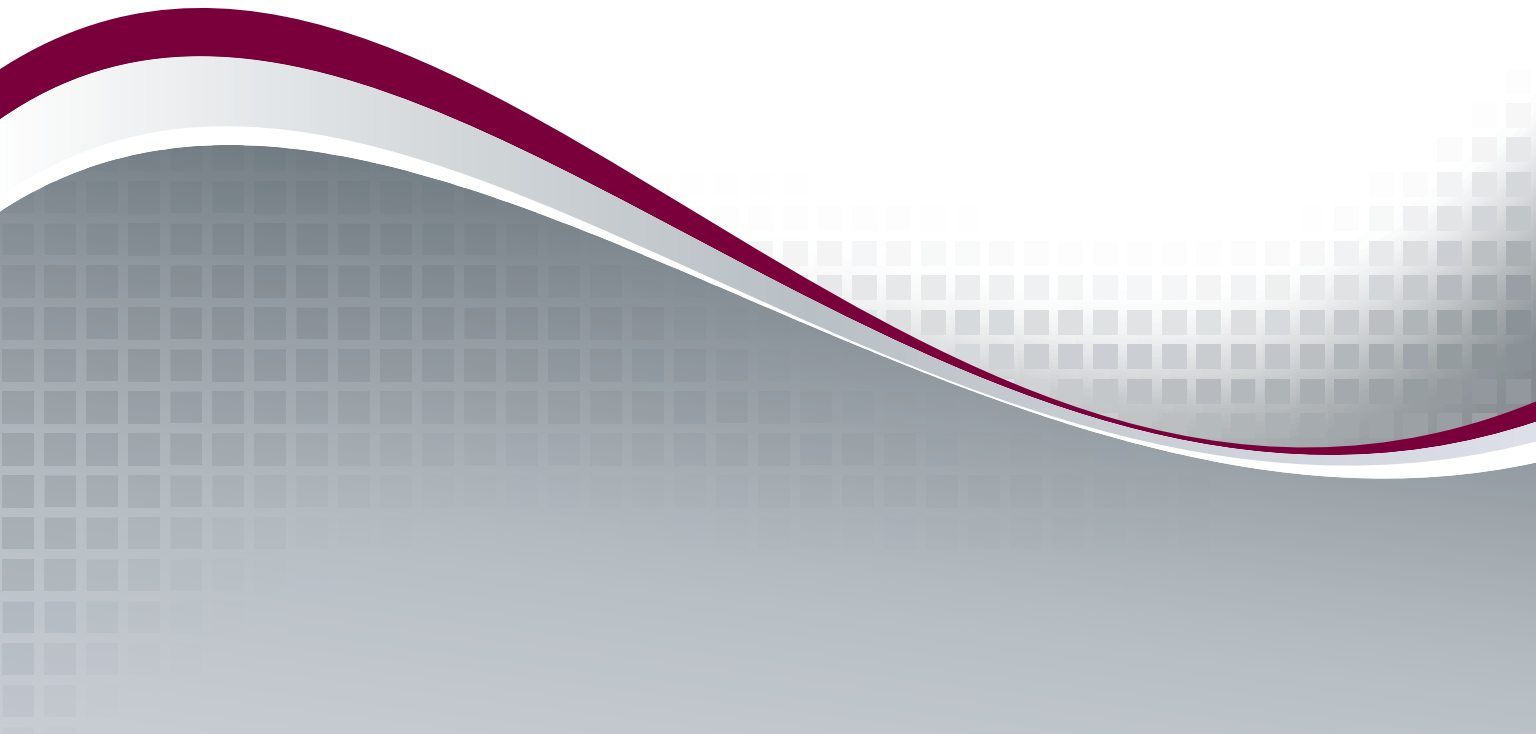


# LAWYERS' INSURANCE ASSOCIATION OF NOVA SCOTIA

ANNUAL REPORT 2023





## 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 2023

### **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

---



**CHARLES  
THOMPSON**

*Chair*

Charles Thompson  
of Burchell  
MacDougall  
LLP-Truro is Chair  
of the Board of  
Directors and  
a member of  
the Investment  
Committee.

**LIANS had a relatively uneventful year in 2023. This is a good thing.**

LIANS opened 243 new claim files in 2023, the lowest number in several years and at the low end of the “normal” range. 285 claims were closed, of which only 5% involved an indemnity payout. Like 2022, this payout percentage was lower than the usual range of 8-12% of claims closed that result in indemnity payments.

The financial performance of LIANS’ operations for the year was positive. We had slightly lower than projected defence costs. Indemnity payments, though up considerably from the prior year, were less than expected. In addition to positive results on the operational side, the performance of the investment portfolio bounced back from the negative year in 2022, and had a positive return of 8%. The performance of the investment portfolio has a huge impact on the overall financial situation of LIANS, and positive returns on our investments are what enables the organization to continue to fund a credit on the gross amount of the levy.

The levy for 2023-2024 for lawyers in private practice was \$1,820, the lowest amount since 2014, and an amount that is not sustainable, given the general trend of rising operating and claims costs. For 2024-2025 the levy has returned to an amount more in line with recent years (\$1,950).

As stated, in many ways 2023 was a positive year for LIANS, but increasing claims severity and the impact of inflation on defence and other costs continue to present challenges for the future.

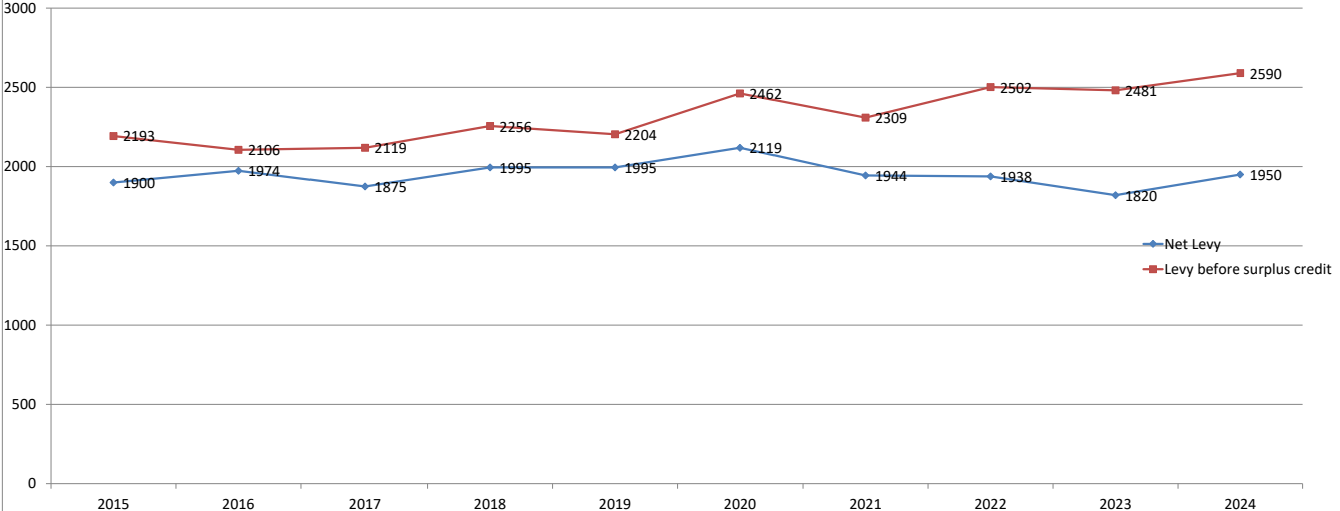
A reminder that along with managing the insurance program and claims handling, LIANS engages in many other activities and initiatives, including the Lawyers Assistance Program (LAP), fraud alerts, the LIANSers newsletter, and mentorship program, that assist LIANS in achieving its mandate and provide a valuable service to members.

Every year LIANS conducts a survey of members who have had claims files closed about their experience with LIANS staff, defence counsel and the claims process. The results of this survey consistently show a very high level of satisfaction, especially with our two claims counsel, Lisa Wight and Patricia Nield. They not only handle claims files efficiently and effectively, but do so with understanding and compassion toward the lawyers involved.

Thank you to everyone who serves on the LIANS Board of Directors and committees and to all LIANS staff for their commitment and dedication to making LIANS successful.

**Charles Thompson**  
*Chair*

# INSURANCE LEVY: 10-YEAR HISTORY



# PROGRAM REPORT

---



**LAWRENCE RUBIN,**

*Director of*

*Insurance*

Last year I opened this report commenting that 2022 was the beginning of the return to normal from the pandemic and 2023 was trending to continue that return. Happily, that is what happened and we continue on that path. Put another way, the metrics we track are behaving as we expect them to.

## The Metrics

Our January estimates reflect what we expect for the year at that time. But each year claims that we think will resolve do not, these matters often affected by the usual challenges that continue to figure prominently and lead to increased defence spending. One of these challenges continues to be unreasonable expectations. But as we often say, we will not compromise our assessment of a claim just to save defence costs. We believe our individual claim assessments to be fair and reasonable, and in the vast majority of cases, they are borne out. It is important that claimants understand that we have no issue making an indemnity payment when appropriate but it has to be for the proper and proven amount. Moreover, it is rare that matters that require a repair – and a lot of our work is to effect a repair, the cost of which is defined in the policy as, in part, our costs incurred to correct an error to prevent the advancement of a claim – also merit an indemnity payment. Yet the false assumption remains that if a lawyer makes a mistake there is an entitlement to damages. Putting this another way, we resist economic settlements and defend our insureds from false or frivolous matters which include matters where there is no financial loss. We work within our mandate which is to conduct the mandatory professional liability program for the benefit of practicing lawyers.

To briefly summarize 2023's claim performance, defence costs were 6% below our projection for the year, indemnity payments 37% below. While the former often end the year fairly close to our January projection, indemnity payments have a higher variance. And despite 2023's indemnity payments being 1/3 below our projection, they were almost double what was paid in 2022.

So how did 2023 compare to prior years? From 2017 through 2022, the fiscal year average ratio of our claim costs

versus levy revenue was approximately 74% meaning that for every dollar of levy revenue received, on average the program incurred \$0.74 on claims. For 2023, the ratio was 83%. When we add in our administrative costs, they typically ranging from 30 – 35% of levy revenue per year, the program typically spends every dollar of levy revenue it receives. These results emphasize the necessity of positive performance of the investments as it is the investments that grow the surplus and support the levy credit which means rate stability.

As important as these metrics are for us, we know what matters most to you is how all this translates into the levy you see on your fee invoice. We strive to provide your primary professional liability insurance coverage at the lowest possible cost to you. The starting point to setting the levy is what the actuary determines the program will require to operate for the upcoming policy year and for the 2024 – 2025 policy year, this amount increased by 6.5% from the prior policy year, a continuation of the trend of increasing year over year costs. However, with continued increasing insured member count, the cost of the program per insured lawyer only increased by 4.7% from last year. We then calculate the levy actually payable per lawyer based on our three levy paying categories (full practicing, legal aid and government, the latter two being significantly discounted). And then a credit from excess surplus is provided to the full practicing category.

In some years, excess surplus increases over the prior year making more available for a credit. In other years it decreases making less available and that is the case this year. But this year's decline is not the result of increasing claim costs or declining investments - the usual causes - and you will see this if you refer to the summary of the financial statements at the back of this report. The decline in excess surplus this year is the result of the capital testing we do every three years to determine how much of our total surplus we must retain to support the program, referred to as the Minimum Retained Surplus (MRS). The testing this year resulted in an increase in the MRS, the increase resulting in a corresponding reduction in the excess or available surplus.

But despite this decline, the value of the credit agreed by the Board for the 2024-2025 policy year is on par with

# PROGRAM REPORT

the credit issued last year meaning a higher percentage of the excess surplus was used this year. The net result after applying the credit is a full practicing levy for the 2024-2025 policy year, the levy most of our insureds pay, that is 7% higher than last year but 25% below what is actuarially required (the pre-credit or gross levy). It is also below the five-year average. But everything has a cost and providing the credit means that there is likely to be a levy deficiency for the year as levy revenue will be lower than what the actuary determines the program requires. The cost of this shortfall is indicated as a levy deficiency on our financial statements. Referring to the summary of the financial statements, the deficiency for 2023 was \$715,000.00.

Overall, 2023 was a return to operating within our usual and expected parameters though the year did push up against the upper limit of some of them. And though 2024 is continuing that trending, there is a lot of 2024 remaining to get through and there are a lot of things going on in our files and externally that could adversely affect the program.

## Claims

The number of claims reported in 2023 decreased significantly from 2022 but as noted last year, the 2022 spike was likely a correction for the decline in reported matters during the pandemic. The ten-year average is the same as last year - 260 - and if we remove years more than one standard deviation from the mean to account for anomalies such as 2022, the average new file count is also the same as last year - 253. Though 2022 went a long way to compensating for the lower claim frequency during the pandemic, it may be that the reduction has been made up.

YEAR	2023	2022	2021	2020	2019	2018	2017	2016	2015	2014
FILES OPENED	243	291	239	246	277	237	285	245	258	283

Early in the pandemic we were concerned that the number of lawyers leaving the profession might exceed those entering. In the end, the pandemic member count was quite stable such that the risk did not materialize. And though membership has increased, the increase is not enough to offset 2022's increase in claims and the number of new files per hundred lawyers increased though this metric remains in the program's usual range.

## Claims Reported Per 100 Lawyers (2014-2023)

2023	2022	2021	2020	2019	2018	2017	2016	2015	2014
12	14	12	13	14	12	14	13	13	15

## Risk Management

Despite frequency levelling off in 2023, severity continues to increase making risk management – the process of minimizing risk by identifying potential loss exposures and taking steps to minimize their financial impact – very relevant. As we say, lawyers insured by this program are both their own risk managers and ours. Because the financial impact of covered claims is borne, at first instance, by LIANS and then by the Membership through the levy, an individual lawyer's risk management, or the lack thereof, is felt by the profession as a whole. At its core, LIANS is a self-insurance program meaning each of us insures our neighbours.

Risk management encompasses practice management, the things you do (or should do) as you work on any file. Confirming instructions and retainers, making complete and contemporaneous notes of client conversations, advice and instructions. It includes proper staff training and supervision – including cyber awareness training. It includes being aware of the various cyber, social engineering and cheque frauds making the rounds and not becoming a victim of them. In the case of cheques, it means waiting for cheques you deposit to your trust account to clear before sending funds out, especially if you did not know the client before the retainer or either party is out of province. These are things only you can do but are very important for your practice, especially if you suffer a financial loss because of a fraud and the loss is not

# PROGRAM REPORT

something LIANS can help you with. LIANS' insurance policy, like any insurance policy, contains terms and conditions that set out what we do and do not respond to. It is incumbent on all lawyers to know what the policy covers and what it does not. For the things that LIANS does not cover, there may be a solution in the commercial market.

## Claims by Area of Law

Turning to the practice areas that generate claims and the percentage of our claim costs spent on those areas, several areas in 2023 had results outside usual ranges.

Civil litigation had an increase in costs despite a drop in frequency whereas real estate saw the opposite. That said, these two areas combined continue to exceed all other areas of practice by both measures accounting for over half of all claim costs and frequency. Criminal law ranked third on both the percentage of our costs spent and frequency with estates and family rounding out the top five. Tax saw a significant decline in costs but this is an area of low frequency but high severity so it is easy to see the years when we have significant ongoing tax matters.

## Cost of Claims by Area of Law: 2014 – 2023 (indemnity and defence costs combined but excluding internal administration costs)

Area of Law	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Administrative/Boards/ Tribunals			<1%	<1%	<1%	<1%	2%	2%	3%	2%
Arbitration										
Bankruptcy/Insolvency/ Receivership			<1%	<1%	1%	<1%		<1%		
Civil Litigation	42%	16%	20%	21%	19%	33%	26%	31%	43%	58%
Commercial	11%	2%	7%	18%	6%	6%	4%	1%	1%	1%
Corporate	3%	4%	4%	1%	6%	5%	<1%	2%	<1%	2%
Criminal		<1%	3%	2%	7%	6%	4%	7%	7%	5%
Employment/Labour			<1%	3%	2%	2%	10%	<1%	1%	<1%
Estate Planning & Administration	2%	4%	7%	11%		18%	1%	6%	1%	3%
Environmental	2%	<1%	<1%		2%	<1%	1%	4%	<1%	
Immigration		<1%	2%			<1%			<1%	<1%
Intellectual Property			<1%							
Matrimonial & Family	3%	9%	8%	5%	3%	2%	1%	6%	8%	4%
Real Estate	37%	61%	44%	37%	52%	25%	37%	23%	27%	20%
Tax		<1%	2%	<1%	<1%		14%	15%	5%	<1%
All other			<1%					<1%	<1%	3%
	<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>

The allegation of ineffective assistance of counsel in the conduct of a criminal defence remains worthy of comment. Frequency remains high with these matters accounting for a significant number of our new files. Though claims costs in these matters are almost entirely defence costs, with increasing frequency our incurred costs are also increasing as at any given time, approximately 1/3 of the open criminal matters have defence counsel appointed. Yet the outcomes remain the same with most of these matters either being withdrawn after we have responded or being dismissed after a hearing. I repeat our usual comment that nothing here should be taken to suggest, and we do not in any way mean to suggest, that lawyers should not pursue these matters if the allegation has merit. If there is merit, the matter should be taken on. But lawyers must, in our opinion, do a full



# PROGRAM REPORT

merit assessment before pursuing the allegation. Every lawyer who takes on one of these matters must know the legal test if they are going to pursue it and there is an extensive body of decisions in Nova Scotia that discuss this ground of appeal and what does and does not constitute ineffective assistance.

## Percentage of Claims by Area of Law: 2014-2023

Area of Law	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Administrative/Boards/Tribunals	1%	3%	2%	2%	<1%	2%	1%	<1%	1%	4%
Admiralty										<1%
Arbitration								<1%	<1%	
Bankruptcy/Insolvency/Receivership				<1%		<1%		<1%	<1%	2%
Civil Litigation	21%	20%	15%	19%	22%	31%	23%	25%	25%	18%
Commercial	3%	6%	6%	7%	6%	4%	3%	4%	2%	2%
Corporate	3%	2%	4%	2%	2%	2%	3%	1%	3%	<1%
Criminal	5%	7%	6%	9%	9%	8%	11%	9%	9%	13%
Employment/Labour		<1%	<1%	<1%	<1%	1%	1%	1%	1%	<1%
Estate Planning and Administration	5%	7%	7%	8%	8%	7%	4%	8%	11%	8%
Environmental										
Immigration	<1%	<1%	1%	<1%	1%	<1%				<1%
Intellectual Property		<1%				<1%	<1%	<1%	1%	
Matrimonial and Family	10%	9%	14%	11%	8%	10%	7%	12%	8%	9%
Real Estate	51%	43%	44%	39%	37%	33%	40%	33%	35%	40%
Tax	<1%	<1%		<1%	3%	<1%	1%	1%		<1%
All other	<1%	<1%		<1%	2%	1%	5%	2%	2%	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>	<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 but we have been seeing positive outcomes when these matter go to a hearing, a repair by another name. We have not seen an increase in limitation claims as a result of issues specific to the pandemic. If your matter has a limitation, diarize it to a date in advance of the expiration date. If you issue an action serve it then and there or get an express waiver of service. 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?

We continue to see claims that arise from providing legal services in other provinces. As good as mobility is for the profession generally, if it increases the likelihood of a claim due to lack of knowledge of local law or practice, that is not a positive for your client or you, which is to say us. Nova Scotia lawyers must not assume that the laws and civil procedure rules of other Canadian jurisdictions are the same as those here.

We will take a minute to mention Organized Pseudolegal Commercial Argument (“OPCA”) litigants, sovereign citizens or freemen on the land by other names. We have written about this previously, first to advise lawyers not to notarize or commission OPCA documents (and these documents are often obvious on their face) because they are then filed causing significant costs to be incurred by others, including LIANS. There have now been two decisions in Nova Scotia dismissing actions by OPCA litigants, the courts in both concluding that the numerous actions the respective plaintiffs were bringing were spurious, vexatious, abuse of process and collateral attacks on other court proceedings and decisions. In particular, both Courts noted that the plaintiffs were

# PROGRAM REPORT

---

filing actions against participants in other lawsuits (including opposing counsel and judges) that had outcomes they disagreed with. Along with dismissing these actions, the Courts in both concluded that the OPCA litigant should be prohibited, along with any spokesperson, agent or associate of them, from filing any process whatsoever including, but not limited to, any action, application or motion in the Nova Scotia Supreme Court without leave of the Court, a remedy not uncommon when dealing with vexatious litigants generally.

## **Closed Files**

LIANS closed 285 files in 2023, up from 252 in 2022. Of the 285, 94.5% did not have an indemnity payment, about the same as 2022. Our historic range that 8 – 12% of files will have an indemnity payment makes 2023's 5.5% rate low though it has been at that level for two straight years meaning it may no longer be an anomaly. Claims that incurred both an indemnity payment and defence costs outnumbered those with indemnity only by a 2:1 ratio, down from 3:1 last year. Seventy-one percent of claims closed in 2023 did not incur defence costs (though some of those did incur an indemnity payment), the same rate as 2022 and consistent with prior years.

LIANS compares favourably on these measures to other jurisdictions. For example, the publicly reported 2023 closed file data from Ontario's LawPRO indicates 11% of files closed in the year had an indemnity payment (LIANS 5.5%), 55% incurred defence costs only (LIANS 25%) and 34% closed with no payments of any kind (LIANS 69%). This last measure reflects the amount of work we do in house.

We received 86 responses to our 2023 closed file survey, a 46% response rate 10% higher than the response rate from 2022. Ninety-six percent of respondents indicated they were satisfied or very satisfied with the handling and the outcome of their matters, results in line with prior years. But satisfaction rates like this, though nice to receive, are also problematic because I believe there is always something that can be improved upon. This is why it is important for those completing the survey to provide comments, even if satisfied with our work. Many respondents do and we consider all comments we receive. We do not take our responsibilities lightly or your satisfaction with our work for granted. We strive to maintain the quality of our work and your satisfaction.

## **Mentorship Program**

LIANS also oversees a mentorship program that matches young lawyers with experienced practitioners. Mentoring facilitates professional and personal development. In addition to providing camaraderie and helping address issues of stress and isolation, mentorship enhances professionalism and lawyering skills by providing support, contacts and encouragement. Please contact us if you would like to become a mentor or mentee. The LAP Committee is also looking at reestablishing our peer volunteer program and we continue to encourage all firms to regularly reach out to their lawyers, younger lawyers in particular, to see how they are doing. And we encourage all to reach out to the Lawyers' Assistance Program if appropriate.

## **Practice Standards**

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.

## **Artificial Intelligence**

Before concluding, some thoughts on what is top of mind for many – generative artificial intelligence or AI.

A few months back in a real estate talk, I commented on the lost art of abstracting. In current property practice, abstracting, the art of property law, actual understanding of what you are looking at in a parcel register, is becoming a relic. This is not necessarily caused by technology as much as it is how property is now practiced and how the property register works. With the advent of generative AI and its use in research and drafting, I am asking myself if, like abstracting, lawyering itself, short of actual advocacy, is on the road to a similar shift that minimizes the art. Though the idea that computers can assist in the practice of law is not new (see Lawlor, Reed C., Computers and the Law, 1963 28-1 Saskatchewan Law Review 1, 1963 CanLII Docs 69), what is new, and what we have to ponder, is that some of the things Lawlor was talking about over 60 years ago are now becoming possible.

# PROGRAM REPORT

---

I have always seen legal problems and issues as a canvas that a lawyer is retained to understand, explain and determine an appropriate remedy for. It is rolling up one's sleeves and getting into the figurative dirt, the paint of it all. Is generative AI a substitute for a lawyer looking at a problem, reading the law, developing a solution and putting that solution or argument to paper? Is AI a substitute for a lawyer's intuition, feel and knowledge of the panel they will be standing before? I am not sure that it is.

One of the earliest definitions of AI as expressed by Marvin Minsky in the 1950's, he being one of the founders of the field of artificial intelligence, is that AI is "the construction of computer programs that engage in tasks that are currently more satisfactorily performed by human beings because they require high-level mental processes such as perceptual learning, memory organization and critical reasoning." Ironically, these processes are what the LSAT tests for. So the question is, has generative AI reached the point where it is a substitute for a lawyer's perceptual learning, memory organization and critical reasoning. I am not sure we are there yet. Which means be careful. Just something to ponder on a rainy afternoon, which, for us in Nova Scotia, means that there is a lot of time to ponder.

## **Conclusion**

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 standing 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.

All of which brings me, as always, to those who get the credit for LIANS' successes and who I want to personally thank. I am just the manager, the team being our employees, the volunteers who sit on the Board of Directors and committees (their names are at the back of this annual report), those who act as LAP peer volunteers and mentors, our defence counsel and last, but certainly not least, you, the Membership, for your trust in us and understanding of our purpose and mandate. LIANS' success is the result of a group effort and without everyone's contributions, we could not operate or achieve the outcomes we do.

At the end of 2023, four members of the Board retired having reached the term limit. They were replaced with five new members – Brian Cox, David Hirtle KC, Samantha Parris, Armand Paul and Melanie Young. The current Board is listed elsewhere in this report.

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



**RONALD E. PIZZO**

*Chair*

*NSLAP Committee*

Ronald E. Pizzo is  
Chair of the Nova  
Scotia Lawyers  
Assistance Program,  
and a partner with  
Pink Larkin-Halifax

## Nova Scotia Lawyers Assistance Program

This is my first report to you as the Chair of the NSLAP Committee.

To start, I would like to thank the incumbent committee members, Jennifer Snow, Krista Smith, Marc Njoh and Michelle Chai for their continued dedication to the NSLAP and welcome new committee member Deepak Prasad. I would also like to thank Lawrence Rubin and LIANS for their involvement with and support for the NSLAP. The services provided through this Committee are important to ensuring members have the supports they need to stay healthy and successful in the practice of law.

Homewood Health Inc. (Homewood) continues to provide counselling services to members of the Nova Scotia Barristers' Society, their employees and families.

As the long-standing service provider for the NSLAP, Homewood continues to grow its counselling services and wellness programs through different platforms. Services and programs are now offered in numerous areas including financial concerns, family, child and eldercare issues, communication problems, career development, health and fitness and, perhaps most importantly for our profession, wellness, psychological and emotional disorders, addiction, stress, depression, anxiety and trauma. Though use of the program has tailed off a little since the high use during the pandemic, the issues presented have not changed. LIANS and the Society are in the process of renewing the Homewood program and with this renewal, the program is being enhanced. Notice of the enhancements will be provided in the near future.

As to specific usage of Homewood's services, demographics are tracked so we know which groups of lawyers are the higher users of the service and the issues they face. Of note, as we have reported on prior occasions, the pandemic saw an increase in the number of young lawyers using Homewood's services and though overall usage rates are returning to pre-pandemic levels, that group remains the highest user of the program, trending seen throughout the Canadian legal profession.

Going forward, the LAP committee is looking to reestablish LIANS' Peer Volunteer Program. The program had a panel of lawyers in the province from a variety of backgrounds and experiences (including health and wellness experiences) who volunteered to provide peer support to members having similar experiences. This program was in addition to LIANS' young lawyer mentorship program which continues to operate. In the near future, we will be sending a notice to the profession seeking volunteers for this program and our plan, once the panel is reestablished, is to provide training and then advise the profession that the program is operating once again.

***As the long-standing service provider for the NSLAP, Homewood continues to grow its counselling services and wellness programs through different platforms.***

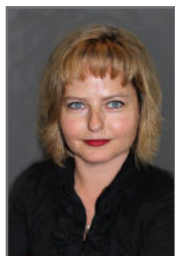
In addition, LIANS intends to offer wellness sessions to the profession going forward.

Members are encouraged, along with their employees and families, to explore Homewood's full range of services and reach out for assistance if needed, the earlier the better.

***Ron Pizzo***  
***Chair, NSLAP Committee***

# PROGRAM REPORT

---



## 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 another high readership rate of 26% this year, averaging 544 readers.

Alongside the updated NSLAP website, LIANS' new website and member portal launched in July 2023. With this update, members are now required to log in to submit an online claim report and review their mandatory insurance policy. LIANS' website continues to offer 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 continued 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.

### 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 15th Annual (Virtual) Conference

As a result of the continued precautions related to the global pandemic, we held our third fully virtual annual conference on November 15th, 2023 using the Zoom video conferencing program. It was another great success, with 230 individual registrants for the conference who virtually attended the morning session, or the afternoon, or both.

This was the fourth 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 79% of attendees gave an overall rating of either "Very Good" or "Excellent".

# PROGRAM REPORT

---

The sessions included:

## Morning - 9am-12:20pm

- **Mindful Business Charter** with Richard Martin, Director of Mental Health & Wellbeing at Byrne Dean
- **Issues in Property Law** with Ian MacLean KC
- **Rule 6.3 of the Code of Conduct: Understanding Your Anti-Harassment and Discrimination Obligations** with Marla Brown, Director of NSBS Equity & Access and Elaine Cumming, Director of NSBS Professional Responsibility
- **Building a Law Office Manual** with Jonathan Saumier, NSBS Legal Services Support Counsel
- **Current Considerations in Equity, Diversity, and Inclusion** with Marla Brown & Vanessa Fells of NSBS Equity & Access
- **LIANS' Update on the Program** with Lawrence Rubin, LIANS' Director of Insurance

## Afternoon 1pm-4pm

- **Recent Developments and Emerging Trends in Corporate Governance and Administration Technology Competence in Practice** with Rob Arkin, Partner at Cox & Palmer
- **New Criminal Law Cultural Competence Standard** with Brandon Rolle, Senior Legal Counsel with the African Nova Scotia Justice Institute
- **Latest FLSC Guidance on Client ID and Verification** with Viral Shah, NSBS Trust Assurance Auditor
- **Payments Canada Cheque Clearing Process** with Lawrence Rubin, LIANS' Director of Insurance
- **Trust Accounts: Do They Have a Future in Transaction Work?** with Kate Shewan, Director of NSBS Finance & Administration and Rob McCleave, NSBS Legal Services Support Counsel
- **Anticipating Bill C-27 Privacy Law Changes & the AIDA** with Matt Saunders, Lawyer in Data Privacy and Cybersecurity with Deloitte Legal Canada LLP

The latest in our series of wellness sessions was hosted on May 3rd, 2023, entitled "Sleep and Your Wellness: More Info on the Business of Sleep" with Marlee Boyle, RRT, CCSH and Leah Corkum, LPN of Sleep Works. We received 204 registrants for this session, and according to our follow-up survey, 90% of attendees gave an overall rating of either "Very Good" or "Excellent".

# PROGRAM REPORT

---

## **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 237 participants, although we continue to note a significant drop in applicants looking to become a Mentor since the beginning 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 for the year ended December 31, 2023 remains stable.

The year-over-year increase in the insurance reserve is the result of the improved performance of the investment portfolio. Readers will recall that 2022 saw a significant underperformance. This improved performance also accounts for the year-over-year change in revenue. That said, despite the increase in the total reserve, due to a significant increase in the minimum retained surplus (that part of the reserve that we must keep on hand) excess surplus has declined.

Excess surplus allows for the credit to the levy charged full practicing lawyers for the mandatory insurance coverage. The gross levy (being the actuarially determined levy before applying a surplus credit) required for the 2024–2025 policy year increased from the 2023–2024 policy year. In determining the credit, the Board of Directors, in accordance with its mandate to exercise prudent fiscal management of LIANS' assets, considers a variety of factors including the retention, available surplus, claim experience and investment trending. As a result of its analysis, for the 2024–2025 policy year, the Board approved a surplus credit similar to what was approved for the 2023–2024 policy year. But, due to the reduction in excess surplus, the credit this year is a significantly higher percentage of the excess surplus as compared to the prior year. And despite the credit, with the increase in the gross levy from last year, the insurance levy has increased.

Total claim costs in 2023 (indemnity plus defence costs) were significantly higher than 2022 with increases in both indemnity and defence costs. But as we have previously advised, we view 2022 as an anomaly. The cost of administration of the program was the same as in 2022.

### Statement of financial position as at December 31

	2023	2022
	\$	\$
<b>Assets</b>		
<b>Current</b>		
Cash	3,309,481	3,321,143
Accounts receivable	403,460	425,837
Government remittances receivable	3,822	15,189
Levy receivable	642,474	653,106
Prepaid expenses	251,043	176,856
Recoverable unpaid claims and expenses	931,573	804,857
Investments	24,398,506	22,599,034
Property and equipment, net	3,494	2,359
<b>Total assets</b>	<b>29,943,853</b>	<b>27,998,381</b>
<b>Liabilities</b>		
<b>Current</b>		
Accounts payable and accrued liabilities	328,207	435,313
Unearned levy	1,671,134	1,731,069
<b>Total current liabilities</b>	<b>1,999,341</b>	<b>2,166,382</b>
Provision for levy deficiency	715,516	384,616
Provision for unpaid claims and expenses	11,414,020	11,058,478
<b>Total liabilities</b>	<b>14,128,877</b>	<b>13,609,476</b>
<b>Net assets</b>		
<b>Professional liability insurance reserve</b>	<b>15,814,976</b>	<b>14,388,905</b>

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

	2023	2022
	\$	\$
Revenue	5,410,094	2,330,990
Insurance premiums	(427,085)	(264,500)
<b>Net revenue</b>	<b>4,983,009</b>	<b>2,066,490</b>
<b>Claims and expenses</b>		
Payments	1,936,267	1,507,513
Group deductible reimbursement	(52,500)	(108,336)
	1,883,767	1,399,177
Current period expense	559,726	(174,904)
<b>Total claims and expenses</b>	<b>2,443,493</b>	<b>1,224,273</b>

00218242-1



# 2023-2024 BOARD, COMMITTEES & STAFF

---

## BOARD OF DIRECTORS

Charles Thompson, Chair  
Sarah Almon, Vice-Chair  
Michelle Chai  
Brian Cox (since January 2024)  
Robyn Elliott KC  
David Hirtle KC (since January 2024)  
Cheryl Hodder KC  
Armand Paul (since January 2024)  
Samantha Parris (since January 2024)  
Jade Pictou  
Ivo Winter  
Melanie Young (since January 2024)  
Greg Barro KC (ended December 2023)  
Sean Foreman KC (ended December 2023)  
Oliver Janson (ended December 2023)  
Joshua Martin (ended December 2023)  
STAFF: Lawrence Rubin

## STAFF

Lawrence Rubin LL.B.  
*Director of Insurance*

Alex Greencorn  
*Executive Assistant to the Director*

Patricia Neild LL.B.  
*Claims Counsel*

Lisa Wight LL.B.  
*Claims Counsel*

Cynthia Nield MLIS  
*Database and Information Officer*

## COMMITTEES

### Audit Committee

Ivo Winter, Chair  
Amy Bradbury  
Melanie Young  
STAFF: Lawrence Rubin

### Claims Review Committee

Lawrence Rubin, Chair  
Amy Bradbury  
Sandra Arab Clarke KC  
Brian Cox  
David Hirtle KC  
Len MacKay  
Samantha Parris  
Armand Paul  
STAFF: Patricia Neild, Lisa Wight

### Investment Committee

Sarah Almon, Chair  
Robyn Elliott KC  
Charles Thompson  
STAFF: Lawrence Rubin

### Governance Committee

Jade Pictou, Chair  
Jennifer Glennie  
Melanie Young  
STAFF: Lawrence Rubin

## Lawyers Assistance Program

Ron Pizzo, Chair  
Jennifer Anderson  
Michelle Chai  
Marc Njoh  
Deepak Prasad  
Krista Smith  
STAFF: Lawrence Rubin

## LAP Peer Volunteers



LIANS and the NSBS present

# The 16th Annual Solo & Small Firm Virtual Conference

Thursday, November 14th, 2024

Sessions may be eligible as CPD hours

Stay tuned to [LIANS.ca](https://LIANS.ca) and [NSBS.org](https://NSBS.org) for upcoming registration details

