



LIANSWERS

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CLIA VOLUNTARY EXCESS PROGRAM: 2020 / 2021 EXCESS INSURANCE RENEWAL

With the approach of the July 1st VEP renewal date, this is an opportunity for you to review your risk portfolio and determine if you have sufficient coverage.

It is important that you renew your coverage before the end of the policy year (June 30) to avoid gaps in coverage that may leave you unnecessarily exposed to the risk of uninsured liability.

This year the online application process will open on **June 1, 2020** to ensure that you have time to complete the application and submit premium payments prior to July 1st. CLIA will also be sending a reminder to its current insureds in early June.

Briefly set out below, [this note from CLIA](#) sets out the 2020/2021 premium and changes to the program.

First, changes to the program. New to the program are the following:

10% discount to any firm referring a new client. If you refer a new client to CLIA and they take out the coverage, you will see a 10% discount on your **2021/2022** renewal.

25% discount premium rate for retired lawyers. Up until now, retired lawyers paid the same



premium as practicing lawyers. Details on how to apply are in the online application. additional level of excess insurance of \$6.5M excess of the \$1M mandatory coverage has been added as current policy holders have been asking for a level of excess coverage between \$4M and \$9M.

As for the 2020/2021 premium / renewal rates, they are as follows (all amounts below being net of the premium discount; the online application may initially indicate the higher amount before application of the credit):

Limit	Rate
\$1M xs \$1M	\$383
\$2M xs \$1M	\$562
\$3M xs \$1M	\$657
\$4M xs \$1M	\$697
\$6.5M xs \$1M	\$862
\$9M xs \$1M	\$975
Cyber	\$90

As in the past, firms login by using their email address and password from past online applications. If necessary, there is an option to reset your password.

New firms and new retirees are required to register for user access before they can complete the application online.

The renewal period will be open until July 31 and applications submitted after that date will have coverage pro-rated.

Please review the [Excess Insurance page on the LIANS website](#) for more information about the program, including these changes.

As always, should you have any questions feel free to contact LIANS' Director of Insurance, [Lawrence Rubin](#) or CLIA directly.

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◀ PREVIOUS

NEXT ▶

Back to LIANSwers: 63

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Home → News → LIANSwers

Issue 63 | May 2020

LIANSWERS

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INTRODUCING STRESS SOLUTIONS: HOMEWOOD'S NEW "LIFE SMART" COACHING SERVICE

Designed through prevalence and growing necessity, Stress Solutions, Homewood's new coaching program is now available to you. Facing a pre-existing array of challenges, now paired with recent professional and personal complexities surrounding COVID-19, the resiliency and limits of today's diverse and multigenerational workforce have demonstrated the need for additional support. A recent analysis of EFAP experience revealed that a significant percentage of usage and presenting issues are stress related. During intake processes, clients are often hesitant or challenged to identify and prioritize what their concerns are. They may experience more than one concern and often note stress as a reason for requesting support.

Stress Solutions consists of one to three telephonic sessions. Sessions include but are not limited to discussions surrounding psychoeducation, information about the cognitive aspects of stress, and connections between thoughts and feelings. Additionally, sessions will encompass coaching on stress management, lifestyle, priority management and tools such as meditation and relaxation techniques. In addition to coaching supported by a registered counselor or clinician with specialized expertise in stress, clients will also receive a letter of resources with information specific to their source or primary stress indication. Clients will also receive a welcome booklet providing an overview of stress issues and stress management techniques. You can access the service by logging into [Homeweb](#), and contacting Homewood's customer service centre.

If you have wellness questions, or are looking for wellness information, visit the NSLAP website at www.nslap.ca. For more information and support, along with resources and counselling to improve your health and wellness, register with Homewood Health™ <https://homeweb.ca/>. Please note that NSLAP is your “company” name when you register.

Call in confidence, 24 hours a day: 1 866 299 1299 (within Nova Scotia) | (See the website for details about [calling from outside Nova Scotia](#)) | 1 866 398 9505 (en français) | 1 888 384 1152 (TTY).

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LIANS AUDIT COMMITTEE VACANCY

With a term limit retirement, LIANS is seeking expressions of interest to fill the non-Board seat on its three person Audit Committee commencing October, 2020. The Audit Committee assists the Board of Directors in fulfilling its oversight responsibilities by reviewing LIANS financial information, internal controls and audit processes.

Interested Members and non-lawyers with relevant experience are welcome to apply. Members are welcomed, and encouraged, to forward this request to anyone they believe would be interested in becoming a member of the Committee. LIANS is committed to equity and diversity and we especially encourage those from historically underrepresented groups to apply.

Part of your expression of interest will include completion of LIANS' [skills matrix](#).

This seat is an opportunity to participate in the management of the not-for-profit association that provides the mandatory professional liability coverage for Nova Scotia's lawyers.

Those interested are asked to submit a cover letter, resume and the completed [skills matrix](#) to LIANS' Governance Committee c/o LIANS Director of Insurance, [Lawrence Rubin](#). Applications are welcome until Sept 8, 2020.

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[Share](#)

[◀ PREVIOUS](#)

[NEXT ▶](#)

[Back to LIANSwers: 63](#)

[CLIA](#)

[NSBS](#)

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LIANS BOARD OF DIRECTORS VACANCIES

With term limit retirements, LIANS is seeking expressions of interest to fill two vacancies on its Board of Directors commencing January 2021.

Interested Members are welcome to apply. Members are also welcomed, and encouraged, to forward this request to anyone they believe would be interested in becoming a member of the Board. LIANS is committed to equity and diversity and we especially encourage Members from historically underrepresented groups to apply.

One of those retiring is the sole Board member from Cape Breton so ideally, one of the new members will come from that region.

Part of your expression of interest will include completion of LIANS' [skills matrix](#). Though individual Board members need not have all of the skills being sought, it is hoped that the Board and its committees will, as a collective, have them all. We value the varied opinions, perspectives and experiences all our Board members bring.

A Board seat is an opportunity to participate in the management of the not-for-profit association that provides the mandatory professional liability coverage for Nova Scotia's lawyers. With Board membership also comes the opportunity to sit on one (or more) of LIANS' standing committees: audit, investment, governance, claims and the lawyers' assistance program.

Those interested are asked to submit a cover letter, resume and the completed [skills matrix](#) to LIANS' Governance Committee c/o LIANS Director of Insurance, [Lawrence Rubin](#). Applications are welcome until Sept 8, 2020.

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◀ PREVIOUS

NEXT ▶

Back to LIANSwers: 63

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[NSBS](#)

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[Home](#) → [News](#) → [LIANSwers](#)

Issue 63 | May 2020

LIANSWERS

This newsletter includes information to help lawyers reduce the likelihood of being sued for malpractice. The material presented is not intended to establish, report, or create the standard of care for lawyers. The articles do not represent a complete analysis of the topics presented, and readers should conduct their own appropriate legal research.

LIANS' INSURANCE LEVY FOR 2020-2021

The 2020-2021 LIANS Insurance Levy was approved by LIANS' Board of Directors on April 21, 2020.

The net levy for the policy year commencing July 1, 2020 is \$2,119 for each full practising Member, \$1,060 for Nova Scotia Legal Aid lawyers and \$350 for Nova Scotia government lawyers. Though the full practising and legal aid levies have increased from last year, the levy remains below the true cost of the insurance.

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REPORT ALL CLAIMS WITHIN THE POLICY YEAR BY JUNE 30, 2020

Your insurance policy requires that you report a claim (or potential claim) to LIANS as soon as practicable after learning of it or becoming aware of circumstances that might constitute an occurrence or give rise to a claim, however unmeritorious. Furthermore, you must report that claim (or potential claim) within the policy period in which you become aware of it. These are conditions of your policy. The current policy period ends June 30, 2020.

Therefore, if you are currently aware of a claim or a potential claim, even if you believe the claim or potential claim to be without merit, you must report it by June 30, 2020.

Furthermore, you should report to your insurer when:

You discover a mistake which has, or may cause, the client damage. This is true even if the client has no intention of advancing a claim against you as the client may advance a claim in the future. Early claim reporting allows investigation and possible mitigation of the problem before it becomes worse or more costly.

You receive any threat or communication of intention to sue from a client or his or her lawyer. You should not second-guess the client's intentions and wait for a clearer indication that the client is serious.

Your handling of a matter is criticized by a member of the judiciary or in a public document.



Another lawyer, on behalf of your former client, requests your file on a particular matter. This action should cause you to be cautious, especially if the former client’s lawyer does not give an explanation or expresses concerns about your handling of the matter.

A client expresses dissatisfaction with your handling of a particular matter and there is some indication the client believes he or she has suffered a loss or incurred damages.

Click here to [Report a Claim to LIANS](#)

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◀ PREVIOUS

NEXT ▶

Back to LIANSwers: 63

CLIA

NSBS

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SPEAK NO EVIL: INJUNCTIONS FOR BREACH OF CONFIDENTIALITY OBLIGATIONS

What do you do if your client's confidential information ends up in the possession of an innocent recipient who may not realize that the information is confidential? Can you stop further dissemination? In some cases it may be too late to regain confidentiality. In others, it may be possible if you have the right circumstances and act early enough.

In *Cascade Aerospace Inc. v. AGNL Avionics Abbotsford Nominee, ULC*, Docket S197182, July 30, 2019, an unreported decision of the B.C. Supreme Court, Cascade had to provide confidential financial information to its landlord AGNL pursuant to the lease that required the landlord to maintain the information confidential. One day Cascade learned that the financial information had been circulated by AGNL to third parties as part of a marketing package for the sale of a portfolio of assets.

After AGNL refused to provide a distribution list of the information, Cascade sought an injunction (i) enjoining AGNL and anyone else who received any of the confidential information from dealing with it, (ii) requiring AGNL to disclose the names and addresses of all third parties who were provided with the information, (iii) requiring AGNL to serve all recipients with the order and provide an affidavit of service, and (iv) requiring each person who received the confidential information to serve a copy of the order on any person to whom they provided the information and disclose their names and addresses to Cascade.

The parties agreed that the test to granting the injunction was that set out in *RJR-MacDonald v. Canada (Attorney General)*, [1994 CanLII 117 \(SCC\)](#). At page 334:

First, a preliminary assessment must be made of the merits of the case to ensure that there is a serious question to be tried. Secondly, it must be determined whether the applicant would suffer irreparable harm if the application were refused. Finally, an assessment must be made as to which of the parties would suffer greater harm from the granting or refusal of the remedy pending a decision on the merits.

On the first question, the court found that there was going further to say that though in cases of covenants not to disclose confidential information, the required strength of an applicant's case for an injunction is on the lower end of the spectrum only needing to show that the claim is not frivolous here the Court found that Cascade had established a prima facie case for breach of the lease by AGNL. On the second question the court concluded that Cascade would suffer irreparable harm should the injunction not be granted and moreover that the harm was not quantifiable in monetary terms. As to the third question, all aspects of the matter favoured Cascade and thus the Court granted the injunction leaving it to the arbitration pursuant to the terms of the lease to deal with a specific remedies against AGNL.

Of note, the Court stated that the fact that AGNL had alerted all recipients to the disclosure and obtained NDAs from such individuals after the fact did not negate the initial breach. It also stated that, in assessing irreparable harm, the fact that the precise nature and extent of the damage is unknown does not mean that the damage is speculative. Last the public interest is served by holding parties who wrongfully disclose confidential information to account.

It may be that the key to a remedy such as this is early discovery of the release to permit it to be dealt with before the information becomes widely known.

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◀ PREVIOUS

NEXT ▶

[Back to LIANSwers: 63](#)

[CLIA](#)

[NSBS](#)

[Disclaimer](#)

[Privacy](#)

[Terms of Use](#)



Home → News → LIANSwers

Issue 63 | May 2020

LIANSWERS

This newsletter includes information to help lawyers reduce the likelihood of being sued for malpractice. The material presented is not intended to establish, report, or create the standard of care for lawyers. The articles do not represent a complete analysis of the topics presented, and readers should conduct their own appropriate legal research.

TRUE STORIES IN SUCCESSION PLANNING (FROM AFRS)

A sole practitioner says, “I’m too small, I practice at home, I don’t need a succession plan, it isn’t a priority.” The lack of a functioning succession plan carries several unnecessary risks. Here are two:

If the lawyer suddenly becomes unable to practice, nobody will be able to notify their clients, particularly those who could be prejudiced or seriously inconvenienced.

If the lawyer has no plan, there will be no direction to the Society of what it might have to do upon learning of the lawyer’s incapacity.

Most likely, the NSBS would have to seek a custodianship order and ability to access the lawyer’s office and computer (even if at home), all at a time when the lawyer’s family might be grieving. A suitable succession plan, designed for your practice, can prevent problems for clients and your family. It needn’t be onerous to create. Check out the NSBS’ ["Succession Planning & Exiting Practice"](#) page and/or contact [Legal Services Support](#) for assistance.

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◀ PREVIOUS

NEXT ▶

[Back to LIANSwers: 63](#)

[CLIA](#)

[NSBS](#)

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[Privacy](#)

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TURN PDFS INTO TEXT-SEARCHABLE AND COPY/PASTE READY DOCUMENTS

Adobe PDF software can access and modify text that would otherwise be locked in paper-based and PDF documents. Using its OCR (Optical character recognition) feature, you can easily convert typed, printed, even some clearly hand printed text into editable and searchable data. This saves an incredible amount of human-powered reading, searching for keyword(s), and unnecessary retyping.

Here are steps you can take to digitally transform a document into one that you can search for keywords/phrases, or easily copy/paste a quotable passage into a new document. Note: If you need to preserve a copy of the original, unmodified document, you may want to save a new copy and OCR the new version.

If it is a paper document, you must first electronically scan the pages and save as a PDF document.

Once a PDF version is created using Adobe software, open the document and access the 'Tools' menu (typically in the top right corner), and select 'Text Recognition'.

Select 'In This File', then 'All Pages', and click OK.

You may now use your cursor to highlight and select passages of text to copy and paste into a new document.

To search the document for a keyword or phrase, type "Ctrl F" on your keyboard (or "Command F" on a Mac), and enter the desired text into the 'Find' field'

Be sure to save the OCR'd version as a new file in order to revisit the document and continue to search/copy-paste

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◀ PREVIOUS

NEXT ▶

Back to LIANSwers: 63

[CLIA](#)

[NSBS](#)

[Disclaimer](#)

[Privacy](#)

[Terms of Use](#)

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Home → News → LIANSwers

Issue 63 | May 2020

LIANSWERS

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UP TO CODE: SUPERVISION OF STAFF



Staff can be wonderful at helping deliver legal services, but lawyers sometimes leave too much in their hands. Staff have to be supervised, even if you call them a “paralegal.” The [NSBS Code of Professional Conduct](#) requires it:

“6.1-1 A lawyer has complete professional responsibility for all business entrusted to him or her and must directly supervise staff and assistants to whom the lawyer delegates particular tasks and functions.”

Leaving staff - without the lawyer's direct supervision - to conduct and close transactions, work for days without guidance, or run satellite offices on their own, all put the lawyer at greater risk of error or omission and contravene the *Code*. They are also a reputational risk, because it's inevitable that others will find out.

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