

## Tip for Getting the Best Professional Liability Coverage at a Fair Cost

By W. Brian Ahern – Ahern Insurance Brokerage

Regardless of market conditions, a law firm can have an immediate impact on the price they pay for malpractice insurance by managing their risk profile through good risk management and by realizing that their professional liability application is truly a marketing document that will be reviewed by various underwriters.

### Positioning the Risk

Positioning your practice in a way that appeals to insurance underwriters is the key to maximizing savings. Disclosing as much information as possible can make a big difference in how an insurance underwriter views your application prior to quoting. A knowledgeable broker will be able to assist you with this process.

### Attorneys Roles

When applying for professional liability insurance, be sure to indicate which attorneys are full time, part time or of counsel to save being charged a full rate for attorneys working less than full time. If your firm has of counsel attorneys, define what their role is within your organization, how many hours they bill, if they have their own letterhead and carry their own coverage. When working with co-counsel insist they have adequate coverage for the case you are sharing.

### Good Practice Management

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

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

### Money Management

Be diligent about your accounts receivable. Underwriters don’t want to see that your clients owe you significant amounts of money. If you find yourself in that position, explain why (perhaps it is the type of clients you have, such as insurance companies or the practice area you specialize in, such as bankruptcy work) and the methods you are using to collect the funds. When you sue a client for fees, there is a still a likelihood that the client will file a cross-complaint for malpractice regard-

less of whether the one year statute of limitations has run.

### Previous Claims

If your firm has a previous malpractice claim, it is important to disclose what risk management procedures you have put in place to avoid future claims and explain in detail why another claim is unlikely. If the claim was ill-founded, specifically state why. Consider having your defense counsel draft a summary of the claim for the application, particularly if the claim was non-meritorious but settled in an effort to eliminate further litigation.

### Firm Services and the Web

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

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