

**Committee on Professional Liability Insurance (COPLI)**  
**2009 Year-End Assessment**

**BACKGROUND**

The committee was established by Board resolution in July 1990. Its purpose is to:

Oversee a professional liability program that has congruent goals of providing attorneys with insurance coverage and clients with recourse for malpractice. COPLI should also explore and pursue programs and strategies consistent with the economic viability of the program, to make professional liability insurance available to as many California attorneys as possible. COPLI oversees and reports to the Board of Governors and/or its designated board standing committee on all aspects of the State Bar approved Professional Liability Insurance Program including, but not limited to, the following:

1. Interact with the Program Administrator and the Underwriter. Make recommendations, consider premium rates, benefits, limitations, exclusions and other contract provisions in relation to needs of the members of the State Bar generally as well as those provisions necessary to maintain the economic viability and stability of the program;
2. Oversee and interact with the Program Administrator to ensure the broadest dissemination of information regarding the program, the ease of members in applying for the program and other such steps as may be necessary or appropriate to precipitate program growth consistent with economic stability of the program;
3. Interact with both the Program Administrator and the Underwriter to anticipate and implement program changes, coverages, specialty policies, and such matters as may respond to the needs of California's practicing attorneys and otherwise precipitate additional programs growth;
4. Undertake such activities as may be necessary or appropriate to advocate with the underwriter on behalf of attorneys desiring to be included in the endorsed program and/or those who may be declined etc.;
5. Conduct such studies as may be necessary or appropriate to identify causes, frequency, and severity of legal malpractice claims; interact with the carrier to both precipitate and assess satisfaction levels of program members following initiation of legal malpractice claims;
6. Design, schedule, and conduct malpractice avoidance education programs available to attorneys throughout the state which qualify for MCLE credit for program members, develop and update materials on malpractice prevention.

7. Engage in audits and reviews necessary to ensure both the economic viability of the program and the availability thereof to the broadest range of California attorneys. Propose such changes in the program structure, etc., as may be necessary or appropriate to accomplish such goals;
8. Take steps to identify those aspects of the Professional Liability Insurance Program that may generate additional non-dues revenue.
9. Assist the Office of General Counsel in providing legal advice to the Board of Governors with respect to all of the foregoing items.
10. Conduct an annual orientation session for new members of the Committee, Board members, State Bar staff, and the Executive Director on all of the above listed aspects of Committee oversight of the State Bar sponsored professional liability program.
11. Comply with all reporting and planning requirements of the Board of Governors approved Strategic and Operational plans. Comply with the annual work plan requirement for all Board of Governors' committees.
12. Ensure that all the above listed advisory responsibilities, 1-11, are conducted in consultation with State Bar of California staff designated by the Executive Director.

## **2009 YEAR-END ASSESSMENT**

The following is a summary of COPLI's activities in 2009 that furthered its charge:

### **Professional Liability Insurance Program (PLI)**

- The committee held four meetings, including an overnight planning session in July 2009.
- The committee performed an actuarial review of the PLI program to evaluate the program's loss ratio and profitability.
- Completed a full two years of the New Admittee product offering. This has provided early access into the market at an attractive cost for starting attorneys and is likely to foster allegiance to the sponsored program. It has also substantially increased the number of policies in the State Bar sponsored PLI program.

### **Market Review**

- COPLI continued to monitor the market to insure the availability of coverage to all members and adequacy of policy features.

## **Disclosure of Professional Liability Insurance**

- Members of the committee participated in the vetting of the proposed new rule 3-410 of the California Rules of Professional Conduct that was adopted by the Board of Governors in May 2008 for submission to the Supreme Court.
- The Supreme Court passed the rule on August 26, 2009 with an effective date of January 1, 2010.
- COPLI will work with State Bar staff on the communication and educational guidance for compliance with this rule.

## **Mediators and Arbitrators Professional Liability Insurance**

- COPLI received 2 bids for this product in March 2009; Lockton and Marsh Affinity Group Services (Marsh).
- The RFP team made a formal recommendation to the Board and the bid was later awarded to Marsh, who submitted a joint bid on behalf of Marsh and the existing carrier.
- In August 2009, The Department of Insurance granted approval for us to offer this sponsored product as a subset of our existing PLI program through Arch and Marsh.
- The product, intended for judges was introduced to the membership at the State Bar Annual Meeting in Sept 2009 and the program has started to place policies since that date.

## **Education**

- The Education subcommittee conducted two malpractice prevention seminars for MCLE credit. The first at the State Bar Solo and Small Firm Summit and the other at the State Bar Annual Meeting. The latter included information on the recently approved Malpractice Disclosure Rule.

## **Revenue**

- The sponsored insurance program generated \$819,535 in 2009. These funds were used in part to directly support the State Bar's Lawyers Assistance Program.
- The 2009 Committee budget: \$ 35,000