

About the PLF

The Oregon State Bar Board of Governors created the Professional Liability Fund in 1977 pursuant to state statute ([ORS 9.080](#)) and with approval of the membership. The PLF first began operation on July 1, 1978, and has been the mandatory provider of primary malpractice coverage for Oregon lawyers since that date.

The PLF provides coverage of \$300,000 per claim/\$300,000 aggregate to every attorney engaged in the private practice of law in Oregon. This coverage includes defense costs and, in addition, there is a \$50,000 claims expense allowance. In 2018, the basic assessment for this coverage is \$3,500 for each attorney; the assessment has remained the same for seven consecutive years.

The PLF's philosophy is that a program of this type must be mandatory for all lawyers in private practice in the state, as purely voluntary participation could result in adverse selection and a concentration of only the "bad" risks, leading to financial instability. Over time, the cost of coverage provided by the PLF has proved to be less than the cost of comparable commercial coverage.

Protecting Oregon Lawyers

Of the roughly 14,950 active members of the Oregon State Bar who live in Oregon, approximately 7,300 are in private practice and participate in the PLF. The remaining Bar members claim exemption from the PLF as corporate counsel, government lawyers, law professors, etc. These numbers fluctuate slightly throughout the year.

The coverage provided by the PLF is on a "claims made" basis rather than an "occurrence" basis. The PLF also provides automatic extended reporting or "tail" coverage at no cost to attorneys who discontinue practicing law in Oregon.

The PLF has enjoyed support from the membership and very good success with the handling of its claims. Based on recent data, roughly 67% of claim files are closed without payment of any settlement or judgment, while 33% involve some payment to a claimant. The average claim payment (including claims for which no payment was made) is approximately \$9,600. Roughly 40% of claim files are closed without payment of any claims expense, while 60% involve some claims expense. The average claims expense paid on a claim (including claims with no claims expense) is approximately \$11,400.

Services We Provide

In order to keep malpractice claims as low as possible, the PLF offers an extensive array of loss prevention programs, including (1) legal education seminars, publications, and practice aids that alert lawyers to malpractice traps, (2) a practice management advisor program that helps lawyers improve office systems and procedures, and (3) a personal assistance program that helps lawyers practice more effectively ([Oregon Attorney Assistance Program](#)).

Beginning in 1991, the PLF has also offered optional [excess coverage](#) on an underwritten basis to Oregon law firms. Coverage is available up to aggregate limits of \$10 million. Excess coverage is also available from commercial insurers. Roughly half of the lawyers in private practice carry some excess coverage.

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2015 ORS 9.080¹

Duties of board of governors

- **professional liability fund**
- **quorum**
- **status of employees of bar**

- (1) The state bar shall be governed by the board of governors, except as provided in ORS 9.136 (House of delegates created) to 9.155 (Recall of delegate). The board is charged with the executive functions of the state bar and shall at all times direct its power to the advancement of the science of jurisprudence and the improvement of the administration of justice. It has the authority to adopt, alter, amend and repeal bylaws and to adopt new bylaws containing provisions for the regulation and management of the affairs of the state bar not inconsistent with law.
- (2) (a)(A) The board has the authority to require all active members of the state bar engaged in the private practice of law whose principal offices are in Oregon to carry professional liability insurance and is empowered, either by itself or in conjunction with other bar organizations, to do whatever is necessary and convenient to implement this provision, including the authority to own, organize and sponsor any insurance organization authorized under the laws of the State of Oregon and to establish a lawyer's professional liability fund. This fund shall pay, on behalf of active members of the state bar engaged in the private practice of law whose principal offices are in Oregon, all sums as may be provided under such plan which any such member shall become legally obligated to pay as money damages because of any claim made against such member as a result of any act or omission of such member in rendering or failing to render professional services for others in the member's capacity as an attorney or caused by any other person for whose acts or omissions the member is legally responsible.
 - (B) The board has the authority to assess each active member of the state bar engaged in the private practice of law whose principal office is in Oregon for contributions to the professional liability fund and to establish the date by which contributions must be made.
 - (C) The board has the authority to establish definitions of coverage to be provided by the professional liability fund and to retain or employ legal counsel to represent the fund and defend and control the defense against any covered claim made against the member.

- (D)** The board has the authority to offer optional professional liability coverage on an underwritten basis above the minimum required coverage limits provided under the professional liability fund, either through the fund, through a separate fund or through any insurance organization authorized under the laws of the State of Oregon, and may do whatever is necessary and convenient to implement this provision. Any fund so established shall not be subject to the Insurance Code of the State of Oregon.
- (E)** Records of a claim against the professional liability fund are exempt from disclosure under ORS 192.410 (Definitions for ORS 192.410 to 192.505) to 192.505 (Exempt and nonexempt public record to be separated).
- (b)** For purposes of paragraph (a) of this subsection, an attorney is not engaged in the private practice of law if the attorney is a full-time employee of a corporation other than a corporation incorporated under ORS chapter 58, the state, an agency or department thereof, a county, city, special district or any other public or municipal corporation or any instrumentality thereof. However, an attorney who practices law outside of the attorney's full-time employment is engaged in the private practice of law.
- (c)** For the purposes of paragraph (a) of this subsection, the principal office of an attorney is considered to be the location where the attorney engages in the private practice of law more than 50 percent of the time engaged in that practice. In the case of an attorney in a branch office outside Oregon and the main office to which the branch office is connected is in Oregon, the principal office of the attorney is not considered to be in Oregon unless the attorney engages in the private practice of law in Oregon more than 50 percent of the time engaged in the private practice of law.
- (3)** The board may appoint such committees, officers and employees as it deems necessary or proper and fix and pay their compensation and necessary expenses. At any meeting of the board, two-thirds of the total number of members then in office shall constitute a quorum. It shall promote and encourage voluntary county or other local bar associations.
- (4)** Except as provided in this subsection, an employee of the state bar shall not be considered an "employee" as the term is defined in the public employees' retirement laws. However, an employee of the state bar may, at the option of the employee, for the purpose of becoming a member of the Public Employees Retirement System, be considered an "employee" as the term is defined in the public employees' retirement laws. The option, once exercised by written notification directed to the Public Employees Retirement Board, may not be revoked subsequently, except as may otherwise be provided by law. Upon receipt of such notification by the Public Employees Retirement Board, an employee of the state bar who would otherwise, but for the exemption provided in this subsection, be considered an "employee," as the term is defined in the public employees' retirement laws, shall be so considered. The state bar and its employees shall be exempt from the provisions of the State Personnel Relations Law. No member of the state bar shall be considered an "employee" as the term is defined in the public employees' retirement laws, the unemployment compensation laws and the State

Personnel Relations Law solely by reason of membership in the state bar. [Amended by 1955 c.463 §2; 1975 c.641 §3; 1977 c.527 §1; 1979 c.508 §1; 1983 c.128 §2; 1985 c.486 §1; 1989 c.1052 §5; 1995 c.302 §17; 2015 c.122 §4]

¹ Legislative Counsel Committee, *CHAPTER 9—Attorneys; Law Libraries*, https://www.oregonlegislature.gov/bills_laws/ors/ors009.html (2015) (last accessed Jul. 16, 2016).

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