

## PLIC Bulletin

September 2006

**To: CCLS Member Association Presidents and Chief Administrative Officers**  
**FROM: CCLS Professional Liability Insurance Committee**  
**RE: Information for Association Representatives and Request for Feedback**

This information bulletin has been produced to inform the member association representatives about the CCLS professional liability insurance program and to solicit feedback on a number of related issues. While the information will not be as relevant to the Ontario and Quebec associations, which do not participate in the CCLS program, it will be informative.

Please send any questions, comments and feedback to Sarah Cornett, PLIC Secretary, care of the CCLS office.

### **RETIREMENT AND PAST ACTIONS INSURANCE**

The Encon professional liability insurance program for land surveyors, endorsed by the CCLS, has a unique provision for retirement and past actions insurance. For detailed information about this program, Encon has published a bulletin (see <http://www.encon.ca/english/lcb/> or contact the CCLS office for a copy), and the program broker is available to answer specific questions about individual situations. An overview of some of the important aspects of the program is provided here.

#### When to consider Retirement/Past Actions coverage:

A surveyor should consider a past acts and retirement policy in the following circumstances:

- a. If a surveyor was a named insured within a firm that has shut down.
- b. If a surveyor has retired from private practice.
- c. If a surveyor has left private practice to work in the public sector.

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If the surveyor is fully retired, then the coverage will be under the Retirement portion of the program. If the surveyor is working elsewhere, the Past Acts portion is applicable.

### A 'claims made' policy:

The Encon policy is a 'claims made' policy. That means a current policy must be in place when a claim is actually made, not when the act leading to the claim took place. If a policy has lapsed, there is no longer coverage under the policy. This is true of the regular active member\corporation policy and the past acts and retirement policies. Therefore in moving from active insurance coverage by Encon, either one or both of the retirement of past acts policies should be chosen to have continuous coverage.

### Individual coverage only:

The Retirement/Past Actions program will not provide any protection for the land surveying firm itself. Coverage is only intended to protect the individual surveyor.

### Eligibility:

There are specific eligibility requirements for the program including that the surveyor must have been insured with the CCLS program for at least two consecutive years prior to joining the Past Actions/Retirement program.

### Annual renewal required through the association:

As with any insurance policy there is a fixed term of coverage. The CCLS Past Actions/Retirement policy term is one year. A renewal form must be submitted annually. This is to ensure that the policy remains active and the insurer has current information about the insured (i.e. that the policy is still needed, that the type of coverage is still appropriate, and that contact information is correct). In order to facilitate this renewal process, the surveyor must remain listed in some manner with their association. The annual renewal package for all surveyors under the program is sent out and returned to the broker through the association.

### A master policy:

A master Retirement/Past Actions policy is issued with an endorsement for each association listing the individual surveyors insured under the policy. This master policy is sent to the participating association offices, and the CCLS office, and not to each insured individual.

### Premiums and deductibles:

Currently there is no annual premium charged beyond the two prior years noted above in eligibility for Retirement\Past Acts coverage under the CCLS program. Because there is no revenue associated with the program for the broker or for the insurer, administration of the policy is streamlined as described above. Deductible will also be zero if the surveyor is fully retired, however certain conditions may apply in individual cases.

## **ASSOCIATION REQUIREMENT FOR REPORTING OF CLAIMS**

In years past the associations requested a requirement be placed on the CCLS professional liability insurance program that surveyors report any claims directly to their associations. The reason for the direct reporting from the surveyor was that the CCLS could not breach confidentiality of the insured surveyor by reporting the existence of a claim to the association, but the associations wanted to be aware of claims.

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The CCLS Professional Liability Insurance Committee (PLIC) is requesting that associations reconsider this reporting policy for the following reasons.

1. The associations do not appear to be making use of the information and are limited by confidentiality issues as is the PLIC.
2. Statistics concerning numbers of claims in a jurisdiction, cumulative value of claims, particular trends in the types of claims, etc. are available to the associations from the PLIC on request.
3. The level of compliance with the requirement to report to the association is unknown and enforcement through the association, the PLIC or the insurer is impractical.
4. Because the requirement was included in the policy wording, non-compliance could potentially (however unlikely) cause problems for the insured.

The PLIC would appreciate your consideration of discontinuing any request or requirement for surveyors to report claims to the association. We ask that you inform the PLIC of the results of your discussions with your members or changes that you make to statutes, bylaws or policies that would remove the requirement of insureds reporting claims to their associations. The committee regards the reporting of claims as a condition of a business contract (the insurance policy) between the insured and the insurer. The recent privacy legislation tends to complicate continuing this reporting practice also.

### **PROFESSIONAL LIABILITY INSURANCE FOR ASSOCIATIONS**

The CCLS Professional Liability Insurance Committee is recommending that any association that performs peer competence review of its members, have professional liability insurance in place to cover those activities. While we are not aware of any claims against a surveyors association, there may be potential liability if surveyors in the employ of the association are deemed to have given advice or opinions on survey related matters in the course of their work.

We know several associations already have this coverage and if they are willing to share some information, contact Sarah Cornett, Secretary of the PLIC and we can inform the other associations of your contact information.

### **INSURANCE AND PRACTICE MANAGEMENT PRESENTATIONS**

In the last several years the PLIC, with the generous support of Encon and Jardine Lloyd Thompson, have arranged for a variety of presentations to associations on professional liability insurance and related practice management issues. Some examples are as follows:

1. A 20 – 30 minute presentation on PLIC and current insurance issues given by a committee member or a CCLS Executive member. PLIC has developed a slide presentation that can be updated and customized and included in any meeting and has been presented at several recent association annual meetings.
2. A longer presentation (90 – 120 minutes) on a specific issue of interest given by a subject expert. The PLIC arranged a 90 minute presentation on warranty and guarantee issues in professional service contracts presented by a lawyer and sponsored by Encon at the June 2006 ACLS annual meeting.

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3. A half-day seminar presented by a team made up of a PLIC member and subject experts from Encon and/or Jardine. These seminars follow a different format than the previous loss control seminars and can be tailored to the audience and contain information on specific issues of interest, recent regional trends in the CCLS program, and highlights of the land surveyors policy and processes. We see a much better attendance from the associations that award professional development credits for attendance at our loss prevention seminars. It may be time for those associations that don't award credits for this aspect of professional development to review the merits of better attendance and communication of this vital aspect of a business practice for its members.

The primary focus of all of these presentations is to provide relevant information in an efficient way. Obviously face-to-face presentations involve considerable expense, especially if travel and subject matter experts such as lawyers, adjusters, claims analysts or brokers are involved. In most cases, the longer presentations will only be offered in an annual meeting setting to ensure good audience numbers. In all cases, the PLIC, the program managers and the program brokers are available to discuss the individual needs of the hosting association.

### OTHER EDUCATIONAL RESOURCES

The PLIC, with the cooperation of the Encon Group and Jardine Lloyd Thompson Canada Inc., have collaboratively produced several other educational resources for Canadian surveyors. These resources are available to any surveyor regardless of their insurance provider and provide information that is non-program specific as well as information about the CCLS endorsed insurance program. All of the information described below is available on the PLIC page of the CCLS web site at <http://www.ccls-ccag.ca/profliability.htm> or from the CCLS office.

#### The Committee:

The PLIC is made up of five professional surveyors with representation from across the country. These individuals have a combined 45 years of experience with the CCLS insurance program and many more years of experience surveying. They are available to answer questions whenever they can and to point surveyors in the direction of the right answers if expert advice is needed. They will support the CCLS endorsed program because they believe it to be a quality product, but they are available to any Canadian surveyor who has a professional liability insurance question regardless of who they are insured with.

#### The Brochure:

The PLIC publishes a brochure with basic information about the CCLS program and full contact information for the committee members, insurance managers and brokers. It is updated regularly and has recently been given a complete revamping with the new CCLS logo and improved content. The brochure is available from the CCLS office, on the CCLS web site, and is circulated with renewals, claim correspondence, and at annual meetings and loss control presentations.

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### The Guide:

The Loss Prevention and Practice Management Guide, known as “The Guide”, is a collection of articles and information on many issues related to professional liability insurance and risk management. It was prepared and is regularly updated by the PLIC in cooperation with the Encon Group and Jardine Lloyd Thompson Inc. It contains specific information about the CCLS program and much general information that is valuable to any surveyor regardless of their insurance provider. It contains information about the claims process itself as well as valuable information to help avoid claims.

The Guide is available free in .pdf format on the CCLS web site or for a minimal fee to cover printing and postage from the CCLS office.

### The Loss Control Bulletins:

The Encon Group publishes periodic Loss Control Bulletins in cooperation with the PLIC. These bulletins address current issues and are written by subject experts with input from committee members to ensure relevance to the practicing surveyor. The bulletins are available on the Encon web site and linked to the PLIC page of the CCLS web site. Most are also available in hard copy on request.

### The Claims Processing Follow-up Questionnaire:

The PLIC distributes follow-up questionnaires to all surveyors who experience a claim under the CCLS program. The questionnaire is sent by the Encon claims analyst when a claim is substantively settled. The surveyor involved is asked to complete the questionnaire and return it directly to the PLIC at the CCLS office. While the specific responses are confidential to the committee to encourage candid comments, the issues and statistics are collected and passed on the insurance managers to help improve the program. Several changes to the way claims are processed have been implemented as a result of feedback from surveyors. In the last 5 years, we have had an average response rate of 30% and an overwhelming 95% of respondents expressing that they were satisfied or very satisfied with the way their claim was handled.

## **SUMMARY**

In closing, the members of the CCLS Professional liability Insurance Committee would like to emphasize that the CCLS insurance program exists for the CCLS members and is beneficial to all surveyors. Those participating in the program have a high quality, customized insurance product that provides excellent value and the benefit of years of compiled statistics, stability, and the strength that a group program can offer. Those not insured through the program benefit through the benchmarks set by the CCLS program for other insurance providers, and by the expertise and educational resources available to them through the PLIC.

Association representatives and members are encouraged to support the program by referring questions and comments to a member of the PLIC when any problem or negative experience is encountered. Insurance issues are not simple and solutions are not always ideal, but association support through good communication will result in problems being resolved more quickly and accurate information being circulated to assist the individuals involved and improve the program for everyone.