

## WHISTLE-BLOWER COVERAGE: NOW INCLUDED IN SECONDARY PROFESSIONAL LIABILITY INSURANCE

As an engineer, you have a duty to abide by the engineering laws and ethics as set forth by the PEO. Ethical practice supports relationship building and trust with your peers and clients, leading to greater overall achievement and satisfaction in your career. It is also an integral part of engineering best practices and due diligence that allows you to deliver your projects and services with greater success and fewer potential concerns. But what happens when fulfilling your ethical duty leads to potentially unfavourable or damaging circumstances?

### What is Whistleblowing?

Whistleblowing, also known as the duty to report, is raising a concern with someone in authority - either within the workplace, primarily, or externally (such as a regulator) - about a danger, risk, malpractice, or wrongdoing that affects others. When poor engineering practices occur, it can tarnish the reputation of the profession, or in some circumstances, may cause actual harm or danger to the public.

It's unlikely that you would find yourself in a situation with unethical behaviour or incompetence of others, which would require you to take drastic action, but you should always be prepared to voice concerns in a circumstance, where necessary.

According to the PEO Engineering practice guidelines, Section 9.1, "Duty to Warn Involving Safety":

*"Sometimes professional engineers find their advice is not accepted and that the client or employer has no intention of correcting the situation. If the engineer firmly believes that, after exhausting all internal resources, the health and safety of any person is being, or is imminently, endangered, it may be necessary to report these concerns to some external authority, such as a designated regulatory body, a government ministry or ombudsperson. Only in exceptionally rare cases would going directly to the media or a private watchdog agency be justified. Because professional engineers have obligations both to clients and employers, they must exercise discretion in bringing situations to the attention of people outside the business of their employers or clients."*

*As many people know, this is a risky proposition since the whistle-blower is violating moral and legal obligations owed to the employer or client. No one should take this step without seriously considering whether it is necessary. If an engineer has reported the situation through the entire internal management chain, most people would agree that he or she has fulfilled the duty to report. But like civil disobedience, whistleblowing is sometimes the morally correct*

*response to an intolerable situation, especially if people are in danger.*

*Any engineer faced with this decision may also contact PEO for guidance. The association can provide advice to a professional engineer who is dealing with an uncooperative or wilfully negligent client or employer."*

### Secondary Professional Liability Insurance

One of the benefits of being an OSPE member is that you automatically have access to Secondary Professional Liability Insurance (PLI), which now includes whistle-blower coverage.

### What has changed?

Secondary PLI now includes whistle-blower coverage, including:

- ✓ Reimbursement for reasonable legal expenses related to consultations associated with activities as a whistle-blower, subject to a sub-limit.
- ✓ Coverage for costs that you may become legally obligated to pay as damages because of claims covered under this section of the policy, subject to a sub-limit.
- ✓ Lost income replacement needed if your employment is terminated due to your activities as a whistle-blower, subject to a sub-limit.
- ✓ Reimbursement for costs to hire a company to assist you in seeking new employment as a result of your current employment being terminated, subject to a sub-limit.

There are many benefits to being a member of the Ontario Society of Professional Engineers (OSPE). The enhancements made to the Secondary PLI policies for OSPE members is one of the ways that OSPE continues to enhance value to members.

For more information regarding both Primary PLI and Secondary PLI, please visit the BMS Canada Risk Services website.

*BMS is the exclusive broker for OSPE's liability insurance program. Contact us for more information.*