

Understanding Your Coverage

Professional Liability Insurance:

Occurrence vs. Claims-Made Policy Forms



Professional liability insurance, or as it is also called, medical malpractice insurance, is available in two contract forms: occurrence and claims-made.

Occurrence policies offer coverage for claims that occur while the policy is in force. Even if the policy has expired or been canceled, if the incident occurred while the policy was active, coverage is offered.

For example, you purchase an occurrence policy on January 1, 1990, and retire on December 31, 2010. If a medical malpractice claim occurs and is reported anytime during the 20 years the policy is in force, coverage is offered. In addition, if a patient is injured on July 10, 2010, but does not report the claim until May of 2011 (after the policy has expired), the occurrence policy still offers coverage.

As long as the policy was in force at the time the alleged injury took place, coverage is offered under the occurrence policy. As some health conditions may take years to manifest themselves and the occurrence policy provides protection ad infinitum, this can be an important policy feature.

Claims-made policies offer coverage for claims that occur and are reported while the policy is in force. Once the policy expires, coverage expires.

As in our example above, you purchase a claims-made policy on January 1, 1990, and retire on December 31, 2010. As with the occurrence policy, if a medical malpractice claim occurs and is reported anytime during the 20 years the policy is active, coverage is offered. The difference in the policy forms matters if a claim occurs on July 10, 2010, but is not reported until May of 2011. Since the claims-made policy has now expired, there would be no coverage.

Tail coverage extends the time alleged incidents may be reported on a claims-made policy. A tail offers coverage for incidents that happened while the claims-made policy was effective, but were reported after the policy expired.

Depending on the insurance provider, if the insured meets certain requirements, tail coverage may be offered for free. If the requirements have not been met, the claims-made policy may come with the option to purchase tail coverage for a specified time period.

Prior acts coverage is another important feature of a claims-made policy. It relates to claims that occurred before the inception of a claims-made policy. This concept becomes important when switching claims-made policies.

To help protect against a lapse in coverage, when switching insurance companies consider the option of purchasing tail coverage on your old insurance policy or purchasing prior acts coverage from your new insurer.

Claims-made policies have a 'retroactive date.' For example, you start your practice on January 1, 2009, and purchase a claims-made policy on the same day. Your retroactive date is January 1, 2009.

On December 31, 2012, you decide to switch insurance companies. To help protect against claims that occurred between 2009 and 2012, but have not yet been reported, consider purchasing tail coverage on your old policy, or purchasing prior acts coverage on your new policy. If you choose the latter, the new insurance company would pick up your retroactive date of January 1, 2009, and offer coverage for claims that go back to that date.

Considering the added complexity that is inherent with the claims-made policy, you may be asking yourself, why would anyone purchase a claims-made policy? The answer, quite simply, is the price.

Premiums are lower during the first few years of a claims-made policy. This is due to something called

'step rating.' Over the first several years of the claims-made policy the insured receives a decreasing discount. At the end of the step-rating period, the claims-made policy rate levels off and becomes comparable to the occurrence policy rate.

Due to the lower initial premium, which can be especially important when first starting a practice, many healthcare professionals tend to opt for the claims-made policy. With this route, when you get your renewal billings, remember that the claims-made policy is likely not experiencing a rate increase—the decreasing discount is merely going away.

One of the common concerns we hear among healthcare professionals is that they are afraid to switch their claims-made policy because they think they may have a lapse in coverage; however, working with your broker can help you obtain tail coverage or prior acts coverage. You are free to shop for better rates, coverage and service.

Which policy form is right for you? That depends upon your individual situation. Speak with a Healthcare Providers Service Organization representative. They will be happy to discuss with you which policy form best fits your needs. Call 800.982.9491. We're here to help.



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