

Claims-Made or Occurrence



When it comes to healthcare malpractice insurance, you've got two coverage choices – claims-made or occurrence.

So what's the difference?

THE BASICS

In 1899, a small group of doctors pooled their resources to protect their reputations and assets from a newly discovered risk: healthcare malpractice.

When drafting the insurance policy to bind them all together and shield them from this risk, they sought to ensure adequate financial protection for decades of practice. To achieve that objective, the doctors chose what would later be called occurrence coverage.

Occurrence coverage became the industry standard for the next 70 years; however, when healthcare malpractice claims spiked during the 1970s, most insurance companies stopped offering occurrence coverage and only offered claims-made coverage, which is more favorable financially to the insurance companies. **Both policy types remain today.**

OCCURRENCE:

Occurrence coverage is triggered the moment treatment occurs, regardless of when an eventual claim is made. For example, if a claim is made today based on treatment rendered in 2011, the 2011 occurrence policy responds.

CLAIMS-MADE:

Claims-made coverage is triggered when the claim is made. For example, if a claim is made in 2013, based upon treatment rendered in 2011, the 2013 claims-made policy responds, as long as the healthcare incident occurred after the policy's retroactive date. (The policy's retroactive date is the date after which treatment must occur to trigger coverage.)



THE BASICS (CONTINUED)

Though the above distinction might seem like an insurance technicality, the reality is that selecting your policy type is one of the most significant decisions you'll make when buying professional liability coverage for two reasons:

1 LIMITS

With occurrence coverage, you receive a separate set of limits every year you have the coverage. Also, occurrence policy limits remain in place after the end of the policy period to pay claims arising from healthcare incidents occurring during the policy period.

In contrast, with claims-made coverage, only the then-current policy limits are available to pay claims made during the policy period, and even then only if the treatment occurred subsequent to the policy's retroactive date.

2 "TAIL" COVERAGE

Because claims-made policies do not cover claims made after the termination of the policy, you are required to secure "tail" coverage (an extended reporting endorsement) when you move your coverage from one carrier to another or stop practicing.

If a claim is made against you, and you have cancelled a claims-made policy, you have no coverage unless you have either secured tail coverage or your new carrier covers your prior acts back to your retroactive date. Tail coverage is generally expensive. In fact, depending on the state, tail coverage is usually approximately 140-220% of your current, undiscounted rate. Further, payment for tail coverage is typically due in full and must be paid within 30-60 days of policy cancellation. Some companies will provide free tail coverage in the event of death, disability or in some retirement circumstances. Occurrence policies do not require tail coverage.

THE BENEFITS

Many healthcare providers today are realizing that the small group of doctors in 1899 was right — occurrence coverage provides confidence, flexibility and value.

1 CONFIDENCE

Will your professional liability policy provide sufficient limits to protect you, your family and your estate during retirement and thereafter?

Occurrence coverage provides a separate set of limits for each year you buy the policy, with respect to alleged errors occurring during the policy period, regardless of when a claim is made against you. Occurrence coverage doesn't end when the policy terminates; instead, the limits under the policy remain available to pay future claims based upon incidents that occurred during that policy period. Contrast this with claims-made coverage which only provides limits for claims made during the current policy year, so only the current set of limits is available to pay claims arising from all your previous years of practice. This important difference becomes more relevant as you near retirement.

Example:

Over the course of a 25 year career, a radiologist will read approximately 400,000 films — presenting 400,000 opportunities for a patient to allege malpractice. Under a claims-made tail endorsement with a standard \$1M/\$3M limit, there is only \$1M available to pay any single claim, and only \$3M total to pay all claims arising during the life of the tail coverage. This means that with claims-made coverage, the radiologist will have only one set of limits (\$1M/\$3M) to pay all potential professional liability lawsuits over an entire 25 year career. In contrast, if the same doctor had purchased occurrence coverage each year for the same 25 year period, he or she would have potentially 25 times the coverage. **Greater limits. That's real confidence.**



OCCURRENCE

Limits available to you after 25 years of occurrence policies. Subject to any payment of claims.

CLAIMS-MADE

Limits available to you after 25 years of claims-made policies. Subject to any payment of claims.

THE BENEFITS (CONTINUED)

2 FLEXIBILITY

Given today's changing healthcare landscape, can you predict what malpractice coverage needs you will have in the future? With occurrence coverage, you need not worry about securing tail coverage for any change in your life or practice.

Examples:

1. A solo anesthesiologist is considering selling his practice to a local hospital. Fortunately, he had purchased occurrence coverage for the past 12 years. As a result, he does not need to include the cost of tail coverage when negotiating the sale price of his practice.
2. A multi-specialty group is hiring a new physician; however, the group is not certain whether they'll need the position in a few years or whether the physician candidate will be the right fit. By purchasing occurrence coverage for the new physician, the group eliminates the awkward discussion about the expense of tail coverage if and when the newly hired physician leaves the practice.
3. A female dentist, after practicing six years, decides to start a family and take the next few years off work. Unfortunately, her coverage those six years was claims-made; therefore, she must purchase costly tail coverage when she leaves the practice to start her family. Many other types of leaves of absence present the same challenge. She would not have the expense for tail coverage had she purchased occurrence coverage during the past six years.
4. A self-employed nurse practitioner with claims-made coverage relocates to another state in order to be closer to her family. Unfortunately, the group she joins is insured by a carrier that operates in only one state. This carrier cannot accept her prior, out-of-state exposure because the carrier is not licensed and admitted in her prior state of practice. As a result, she will have to purchase tail coverage from her current carrier.

Occurrence coverage removes all barriers so you can practice how you choose, where you choose and for how long you choose.

That's real flexibility.

3 VALUE

Given these significant benefits, would you guess occurrence coverage is more expensive than claims-made?

It's not. In fact, once cost for tail coverage is included, occurrence is oftentimes less expensive than claims-made coverage.

Remainder of State, KY Internal Medicine (No Surgery) \$1/3M

	New to Practice			Mature C/M	
	Occ	CM		Occ	CM
Year 1	\$6,363	\$2,276	Year 1	\$12,725	\$12,470
Year 2	\$8,908	\$5,324	Year 2	\$12,725	\$12,470
Year 3	\$10,816	\$8,425	Year 3	\$12,725	\$12,470
Year 4	\$12,725	\$11,534	Year 4	\$12,725	\$12,470
Year 5	\$12,725	\$12,470	Year 5	\$12,725	\$12,470
Tail Cost	\$0	\$23,693	Tail Cost	\$0	\$23,693
Total	\$51,537	\$63,722	Total	\$63,625	\$86,043

Imagine: more comprehensive coverage for less cost. That's real value.

NEXT STEPS

I am new to practice:

Great news! Unlike the majority of healthcare providers who are currently covered by a claims-made policy, you can choose occurrence coverage without obstacle — you have no existing tail (or retroactive period) exposure that otherwise would have to be covered before buying occurrence coverage. You're in a great position today to start your career as a healthcare provider with a wonderful product — occurrence coverage.

I am an existing occurrence policyholder:

Congratulations! You made a great choice. The only remaining question to consider is whether your carrier has the financial strength, stability and longevity to provide all the limits you have purchased long into your retirement and beyond. Eliminate all uncertainty — get an occurrence quote from the same carrier formed by those same doctors in 1899 who birthed medical malpractice insurance, Medical Protective — a carrier today owned by Warren Buffett's Berkshire Hathaway company.

I am an existing claims-made policyholder:

No problem. Most healthcare providers are in the same situation because few carriers have the financial strength, stability and longevity to offer occurrence coverage. In fact, even some carriers that are financially stable choose not to offer occurrence because they may believe it is in their best financial interest to offer only claims-made coverage.

Call your current agent or insurance company today and ask for both tail coverage and occurrence quotes. If they cannot provide either quote — or the quote is cost-prohibitive — ask Medical Protective how to convert your current claims-made coverage to occurrence.