

Medical Malpractice Insurance: Claims-Made vs. Occurrence

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Earlier in the history of emergency medicine(EM) medical malpractice, there was only one insurance product offered-the occurrence policy. There were few claims filed so medical malpractice insurance was readily available and premiums were affordable. Obviously, the malpractice environment changed requiring the development of a more cost effective insurance product- the claims made policy. The claims made policy then became the most prevalent EM malpractice insurance policy.

The Claims Made Policy provides coverage only while the premiums are being paid; but not before or after. This product is analogous to a term life insurance policy. Complete coverage requires an ala carte approach to insurance purchasing. Coverage after the policy term ends is provided at additional cost, the extended reporting endorsement or tail policy covering the Extended Reporting Period(ERP). Coverage before the term policy begins can be purchased as a prior acts provision, or nose policy. Therefore, the retroactive,or prior acts date is the start date of the first claims made policy issued and remains in force for the life of the product.

The Occurrence Policy provides coverage for the act whenever it occurs after the product is engaged. The importance to the practicing physician is the policy insures for claims even after employment status has changed. There is no need for the purchase of additional tail coverage, which is critical considering the mobility of the EM practitioner. The policy is especially advantageous where the latent period and subsequent statute of limitations are prolonged for some medical adverse events.

Why then would one choose a claims made policy? The stated advantages is product versatility. The policy pieces can be purchased only as needed, some during softer markets and the tail not necessary for a retiring physician. The claims made policy coverage limits are concurrent with the policy, while the occurrence policy coverage dates to the time of the event. However, the main issue is one of cost with the claims made policy approximately 35% less expensive on average, and tend to be offered in harder insurance markets.

Therefore, the occurrence medical malpractice insurance is felt to be the most comprehensive, reliable product eliminating the need for either separate prior acts, or tail coverage. The extra expense is well worth the investment to most practicing physicians. The piece of mind offered is invaluable in this age of Emergency Medicine malpractice. While, physicians who desire maximal versatility, decreased initial cost or are contemplating an end to clinical practice may find a claims made policy a better match.

