Claims-Made Vs. Occurrence Form

Claims-Made Form: There are two primary types of insurance policy forms: occurrence and claims-made. Occurrence forms cover losses that happen during a given period of time (the policy term). The loss can be reported years later, but the key is when it happened. A claims-made policy covers claims made during a given period of time. The loss may have happened many years in the past, but is reported during the current policy term. As you can imagine, it is difficult to move from one type of form to the other. Occurrence forms are somewhat more valuable as they respond to claims years later. A claims-made form has value, but no guarantee of continued insurability, so if you are for some reason cancelled by an insurance company, you may not have coverage in the future for activities in the past. Some important aspects of claims-made policies that you may need to know are: retrospective date, extended reporting periods, and tail coverage, to name a few.

The key concept here is that a claims-made policy generally costs less than an occurrence policy, but you run the risk of not being covered for a potential claim because you didn't discover it until after your policy expired. As with all other aspects of insurance, the decision is a gamble, and you pay a price to lower your risk.

Here's a related concept: *tail coverage*. Tail coverage picks up where a claims-made policy leaves off, covering occurrences that happened while the policy was effective, but claimed *after* the policy expired. As a result, the combination of a claims-made policy and tail coverage looks very much like an occurrence policy, with one critical difference. When an occurrence policy expires, the premiums stop, while the coverage (on occurrences that happen during the policy period) continues *ad infinitim.* Tail coverage, on the other hand, is something you purchase *after* your claims-made policy expires... and you continue to pay for it until you decide that the risk of discovering an old occurrence no longer outweighs the cost of the tail coverage premium.

To put it more simply, the cost of an occurrence policy is high, but fixed, whereas the cost of a claims-made/tail coverage combination is initially lower, but of longer duration and potentially of higher total cost. The decision of which to buy effectively hinges on the nature of your risks. If your business is such that any liability is immediately apparent—and thus claimable—you are probably safe with a claims-made policy. If, however, your potential liability can linger undetected for years—medical malpractice liability is a good example—then you may be safest with an occurrence policy.

One caveat is a situation where somebody else is paying your insurance premiums. In medicine, for example, many hospitals pay their doctors' medical malpractice insurance premiums... but on a claims-made basis. If a doctor leaves the hospital—to enter private practice, say—he must purchase tail coverage to remain protected against any liability incurred while working at the hospital.

Finally, just for the sake of completeness, consider *nose coverage*. This is the opposite of tail coverage, although it fulfills a similar need. Nose coverage most commonly provides prior acts coverage for insureds that are moving from a claims-made policy to an occurrence policy. It is generally provided by the replacement policy.