

Medical Malpractice Insurance Basics

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March 10, 2017

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What Is the Purpose of Medical Malpractice Insurance?

- Malpractice Insurance covers costs related to allegations, claims, suits alleging deviation from standard of care resulting in harm to patient.
- Pays for attorney representation, investigation and other costs (experts) associated with your defense
- Pays for judgment, settlement, award up to limit of liability
- Defense Costs – Inside or Outside the Limit?
- Legally required in most states

Common Malpractice Policy Limits

\$1 Million \ \$3 Million

\$2 Million \ \$6 Million

\$5 Million \ \$10 Million

- 1st Amount: Maximum Amount per Claim
- 2nd Amount: Maximum Amount for All Claims During Policy Year (Aggregate)

Claims Made vs. Occurrence Coverage

- All policies have a policy period - starting date and ending date. What happens after the policy ends?
- The key difference –Occurrence vs Claims Made– Policy in effect THEN (incident) versus Policy in effect NOW (claim)
- What triggers a claim? Incident, Report or Suit?

Which Policy Responds?

Incident Occurred 7/4/12

Claim filed 10/31/14

Occurrence Form



Claims Made Form



Claims Made Coverage

- Most common type of coverage in the US
- Premium is tiered, generally over first 5 years.
- Pays claims if an incident occurs after the retroactive date and claim is made during the policy period.
- If incident occurs during the policy period & claim is made after policy ends:
 - No Coverage...Unless You Purchased a “Tail”
- Extended Reporting Period Endorsement, aka “Tail,” continues coverage after the policy ends.

Modified Claims Made

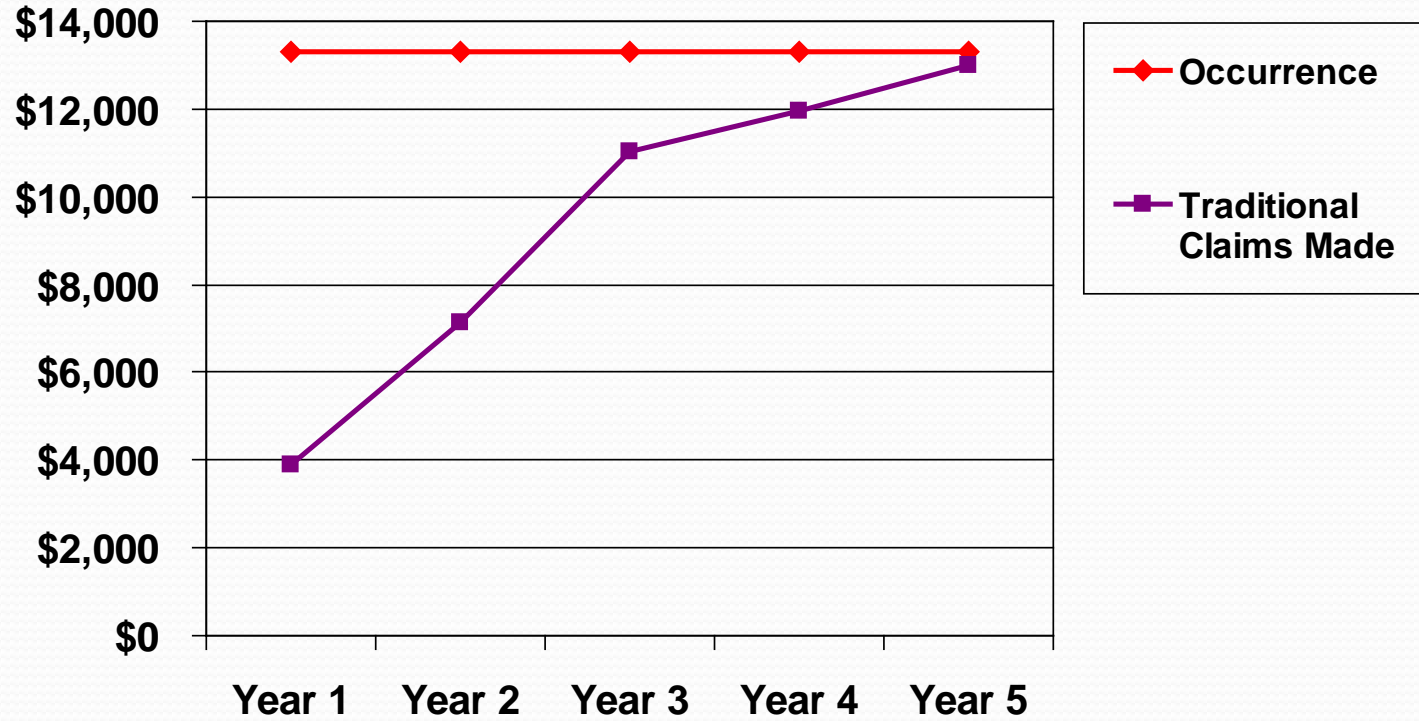
- Tail is “built in” - no need to purchase extended reporting endorsement when policy cancelled
- Level Premium beginning Year 1
- Most common with the institutional/academic malpractice programs but also available with traditional indemnity companies

Occurrence Coverage

- Less common except in the Northeast
- Occurrence costs more, as it builds in the Tail cost
- Occurrence responds via the policy that was in effect at the time the incident occurred
- With Occurrence, no need to buy a Tail when the policy ends – policy will continue to respond to incidents that transpired during its coverage period

Costs: Claims Made vs. Occurrence

Internal Medicine: \$1M/3M Base Premiums



Possible Policy Enhancements:

- Defense of Sexual Misconduct allegations
- Consent to Settle Clause
- Defense of Professional Licensing Issues
- Locum Tenens provisions
- Billing Fraud & Abuse allegations
- Data Breach - Personal or Health-Related Information
- Civil Rights Violations
- Vicarious Liability

Applying for a New Position? Ask These Malpractice Questions:

- Who is paying for my medical malpractice insurance?
- Do I need a “Tail” when I leave this policy?
- If so, who pays for the Tail?
- I am coming from a claims made policy -Will this new company “pick up my retro date”?



Questions?