Claims Made Vs Occurrence Policies

There are two primary forms of liability insurance policies - claims-made and occurrence policies. Most professional liability insurance, including directors and officers and employment practices liability insurance, is written on a claims-made basis.

An occurrence policy obligates the insurance company to pay for claims arising out of occurrences during the policy period regardless of when the claim is reported. The policyholder is covered for any incident that occurs during the term of the policy regardless of when the claim arising from the incident is reported to the company. In some situations the claim might be made many years after the incident occurred. This leads to uncertainty for both the insured and the insurer.

A claims-made policy protects an insured against claims or incidents that are reported while the policy is in force. Normally, a claims made policy provides coverage for acts occurring prior to the claims-made policy period. Coverage for acts occurring prior to the policy period is called "prior acts coverage," and the period prior to the policy period for which claims are covered is called the prior acts period. Prior acts coverage is usually only provided when a claims-made policy has been in force immediately prior to the current claims-made policy on a basis consistent with the prior policy. Prior acts coverage is defined as "full prior acts", covering acts occurring at any time prior to the current policy period, or is defined by a "retroactive date." When a retroactive date is used, prior acts coverage is provided from the retroactive date to the current policy period.

"Tail coverage," also called an "extended reporting period," provides protection for claims that are filed after a claims-made policy has been non-renewed or canceled. This coverage is optional, and the need can arise if the professional organization is acquired or goes out of business, or a decision is made not to purchase insurance. The terms and pricing for tail coverage vary greatly and are usually defined in the policy