RISK strategies
DENTAL PRACTICE

MALPRACTICE INSURANCE COVERAGE FORMS

There are two insurance coverage forms dental practices need to understand: “Occurrence” and “Claims-Made.” Both forms provide the same coverage but deliver that coverage differently. There are benefits and risks to each approach. Understanding the basic differences between the two forms will help you select the best fit for you and/or your practice.

Important descriptions to know:

Occurrence Form Coverage
Definition: A professional liability coverage form that triggers coverage based on the “incident date.”

Example: Suppose a dentist provides treatment in May 2024, and the patient files a lawsuit in 2026. The dentist would file the claim against the occurrence policy that was in force in May 2024.

Claims-Made Form Coverage
Definition: A professional liability coverage form that triggers coverage based on the “claim reporting date.”

Example: A dentist had a claims-made policy for calendar year 2023 but decided to change insurance companies on January 1, 2024. In May 2024, a patient files a malpractice lawsuit for a 2023 procedure. The dentist would file the claim against the claims-made policy that is in force in May 2024 — the currently active policy — if that policy includes tail coverage.

Tail Coverage
Tail coverage protects you for allegations of malpractice related to incidents that occurred in prior years but did not come to light until later.

Occurrence Form Coverage

Dental professionals buy occurrence form coverage for the following reasons:

- Easy to understand
- Permanent coverage
- More expensive
- Coverage tied to original company

With this coverage form, the insurance company permanently assigns one policy for each year that you practice. Once you’ve paid in full for each policy, the insurer cannot cancel it. Though it's more expensive, the policy will always be there to defend a claim regardless of when the claim is filed (until the policy limits are exhausted).

Important note: The coverage is only permanent if the insurer remains solvent. If the company that issued the occurrence policy goes bankrupt, the policy becomes essentially worthless. This is an extreme example and unlikely in today’s market but helps illustrate how the coverage works.

FORM COVERAGES

Another potential downside occurs if you (the policyholder) wants to move from one insurance company to another. Even after you move, you will still have a permanent relationship with the prior company. If the decision to move was triggered by an unfavorable experience like the mishandling of a claim situation, moving does not mean the relationship ends. If at some point in the future a new claim surfaces from treatment provided under that prior policy, you will need to work with the prior company, even if you no longer have confidence in their service.

Claims-Made Coverage

Dental professionals buy claims-made coverage for the following reasons:

- Temporary coverage
- Portable from one insurance company to another
- Less expensive
- Changes to coverage limits are retroactive

The tail on a claims-made policy is portable from one insurance company to another. That's how it is designed to work, and there is no real cost associated with the transfer of the tail. If you want to move to a new insurance company, you simply transfer the tail and never have to interact with the old insurance company again.

Another upside: Any increase in coverage limits becomes retroactive. The coverage limits available to address a claim are the limits in place at the time the claim is made. So, if the limits increase, any claim made after the increase is subject to the higher limits (even if the event giving rise to the claim took place prior).

Downside: The tail on a claims-made policy can be lost if the dental professional lets the policy cancel for non-payment of premium. Losing a tail is bad. Once it's lost, it's gone forever. Cancellation is unlikely to happen without your knowledge. In addition to sending a bill, all insurance companies are required to send a "notice of cancellation" letter by certified mail before canceling a policy. If you delegate insurance premium payments to an office manager or someone else, mark your calendar to double check the payment status before each renewal date.