

# Occurrence versus Claims-Made Policy Forms

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## EXTENDED REPORTING PERIOD “ERP” ENDORSEMENT – TAIL COVERAGE

**OCCURRENCE POLICY:** Not needed, you may always report claims “occurring” during the period you carried the insurance.

**CLAIMS-MADE POLICY:** You must purchase the extended reporting period “ERP” endorsement to report claims after the policy expires.

### *Unless:*

- A.** You renew the policy;
- B.** You buy another claims-made policy going forward from another insurer with the same retroactive date;
- C.** You have been in the APA program 10 years claim free (the “tail” or ERP is free);
- D.** You died or became permanently disabled (the ERP is free);
- E.** You permanently retire after age 55 and have been in the APA program five years.

**SUMMARY:** *While the purchase of a “tail” or ERP endorsement seems to be the biggest reason insureds opt for an occurrence form, in practicality it rarely needs to be purchased.*

## PORTABILITY

**OCCURRENCE POLICY:** Not portable; if the insurer who issued the policy becomes insolvent you have no coverage and must rely on state guaranty funds, if available.

**CLAIMS-MADE POLICY:** Very portable; you may move all the years you have coverage under a claims-made policy to a new carrier for financial or other reasons.

**SUMMARY:** *In today’s age of financial institution failures, the claims-made policy is superior.*

## LIMITS OF LIABILITY

**OCCURRENCE POLICY:** Limits of liability are permanently set once the policy expires.

**CLAIMS-MADE POLICY:** Limits of liability can be changed at renewal and apply to all your prior years of coverage back to the retroactive date stated in the policy.

**SUMMARY:** *Claims-made policies offer superior flexibility especially with regard to increasing limits of liability to adjust for inflation, increasing damage awards by juries as well as changes in your practice.*

## COVERAGE FEATURES

**OCCURRENCE POLICY:** Usually equal to those offered in claims-made policies but are permanent after the policy expires.

**CLAIMS-MADE POLICY:** Usually identical to the occurrence policy but all new enhancements to coverage go all the way back to your retroactive date just like changes in the limits of liability discussed above.

**SUMMARY:** *As with limits of liability, the claims-made policy is far superior granting enhanced coverage (which is constantly changing based on needs of the profession) retroactively to the date in your policy.*

## PREMIUM COSTS

**OCCURRENCE POLICY:** Almost always more expensive than the claims-made policy due to the “built in” ERP feature or tail coverage.

**CLAIMS-MADE POLICY:** Less expensive; if you don’t need any retroactive coverage “prior acts” the first year premium is dramatically lower than occurrence policies and approaches the occurrence rate in five years but is still lower.

**SUMMARY:** *Because the ERP or “tail” rarely needs to be purchased, the claims-made policy offers lower premiums especially coming off an occurrence policy or beginning your practice. If you think that you may not qualify for a free tail, the occurrence policy is an option but has all the limitations discussed herein.*

## CLAIMS REPORTING

**OCCURRENCE POLICY:** An incident must “occur” during the policy period and may be reported at any time in the future.

**CLAIMS-MADE:** Must be reported during a current policy (unless you bought or received free the ERP endorsement) and the incident must have occurred after the retroactive date shown in the policy.

**SUMMARY:** *Occurrence policies cover a specified period (usually one year) forever. Claims-made policies may cover 20 or more years of your practice and your current policy responds to the claim which may have much more coverage features.*

### Overall Summary

	OCCURRENCE	CLAIMS-MADE
ERP ENDORSEMENT (“TAIL)	Excellent	Very Good With Free Tail Options
PORTABILITY	None	Excellent
LIMITS OF LIABILITY	Fixed	Adjustable
COVERAGE FEATURES	Fixed	New Enhancements Apply
PREMIUM COSTS	More Expensive	Less Expensive
CLAIMS REPORTING	Policy During Which Incident Occurred	Current Policy