SANDBERG PHOENIX

PROFESSIONAL LIABILITY BLOG

Tail Insurance: What It Is And Why You Need It

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The popularity of the coverage was partly because claims made coverage was considerably cheaper than occurrence coverage. Why?Simply because the claims-made and reported coverage provided less coverage for the professional.

Because coverage for the professional claims-made and reported coverage ended when the policy ended and claims could still be filed against the professional for potentially years afterwards for events that happened during the term of the policy, the insurers developed what they called Optional Extended Reporting Period Coverage, i.e., Tail Coverage. The official name of the coverage explains what it is: Optional in that an insured is not required to buy it, Extended in that the term goes beyond the policy term and Reporting in that it is still required for coverage. So tail is the shorthand name for the coverage.

In simple terms Tail Coverage covers a gap in coverage. It extends the coverage of the claims made policy for a defined term in the future, such that a claim reported then will be covered.The period should equal the period of the applicable statute of limitations.

What other coverage may cover a gap in coverage? Prior Acts coverage is one type - it covers acts by the professional during the terms of an earlier policy. It is not unusual for insureds to buy coverage from a different carrier every year. Similarly, a professional my change his/her employment and thus create a potential gap in coverage. The Prior Acts coverage would cover claims that happened in the earlier period insured by Carrier A, but which were reported in the current period, insured by Carrier B.

An issue for employers and professional employees is what happens on retirement of the professional? Tail coverage may be necessary (if the employer continues with the same insurer no gap may occur) and the important question is who pays the premium and what is the enforcement mechanism if that party does not pay. These issues are best resolved at the time of employment. Sadly they most commonly are not, requiring employers and employees to resolve in the years before retirement.