“Tail Coverage”-The Extended Reporting Period Explained

By Jim Jacobsen

Professional Liability policies, most often written on a claims-made basis, typically contain several options for the technologist and engineering firm insureds to obtain an Extended Reporting Period (ERP). What exactly does that mean? And why might an ERP be necessary, or at least a good idea to consider? While ERP options may vary, the basic purpose of the ERP are standard. Here’s what you should know.

What Is an Extended Reporting Period?

An extended reporting period (ERP), also known as “tail coverage”, provides an additional period after a claims-made policy has expired during which the insured can report a claim arising from prior wrongful acts that occurred prior to the issued ERP. An ERP does not extend coverage meaning new acts would not be covered.

The main purpose for this type of coverage is to ensure that you can afford the costs associated with a claim against your business if you don't renew your professional liability insurance. That’s important, because the policy itself typically provides that the claim must be first made against the insured, and reported to the insurer, during the policy period. The ‘tail coverage’’ typically isn’t necessary if the insured is renewing its coverage, but it can be crucial when that’s not the case.

How Does an Extended Reporting Period Work?

Professional liability insurance is designed to cover you if a client files a claim for a wrongful act or mistake, they believe you have made. There are two types of professional liability policies: occurrence and claims made.

Under an occurrence policy, the insurance company covers a claim if it happened during the period the insurer covered your business, even if the claim is made years later.

Claims-made policies cover any claims made when you're covered, but only during the period the policy is in force. For example, if you made a design error on a client's project and it was significant enough to impact the project outcome, they could file a claim. You would only be covered by a claims-made policy if they filed the claim while your policy was "in force" or active—not a year after you changed carriers or ceased offering your services.

What are the benefits of an extended reporting period?

The ERP coverage extension gives the technologist or firm the ability to protect against loss from claims that materialize after its insurance policy expires, is cancelled or non-

renewed, such as when the insured organization is acquired, wound down, or simply stops purchasing coverage.

If someone attempts to sue you for an insurable event that happened while your claims-made insurance policy was active, an extended reporting period will allow you to report the claim even after the policy is canceled. Here are a few examples of how an extended reporting period can benefit and protect your business:

- If you're planning to retire**,** an extended reporting period lets you cancel your existing professional liability insurance, without losing coverage on your prior work activities. While there's no need to maintain professional liability coverage on a closed practice, the insured will want to maintain some protection against wrongful acts it may have committed prior to the policy's expiration, but a claim has not arisen and thus cannot be reported until after the policy has expired.
- If you're planning to switch to a new policy, an extended reporting period continues to protect the work you did under your former policy. Without it, you are only insured for incidents that happened while your new policy is in force.

Extended reporting periods also protect you and your firm's practice in times of transition. They enhance both your financial security and peace of mind, allowing you to focus more on running your business.

It's important to note that the ERP does not extend the policy period and does not change the scope of coverage or increase the policy's available limits.

How much does an ERP cost?
Insurers typically charge a fixed percentage of your professional liability insurance policy cost, based on a multiple of the premium on the cancelled or expiring policy. Such tail coverage is typically purchased in one-year increments, up to five years or longer – but as the tail period increases, the cost goes up, since the insurer is taking on additional risk. The premium for a tail is fully earned at the time of purchase.

How to get an extended reporting period?
Contact your Professional Liability provider to add an extended reporting period to your insurance policy. It's a good idea to do this before canceling your policy because some companies impose a narrow time window for buying an ERP after cancellation.

Some insurance carriers may give you 30 days or less after the expiration (or policy cancellation) to arrange for your ERP. Others require notice of no later than the date of cancellation. In either case, it is best to learn about your ERP options well in advance of canceling your policy.

In addition, many technologists and small business professionals decide to keep working part-time after they retire. They cancel their professional liability insurance and then buy an extended reporting period endorsement to extend their claim-filing period. But here's the problem: they incorrectly assume their ERP will protect them if they make a mistake after they retire.

It's important to note, an extended reporting period isn't an actual insurance policy. It simply lengthens the period during which you can file a claim beyond the policy's cancellation date. Any claims that arise from new incidents during your retirement will not be covered.

Remember, an ERP is always optional, and an insured is never required to purchase one. However, the ERP provides an additional layer of protection and should be seriously considered, especially if the insured foresees a major change to its business or its insurance program.

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