

## Claims Made

Lloyd's of London, in the 1960's introduced a **restrictive** claims made form, St Paul, in 1975, introduced a **modified** claims made form, however, until 2003 Indiana physicians, with few exceptions, remained insured on an occurrence form.

On July 1, 2003, ProAssurance (*endorsed by the Indiana State Medical Association*), introduced claims made **Plus**, an **enhanced** form for all new and renewal policies July 1, 2003 through June 30, 2004...the **enhanced** form will continue for five years; on July 1, 2004, ProAssurance introduced a **modified** claims made form.

The principle difference between the ProAssurance **enhanced** claims made **Plus** and **modified** claims made form is a waiver of premium for the reporting form ("tail") if the physician moves the practice permanently (3 years) out of state.

Policy conditions for both the ProAssurance **enhanced** and **modified** form contain a waiver of the "tail" premium if termination results from permanent retirement (modified form requires continuous insurance for 5 years), permanent disability or death.

All other ProAssurance conditions of termination require payment of a premium for the "tail"; an exception would be if protection is continued with a new policy on a claims made form with the original claims made retroactive date.

Medical Protective offers the option of both occurrence and modified claims made.

Excess & Surplus lines companies, which we **do not recommend**, continue to offer a **restrictive** claims made policy with unfavorable policy conditions and limitations.

Failure to make proper arrangements for the "tail" will result in no protection for claims occurring during the retroactive period that are made following the policy termination.

If a "tail" is not purchased, underwriters will amend the corporation professional liability policy to exclude vicarious protection for the actions of the terminating employee.

It is recommended that **employment contracts** be amended to provide who is responsible for payment of the "tail" premium.

John R MacLennan CPCU RPLU/ MacLennan & Bain Insurance/ January 2008