

Sec. 38a-327-3. Minimum standards

No claims-made policy shall be delivered, issued for delivery, or renewed in this state by a licensed insurer on or after the effective date of this regulation, unless such policy and the issuing insurer complies with the following minimum standards:

(a) Once a retroactive date is established with an insured, it may be advanced only with the written consent of the named insured. Prior to the advancement of the retroactive date by an insurance company, such insurer must obtain the written acknowledgment of the named insured that the named insured has been advised of the right to purchase the additional extended reporting period coverage. If no retroactive date is specified in the policy, coverage is afforded for injury or damage occurring prior to the inception date of the policy.

(b) Each claims-made policy shall provide an automatic extended reporting period of at least thirty (30) days upon termination of coverage.

(c) A claim will be deemed "first made" when the insurer receives written notice of a claim from the insured or a third party, but this shall not preclude an insurer from utilizing either written notice of incident as the trigger of coverage under the policy.

(d) (1) Additional extended reporting period coverage shall be made available for purchase by the named insured at any time during the policy term and not later than thirty (30) days following termination of coverage, including termination for non-payment of premium. Such additional extended reporting period coverage shall apply only in regard to that coverage terminated, and shall be made available on the same terms and conditions as those specified in the policy.

(2) Where premium is due to the insurer for coverage under the claims-made policy, any monies received by the insurer from the insured as payment for the additional extended reporting period coverage shall be first applied to such premium owing for the policy. The additional extended reporting period coverage will not take effect until the premium owing for the policy is paid in full and unless the premium owing for the additional extended reporting period coverage is paid promptly when due.

(3) The insurer must advise the named insured in writing of the automatic extended reporting period coverage and the availability of, the premium for, and the importance of purchasing additional extended reporting period coverage. This advice must be sent no earlier than the date of notification of termination of coverage nor later than fifteen (15) days after termination of coverage.

(4) The named insured shall have the greater of thirty (30) days from the effective date of termination of coverage, or fifteen (15) days from the date of mailing or delivery of the advice required by subdivision (3) of this subsection, to submit written acceptance of additional extended reporting period coverage.

(5) The premium charged for additional extended reporting period coverage shall be based upon the rates for such coverage in effect on the later of the date the policy was issued or last renewed, and the insurer shall not charge a different premium for such coverage due to any change in its rates, rating plans or rating rules subsequent to issuance or last renewal of the policy.

(6) Upon termination of a claims-made policy each insurer shall offer additional extended reporting period coverage for at least the following specified durations:

(A) unlimited extended reporting period coverage for professional liability insurance policies;

(B) a minimum one year period for policies covering (i) directors and officers liability, employee benefits liability and fiduciary liability, and (ii) pollution and environmental impairment liability; or

(C) a minimum three year period for all other claims-made policies.

(e) Notwithstanding subsection (d) of this section, unlimited additional extended reporting period coverage shall be provided without additional cost to the insured if, while covered by a medical malpractice policy, the insured:

(1) dies;

(2) becomes permanently disabled and is unable to carry out his or her practice; or

(3) retires permanently from practice:

(A) at or over age sixty-five and has been insured with the same insurer on a claims-made basis for a period of at least five consecutive immediately preceding years; or

(B) at or over sixty-two years of age and has been insured with the same insurer on a claims-made basis for a period of at least ten consecutive immediately preceding years.

(f) (1) Where a policy has no aggregate liability limit the insurer shall offer additional extended reporting period coverage without an aggregate liability limit.

(2) Where a policy contains an aggregate liability limit, the insurer shall offer additional extended reporting period coverage with an aggregate liability limit at least equal to the aggregate liability limit specified in such policy.

(g) The minimum standards may be waived if application is made to the Commissioner and the Commissioner determines that it would improve availability of coverage and not be detrimental to policyholders.

(Effective September 25, 1992; Amended June 3, 2020)