

Succession Planning and ERP

Here Today, Gone Tomorrow:
Succession or Disaster for Closing a Practice



Current Succession Trends

- Lawyers practicing in firms with between 2 to 10 lawyers
 - 56% of all practicing lawyers
 - 80% no plan
- Solo lawyers
 - 29% of all practicing lawyers
 - 84% no plan
- Nearly 70% of ISBA Mutual policyholders are solo practitioners



Causes of Problem

- Inertia or aversion
 - Too busy, I'll do it tomorrow, everything will work out
- Help others before we help ourselves
- No one else can do what I do



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Concerned Stakeholders

- ISBA Special Committee
 - Succession and Transition Planning
- ARDC
 - John Cesario
- ISBA Mutual Insurance Company
 - Added policy provisions for free tail upon death, disability and retirement



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No Plan – Who Helps?



Consequences of NO Plan

- How will you be remembered?
 - By your clients
 - By your colleagues
 - By your family



What Happens When Nobody Helps

- ARDC Cometh, Supreme Court Rule 779
 - Court-Appointed Receivership
 - John Cesario – Senior Council
 - icesario@iadc.org



Know Your Resources

- ARDC - <https://www.iadc.org/Succession%20Planning.htm>
- IBF - <https://www.illinoisbarfoundation.org/warren-lupel-lawyers-care-fund>
- ISBA - <https://www.isba.org/practicehq/winddown>
- IOLTA - <http://www.ltf.org>
- Your Insurance Carrier



ARDC

- ▶ **Online Resources to Create Your Plan**
 - Succession Planning Training Videos

- ▶ **Documents to Consider**
 - Office Checklist
 - Limited Power of Attorney
 - Law Practice Coverage Agreement
 - Retainer Agreement Inclusion Language



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Illinois Bar Foundation

Warren Lupel Lawyers Care Fund

- ▶ Financial Support Provided For:
 - Funeral Costs
 - Medical Bills
 - Hiring Appropriate Personnel to Help Close Down a Practice



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Illinois State Bar Association

- ▶ **Special Committee on Succession and Transition Planning**

- ▶ <https://www.isba.org/committees/successionandtransitionplanning>



Make a Plan

- ▶ Have Written Agreements
- ▶ Review Plan Annually
 - ▶ Family
 - ▶ Employees
 - ▶ Successor Attorney and Gatekeeper
- ▶ Notify Your Malpractice Carrier



Insurance - Extended Reporting Period

- Extends the period of time to report a claim after a **Claims Made and Reported** policy expires
- It is **not** renewable
- It is **not** cancellable
- It is **not** an extension of the insurance coverage



ERP also known as TAIL



Extended Reporting Period is Needed Upon:

- Death – Free
- Disability – Unable to Practice Law – Free
- Retirement – Free
- Military Service – Free
- Firm is Dissolving or Merging - Purchase



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Claims Made and Reported Policy

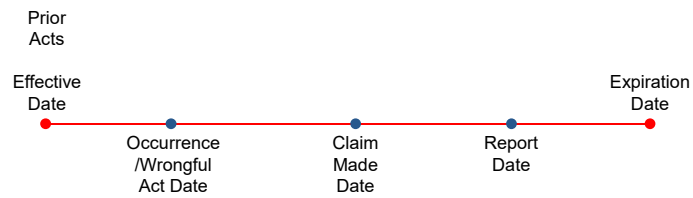
Claims Made and Reported Policy: your coverage and limits of liability are only available during the policy term or any extended reporting period.

Occurrence Policy: your coverage and limits of liability survive after the expiration of the policy.



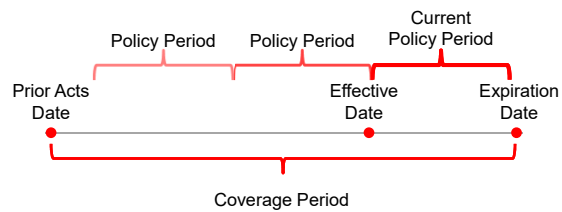
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The Timeline – Claims Dates



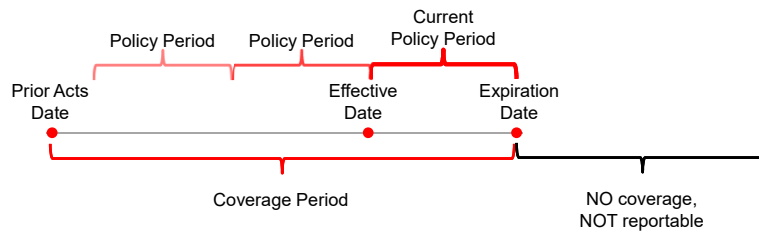
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The Timeline – Prior Acts Date



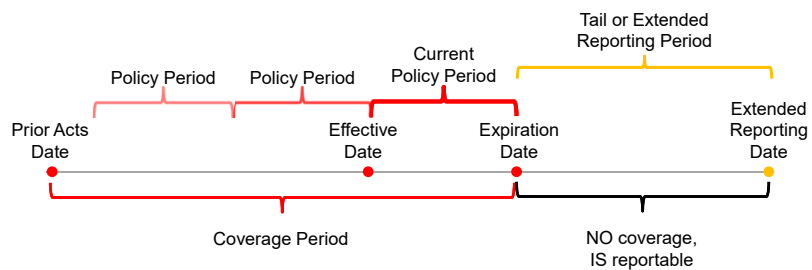
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The Timeline – Claim Reporting No Tail



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The Timeline – Claim Reporting with Tail



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Summary

- Succession Planning is important
- Resources are currently available to create a plan
- Activating an Extended Reporting Period Endorsement is critical
- Protect Your Legacy



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Thank You

