

Statutorily Required Extended Reporting Period Provided Coverage for Claim First Made and Reported During Extended Reporting Period

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A Connecticut appellate court ruled that a policy containing a statutorily-required 30-day extended reporting period provided coverage for a claim first made and reported 15 days after the expiration of the policy period but within the extended reporting period. *Mitchell v. Medical Interinsurance Exch.*, 923 A.2d 790 (Conn. App. 2007).

The insurer issued to a physician a professional liability insurance policy providing coverage on a claims-made basis from January 1, 2002 to January 1, 2003. The policy contained a statutorily required endorsement providing "an automatic extended reporting period thirty (30) days immediately following the termination of insurance." The governing statute did not define "automatic extended reporting period," but it defined "automatic extended reporting coverage" as "coverage for that period of time specified in the policy wherein claims first made after the termination date of the policy but within (30) days of the termination date of the policy will be considered first made during the policy term."

The policyholder physician was sued on December 19, 2002, and was served with that suit on January 15, 2003—two weeks after the expiration of the policy. The policyholder immediately provided notice, and the insurer denied coverage, asserting that the extended reporting period was not extended reporting "coverage" and so only provided the policyholder an additional time period to provide notice of a claim first made during the policy period.

The insurer pointed to the difference in the mandatory language, requiring an extended reporting "period," and the statute's definition of extended reporting "coverage." The insurer asserted that it was not required to provide extended reporting coverage and did not do so under the terms of its policy. The court rejected this argument, referring to the statutory scheme, which stated "that a 'claim first made during the policy period or any extended reporting period' will be covered under a claims-made policy." Using this definition, the court held that the claim first made and reported during the extended reporting period was covered under the

insurer's policy.