

ALLIED HEALTH PROFESSIONALS PROFESSIONAL AND PREMISES LIABILITY POLICY

SUBJECT TO ITS TERMS, THIS POLICY PROVIDES COVERAGE FOR CLAIMS ARISING FROM WRONGFUL ACTS OR OCCURRENCES THAT TAKE PLACE DURING THE POLICY PERIOD.

DEFENSE EXPENSES PAYABLE UNDER INSURING AGREEMENTS I.A., I.B. AND SECTION V. ARE PAYABLE IN ADDITION TO THE LIMITS OF LIABILITY FOR SUCH COVERAGES. DEFENSE EXPENSES PAYABLE UNDER INSURING AGREEMENTS I.C. AND I.D. SHALL REDUCE AND MAY EXHAUST THE APPLICABLE LIMITS OF LIABILITY AVAILABLE TO PAY JUDGMENTS OR SETTLEMENTS. A SMALLER LIMIT OF LIABILITY APPLIES TO JUDGMENTS OR SETTLEMENTS WHEN THERE ARE ALLEGATIONS OF SEXUAL MISCONDUCT (SEE THE SPECIAL PROVISION ON "SEXUAL MISCONDUCT" IN THE POLICY).

PLEASE REVIEW THIS POLICY CAREFULLY AND DISCUSS THE COVERAGE WITH YOUR LEGAL OR INSURANCE ADVISOR.

We provide this Policy in consideration of the full payment of all premiums when due and in reliance upon the truthfulness of all of the statements in the **Application**. Terms printed in bold type have the meanings referenced elsewhere in the Policy. Subject to the applicable limits and all terms, conditions and exclusions of this Policy, **We** and **You** agree as follows:

I. INSURING AGREEMENTS:

A. OCCURRENCE-BASED PROFESSIONAL LIABILITY:

We will pay on **Your** behalf, subject to the Limit of Liability set forth in Item 3(a) of the Declarations, amounts **You** are legally required to pay to others as judgments (including pre- and post-judgment interest) or settlements as the result of any **Claim** for **Professional Services Wrongful Acts, Good Samaritan Wrongful Acts** and **Personal Injury Wrongful Acts** by **You** or by others for whom **You** are legally responsible. The **Professional Services Wrongful Act, Good Samaritan Wrongful Act** or **Personal Injury Wrongful Act** must take place during the **Policy Period**.

B. OCCURRENCE-BASED PREMISES LIABILITY:

We will pay on **Your** behalf, subject to the Limit of Liability set forth in Item 3(b) of the Declarations, amounts **You** are legally required to pay to others as judgments (including pre- and post-judgment interest) or settlements as the result of any **Claim** for **Bodily Injury** or **Property Damage** caused by an **Occurrence** which takes place at **Your Business Premises** while you are providing **Professional Services**. The **Occurrence** must take place during the **Policy Period**.

C. FIRE DAMAGE LEGAL LIABILITY:

We will pay on **Your** behalf, subject to the Limit of Liability set forth in Item 3(c) of the Declarations, defense expenses, including attorneys' fees and expenses, and amounts **You** are legally required to pay to others as judgments (including pre- and post-judgment interest) or settlements as the result of any **Claim** for **Fire Damage**. The fire must be caused by an **Occurrence** which takes place during the **Policy Period**. The Limit of Liability set forth in Item 3(c) shall be part of, and not in addition to, the Limit of Liability set forth in Item 3(b) of the Declarations.

D. INFORMATION PRIVACY COVERAGE:

We will pay on **Your** behalf, subject to the Limit of Liability set forth in Item 3(d) of the Declarations, defense expenses, including attorneys' fees and expenses, and amounts **You** are legally obligated to pay to others as judgments (including pre- and post-judgment interest) or settlements as a result of a **Claim** brought by a **Regulator** for an **Information Privacy Wrongful Act**. The **Information Privacy Wrongful Act** must take place during the **Policy Period**.

In connection with **Information Privacy Wrongful Acts**, **We** will also pay:

1. NOTIFICATION COSTS incurred by **You** in connection with a statutory mandate requiring notification to **Patients**, in compliance with federal and state privacy protection laws, even if there is no **Claim** arising out of an **Information Privacy Wrongful Act**; provided that **You** shall obtain **Our** prior approval before incurring such costs; and
2. HIPAA FINES AND PENALTIES assessed against **You** for a violation of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) ("HIPAA").

Any amounts, including notification costs and HIPAA fines and penalties, paid by **Us** under this Insuring Agreement I.D. shall be part of and not in addition to the applicable Limit of Liability for **Information Privacy Wrongful Acts** as set forth in Item 3(d) of the Declarations.

A **Claim** brought by a **Regulator** shall not include a **Disciplinary Proceeding**, even if such **Disciplinary Proceeding** actually or allegedly involves **Information Privacy Wrongful Acts**.

We have the right and duty to defend, in addition to the Limits of Liability set forth in Items 3(a) and 3(b) of the Declarations, at **Our** expense and using counsel selected by **Us**, any **Claim** against **You** covered under Insuring Agreements I.A. and I.B., even if the **Claim** is groundless or fraudulent. **Our** duty to defend ends after the applicable Limit of Liability has been used up in paying judgments (including pre- or post-judgment interest) or settlements.

We have the right and duty to defend, subject to the Limits of Liability set forth in Items 3(c) and 3(d) of the Declarations, and using counsel selected by **Us**, any **Claim** against **You** covered under Insuring Agreements I.C. and I.D. **Our** duty to defend ends after the applicable Limit of Liability has been used up in paying defense expenses, including attorney's fees and expenses, notification costs, HIPAA fines and penalties, or judgments (including pre- or post- judgment interest) or settlements.

We have the right to investigate and settle any **Claim**.

We will pay premiums for appeal bonds, or bonds to release property used to secure a legal obligation, if required, in a **Claim** **We** defend, subject to the applicable Limit of Liability. However, **We** will only pay for bonds for amounts within the applicable Limit of Liability for such **Claim**. **We** have no obligation to appeal any decision or to obtain these bonds.

II. SUPPLEMENTAL PAYMENTS:

A. DISCIPLINARY PROCEEDINGS COVERAGE:

We will reimburse **You**, subject to the Limit of Liability set forth in Item 3(e) of the Declarations, costs and expenses, including the reasonable fees charged by an attorney which **You** retain, which are incurred in connection with the investigation and defense of a **Disciplinary Proceeding** arising out of a **Professional Services Wrongful Act** which takes place during the **Policy Period**.

We shall have no liability for any amount due as a result of an administrative decision, judgment, settlement, or any fine, penalty, assessment of costs, or any other monetary awards or non-monetary remedies or relief, in connection with any **Disciplinary Proceeding**.

You must promptly report any **Disciplinary Proceeding** to **Us**, and provide **Us** with any supporting documentation that **We** may require.

B. REIMBURSEMENT FOR LOST EARNINGS AND REASONABLE EXPENSES:

We shall reimburse **You**, subject to the Limit of Liability set forth in Item 3(f) of the Declarations, for actual loss of earnings and reasonable and necessary expenses incurred for each day **You**, at **Our** express request, attend a trial, hearing or arbitration arising from a **Claim** for which coverage is provided under this Policy.

Any payment made by **Us** under this provision shall be in addition to the applicable Limit of Liability for such **Claim**. **You** must promptly provide **Us** with a written request for reimbursement and any supporting documentation that **We** may require.

C. MEDICAL PAYMENTS COVERAGE:

We will pay on **Your** behalf, subject to the applicable Limit of Liability set forth in Item 3(g) of the Declarations, **Medical Payments** arising from any **Bodily Injury** suffered by a **Business Invitee**, where such **Bodily Injury** was caused by an **Occurrence** that took place on **Your Business Premises** and in the conduct of **Your Profession**; provided always that:

1. such **Occurrence** took place during the **Policy Period**;
2. the treatment or other services eligible for **Medical Payments** are rendered within one (1) year of the **Occurrence**, and the **Medical Payments** expenses are reported to **Us** within ninety (90) days from the date such treatment or service was rendered; and
3. the injured person submits to examination, as often as required by **Us**, by physicians of **Our** choice and at **Our** expense.

D. EMERGENCY AID EXPENSES:

We will reimburse **You** subject to the Limit of Liability set forth in Item 3(h) of the Declarations, for costs and expenses for medical supplies, and for one (1) hour of **Your** lost earnings at an hourly rate of \$100.00 per hour

or **Your** average hourly rate for **Professional Services**, whichever is lesser, which **You** voluntarily incur for rendering emergency treatment or services at the scene of an accident, medical crisis or disaster, provided that the treatment or services take place during the **Policy Period** and that **You** promptly report any expenses to **Us**.

E. DAMAGE TO PROPERTY OF PATIENTS:

We will reimburse **You**, subject to the applicable Limit of Liability set forth in Item 3(i) of the Declarations, for **Property Damage** that occurs during the **Policy Period** and that is caused by **You** to the tangible property of a **Patient**, provided that such **Property Damage** was not caused intentionally, and takes place while **You** are providing **Professional Services** to the **Patient**.

You must provide **Us** with a sworn statement of the value of such **Property Damage** within sixty (60) days, and exhibit the damaged property to **Us** if in **Your** possession and control.

F. DEPOSITION OR SUBPOENA PROCEEDINGS COVERAGE:

We will pay on **Your** behalf, subject to the Limit of Liability set forth in Item 3(j) of the Declarations, attorneys' fees and expenses charged by an attorney which **We** designate to represent and prepare **You** for a **Deposition** or **Subpoena Proceeding** of which **You** have first received notice during the **Policy Period**. **You** must promptly notify **Us** upon such receipt and provide **Us** with all relevant documentation.

G. ASSAULT AND BATTERY COVERAGE:

We will reimburse **You**, subject to the Limit of Liability set forth in Item 3(k) of the Declarations, medical expenses which **You** incur as a result of **Bodily Injury** to **You** caused by an **Assault** or **Battery**, or **Property Damage** to **Your Personal Property** if caused by an **Assault** or **Battery**. The **Assault** or **Battery** must be committed by a **Patient** of **Yours**, or by their immediate family member.

Provided always that:

1. such **Assault** or **Battery** takes place during the **Policy Period**;
2. the treatment or other services eligible for reimbursement as medical expenses are rendered within one (1) year of the **Assault** or **Battery**, and the medical expenses are reported to **Us** within ninety (90) days from the date such treatment or service was rendered; and
3. **You** submit to examination, as often as required by **Us**, by physicians of **Our** choice and at **Our** expense.

Coverage under this Section II.G. is excess over any other valid and collectible insurance, including workers' compensation or health insurance, if applicable.

III. **EXCLUSIONS:**

- A. No coverage will be available under this Policy for any **Claim** or **Disciplinary Proceeding** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:
1. **Your** dishonest, fraudulent, intentional, criminal, or malicious act, error, or omission, or the willful violation of any law, or that of any person for whose acts **You** are legally responsible. This exclusion will not apply to any natural person who did not personally participate in or assent to such act, error, or omission;
 2. **Your** ownership or operation of a hospital, or any other facility which provides bed and board or in-patient care, or a laboratory;
 3. **Your** writing of any prescription or providing any sample of a medication, substance or product which requires a prescription, unless otherwise covered in an endorsement attached to this Policy;
 4. disputes about **Your** fees, including, but not limited to, collecting fees from **Patients** or other third parties and billing investigations by or on behalf of government entities or commercial payors;
 5. **Your** employment practices, including **Claims** involving the following: **Discrimination** against **Your Employees**; breach of employment contract; **Your** failure or refusal to hire, employ or promote a person; **Your** demotion or discharge of a person; employment-related defamation, humiliation or harassment by **You**; retaliation against an **Employee**; discipline or evaluation of an **Employee**; or misrepresentations or misstatements to **Employees** regarding the terms and conditions of their employment with **You**;
 6. **Discrimination** on any basis whatsoever against any person not employed by **You**, except that this Exclusion shall not apply to a **Claim** for **Discrimination** in the rendering of **Professional Services** brought by a **Patient** of **Yours**;
 7. activities of a general business nature, including managerial or administrative activities. This Exclusion

does not apply to **Professional Services Wrongful Acts** that arise from **Peer Review**;

8. **Bodily Injury** or **Property Damage** in any way involving any **Automobile**, watercraft, or aircraft, including the loading or unloading thereof;
9. **Bodily Injury** to **Your Employee** or any independent contractor, or employee of any independent contractor, working for **You**, arising out of the course of his or her work for **You**, or to the spouse or relative of such **Employee** or independent contractor as a consequence of **Bodily Injury** to the **Employee** or independent contractor;
10. infringement of copyright, trademark, trade name, trade dress, service mark, service name, logo, title or slogan; patent infringement; misappropriation of any advertising idea, trade secret or style of doing business;
11. **Property Damage** to property **You** own, rent, occupy, borrow or use, or in **Your** care, custody or control, or to premises **You** have sold, given away, or abandoned; provided that this Exclusion shall not apply to **Property Damage** which is otherwise covered under Section II.G. of this Policy;
12. any business relationship between **You** and any past or present **Patient**;
13. **Professional Services** rendered by **You**, if:
 - (a) at the time of rendering such **Professional Services**, **You** were not properly qualified, certified, bonded or licensed to render such **Professional Services** in accordance with applicable law; or
 - (b) **You** misrepresented **Your** qualifications, certifications, licensing, experience, education or background;
14. war, including undeclared war, civil war, insurrection, rebellion, revolution, warlike act by a military force or military personnel, or destruction or seizure of property for use for a military purpose;
15. any procedure, treatment, course of treatment, or diagnosis that is outside the scope of **Your Profession**;
16. fungi, including mold or mildew, or any by-products of fungi;
17. the actual, alleged or threatened discharge, dispersal, release or escape of **Pollutants**; or any liability or obligation to test, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**;
18. any actual or alleged liability under any express contract or agreement, unless such liability would have attached in the absence of such contract or agreement. For purposes of this Exclusion, an "express contract or agreement" is an actual agreement by contracting parties, the terms of which are openly stated in distinct or explicit language, either orally or in writing, at the time of its making;
19. the design, manufacture, testing, promotion or sale of any product, medication, device or equipment, provided that this Exclusion shall not apply to a negligent act, error or omission by **You** in the distribution or furnishing of supplies to a **Patient** in connection with **Professional Services** provided by **You**;
20. actual or alleged involvement in any federal or state anti-trust law violation or any agreement or conspiracy to restrain trade;
21. any act, error or omission for which **You** may be held liable under any workers' or unemployment compensation law, or disability benefits law, or any similar law;
22. any act, error or omission of an individual in their capacity as a healthcare student who is not subject to **Your** supervision; however, this Exclusion shall not apply if the Named Insured is a healthcare student;
23. solely with respect to the coverage under Insuring Agreement I.B., **Bodily Injury** to a **Patient**, or **Property Damage** to the tangible property of a **Patient**, which occurs while **You** are providing **Professional Services** to such **Patient**;
24. any **Wrongful Act** committed, or any **Occurrence** which takes place, while **You** are under the influence of a drug or intoxicant.

B. No coverage will be available under this Policy for:

1. any **Claim** asserted by or on behalf of any individual or entity covered under this Policy against another individual or entity covered under this Policy, or for injury or damage sustained by any spouse or person who regularly resides in the home of any individual covered under this Policy; however, this Exclusion shall not apply to a **Claim** brought by an individual covered under this Policy if brought solely in their capacity as a **Patient** for **Professional Services Wrongful Acts**.
2. fines, penalties, punitive, exemplary, or multiplied damages, other than HIPAA fines and penalties as

described in Insuring Agreement I.D.2. for **Information Privacy Wrongful Acts**. However, if permitted by law, **We** will pay, as part of the applicable Limit of Liability, up to \$25,000 in punitive, exemplary, or multiplied damages which **You** are liable to pay as the result of any covered **Claim**;

3. any formal or informal investigation, action, administrative proceeding or **Claim** brought by a **Regulator**, other than the coverage available under Insuring Agreement I.D. or II.A. of this Policy.

IV. LIMITS OF LIABILITY:

A. Maximum Limits of Liability:

Regardless of the number of individuals or entities insured under this Policy, the number of **Claims**, the number of **Wrongful Acts** or **Occurrences** which take place during the **Policy Period**, or the number of claimants:

1. The amounts shown in Item 3(a) of the Declarations are the most **We** will be liable to pay under Insuring Agreement I.A. of this Policy, Occurrence-Based Professional Liability, for all **Claims** arising out of a single **Wrongful Act**, and in the aggregate for all **Claims**, all **Wrongful Acts** which take place during the **Policy Period**.
2. The amounts shown in Item 3(b) of the Declarations are the most **We** will be liable to pay under Insuring Agreement I.B. of this Policy, Occurrence-Based Premises Liability, for all **Claims** for **Bodily Injury** or **Property Damage** arising out of a single **Occurrence**, and in the aggregate for all **Claims**, all **Occurrences** which take place during the **Policy Period**.
3. The amount shown in Item 3(c) of the Declarations is the most **We** will be liable to pay under Insuring Agreement I.C. of this Policy for all **Claims** for **Fire Damage** arising out of a single **Occurrence**, and in the aggregate for all **Claims** for **Fire Damage**, all **Occurrences** which take place during the **Policy Period**, which amount shall be part of and not in addition to the amounts shown in Item 3(b) of the Declarations.
4. The amount shown in Item 3(d) of the Declarations is the most **We** will be liable to pay under Insuring Agreement I.D. of this Policy, Information Privacy Coverage, for all **Claims** arising out of a single **Information Privacy Wrongful Act** and in the aggregate for all **Claims**, all **Information Privacy Wrongful Acts** which take place during the **Policy Period**, and for all notification costs and HIPAA fines and penalties for which coverage is sought under this Policy.
5. The amounts shown in Items 3(e)-(k) of the Declarations as Supplemental Payments are payable in addition to the Limits of Liability described in paragraphs 1. through 4. above, subject to paragraph IV.B. below.
6. Payment of Defense Expenses:
 - a. Defense Expenses, including attorneys' fees and expenses, payable under Insuring Agreements I.A. and I.B., and Section V. of this Policy, are in addition to the applicable Limit of Liability, and payment of such defense expenses will not reduce such Limit of Liability.
 - b. Defense Expenses, including attorneys' fees and expenses, payable under Insuring Agreements I.C. and I.D. are part of, and not in addition to the applicable Limit of Liability, and payment of such defense expenses will reduce and may exhaust such Limit of Liability.

B. Effect of Paying Limits of Liability:

1. Each Wrongful Act or Occurrence Limit of Liability:

If **We** have paid the applicable each **Wrongful Act** or **Occurrence** Limit of Liability under an Insuring Agreement, as set forth in Item 3. of the Declarations, **We** will have no duty to pay any additional amount(s) in connection with any **Claim** relating thereto or to continue to defend any **Claim** relating thereto.
2. Supplemental Payment Limit of Liability:

If **We** have paid the applicable aggregate Limit of Liability for any Supplemental Payment under Section II. of this Policy, as set forth in Item 3. of the Declarations, **We** will have no further obligation to pay any additional amount in connection with such Supplemental Payment.
3. Aggregate Limit of Liability:

If **We** have paid the applicable aggregate Limit of Liability under an Insuring Agreement, as set forth in Item 3. of the Declarations, **We** will have no duty to pay any additional amount(s) for which coverage may be provided under such Insuring Agreement, including notification costs and HIPAA fines and penalties for which coverage is sought under this Policy under Insuring Agreement I.D., or to defend or continue to defend any **Claim**.

4. Exhaustion of Limits of Liability:

If **We** have paid in full the aggregate Limits of Liability for both Insuring Agreements I.A. and I.B., **We** will no longer have any duty to defend or continue to defend any **Claim** or make any other payments for which coverage may be provided under this Policy, or to pay any of the Supplemental Payments described in Section II. of this Policy.

C. Related Wrongful Acts and Occurrences; Single Wrongful Act or Occurrence:

Where **Wrongful Acts**, acts of **Sexual Misconduct** or **Occurrences** take place on one or more dates during the **Policy Period**, or during two or more consecutive policy periods of policies issued by **Us** or any of **Our** affiliates, involving the same or related act, error, omission, circumstance, event, situation, professional treatment, person or persons, accidents, offenses, publications or general conditions, irrespective of the nature or the number of repetitions thereof:

1. such **Wrongful Acts**, acts of **Sexual Misconduct** or **Occurrences** shall be considered a single **Wrongful Act**, act of **Sexual Misconduct** or **Occurrence** subject to the Limit of Liability in effect when the first **Wrongful Act**, act of **Sexual Misconduct** or **Occurrence** took place; and
2. the insurer shall not be responsible for that portion of any loss attributable to **Wrongful Acts**, acts of **Sexual Misconduct** or **Occurrences** which take place prior to the first consecutive policy issued by **Us** or any of **Our** affiliates, or after the last consecutive policy issued by **Us** or any of **Our** affiliates.

D. Multiple Professional and Premises Liability Policies:

Two or more policies of Professional or Premises Liability Insurance may have been issued by **Us** or an affiliate. These policies may also provide coverage for a **Claim** involving the same or continuous, repeated, or related **Wrongful Acts**, acts of **Sexual Misconduct** or **Occurrences** for which **You** and individuals or entities covered in those other policies are jointly and severally liable. In such an event, and subject to the Limits of Liability shown in the Declarations, **We** shall not be liable under this Policy for a greater proportion of the total loss from that **Claim** than this Policy's applicable Limit of Liability bears to the total applicable Limits of Liability under all such policies. In addition, the total amount payable under the applicable Limits of Liability under all such policies, which are issued to related or affiliated individuals or entities in the same profession as that listed in Item 5. of the Declarations, in connection with that **Claim** will not exceed the highest single Limit of Liability for each **Wrongful Act**, act of **Sexual Misconduct** or **Occurrence** under any of such policies issued by **Us** or an affiliate.

V. **SEXUAL MISCONDUCT:**

\$25,000 is the most **We** will be liable to pay, other than for defense expenses, for all **Claims** against **You** involving any **Sexual Misconduct** by **You** or by any person for whom **You** may be legally responsible, which takes place during the **Policy Period**. If any **Sexual Misconduct** is alleged at any stage during a **Claim**, all allegations in that **Claim** which arise out of the same or related professional treatment or relationship will be subject to that \$25,000 maximum. The \$25,000 maximum is part of, and not in addition to, the Limits of Liability set forth in Item 3(a) of the Declarations. If **We** have paid this \$25,000 maximum, **We** will no longer have any duty to defend or continue to defend any **Claim** involving any **Sexual Misconduct**.

VI. **OTHER PROVISIONS AFFECTING COVERAGE:**

A. Where Coverage Applies

We will cover a **Claim** only if such **Claim** is made and brought in the United States of America, its territories and possessions, Puerto Rico or Canada.

B. What You Must Do in the Event of a Claim

In order for a **Claim**:

1. **You** must give **Us** or **Our** authorized agent written notice of any as soon as practicable after it is first made; and
2. **You** must also, as soon as possible, record and notify **Us** of the specifics of the **Claim** and the date **You** first received notice of it; and
3. **You** must send **Us** or **Our** authorized agent all demands or legal papers **You** receive.

C. Your Assistance and Cooperation

You agree to cooperate with and help **Us** make settlements, enforce any legal rights **You** or **We** may have against anyone who may be liable to **You**, attend depositions, hearings and trials, secure and give evidence, and obtain the attendance of witnesses. **You** will not assume any financial obligation or pay out any money without **Our** prior consent. If **You** do, it will be at **Your** own expense.

D. Lawsuits Against Us

No one can sue **Us** to recover under this Policy unless **You** have complied with all of its terms. An individual or entity may sue **Us** to recover up to the Limits of Liability under this Policy, but only after **Your** liability has been decided by a trial after which a judgment has been entered, or by a written agreement signed by **You, Us**, and the party making the **Claim**.

E. Other Insurance

A **Claim** covered under this Policy may also be covered under another policy providing coverage to **You**. In that event, this Policy will apply only in excess of such other coverage, no matter how such other coverage is described. This clause will not apply to coverage which is expressly stated to apply in excess of this specific Policy.

F. Recovering Damages From a Third Party

You may be able to recover all or part of a loss from someone other than **Us**. If **We** make a payment under this Policy to **You** or on **Your** behalf, some or all of **Your** right to recover that loss may then belong to **Us**. **You** must do all that is possible after a loss to preserve any such right of recovery, so **We** will be able to pursue **Our** rights. **You** will do whatever is necessary, including signing documents, to help **Us** pursue **Our** rights.

G. Policy Changes

Notice to any agent or knowledge possessed by any agent or other person acting on behalf of **Us** will not effect a waiver or change in any part of this Policy or stop **Us** from asserting any right under the terms, conditions and limitation of this Policy. This Policy contains all the agreements between **You** and **Us** or **Our** authorized agents concerning this insurance. The Named Insured in the Declarations is authorized to request changes under this Policy. This Policy can only be changed by a written endorsement.

H. Assignment

You cannot assign or transfer **Your** interest in this Policy without **Our** written consent attached to the Policy. If **You** die or are declared legally incompetent, **Your** rights and duties will be transferred to **Your** legal representative while acting within the scope of his or her duties as such.

I. Special Rights and Duties of the Named Insured

You agree that when there is more than one individual or entity covered under this Policy, the Named Insured identified in Item 1a. of the Declarations will act on behalf of all of **You** with respect to giving and receiving notice of cancellation, the payment of premiums and receipt of return premiums, and the acceptance of any endorsements to this Policy.

J. Representations

You represent that the particulars and statements contained in the **Application** are true, accurate and complete, and agree that this Policy is issued in reliance on the truth of that representation, and that such particulars and statements, which are deemed to be incorporated into and to constitute a part of this Policy, are the basis of this Policy.

K. Bankruptcy

You or **Your** estate's bankruptcy or insolvency does not relieve **Us** of **Our** obligations under the Policy.

L. Cancellation

You may cancel this Policy by surrendering it to **Us** or to any of **Our** authorized agents, or by mailing **Us** written notice stating when thereafter the cancellation will be effective. **We** may cancel this Policy by mailing to **You** at the address shown in Item 1a. of the Declarations written notice stating when, not less than sixty (60) days thereafter, such cancellation will be effective. However, if **You** have not paid a premium when due, **We** may cancel this Policy by mailing to **You** at the address shown in Item 1a. of the Declarations written notice stating when, not less than fifteen (15) days thereafter, such cancellation will be effective.

The mailing of the notice as stated above will be sufficient proof of notice. The time of surrender or the effective date of cancellation stated in the notice will become the end of the **Policy Period**. Delivery of written notice will be the equivalent of mailing.

If **You** cancel this Policy, the unearned premium will be computed in accordance with the customary short rate table and procedure. If **We** cancel, unearned premium will be computed pro-rata. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

If the Insurance Department regulations of **Your** state require different times, content or procedures with respect to cancellation, then this Policy will be cancelled in accordance with the cancellation or termination regulations in effect in **Your** state at the time of such cancellation.

M. Headings

The descriptions in the headings and sub-headings of this Policy are solely for convenience, and form no part of the terms and conditions of coverage.

VII. DEFINITIONS:

A. **Application** means:

the application submitted by **You** to **Us** and any and all materials and information submitted to **Us** in connection with any such application, and all publicly available material promulgated by **You** about **You** that **We** obtained prior to the Effective Date of the Policy, all of which are deemed to be on file with **Us** and are deemed to be attached to, and form a part of, this Policy, as if physically attached.

B. **Assault** or **Battery** means the willful infliction of physical harm on **You**, by a **Patient** or their immediate family member, or any attempt thereof.

C. **Automobile** means a land vehicle (whether or not self-propelled) or a trailer or semi-trailer, including any attached machinery or apparatus, whether or not subject to motor vehicle registration or designed for use principally on public roads.

D. **Bodily Injury** means bodily harm, sickness or disease, including any resulting death, and mental anguish or emotional distress, whether or not resulting therefrom.

E. **Business Invitee** means a natural person, including a **Patient**, solely in their capacity as one who is invited by **You** to enter into and remain on the **Business Premises** for a purpose directly or indirectly connected with the **Professional Services** performed therein. A **Business Invitee** shall not include a trespasser or any other person who enters the **Business Premises** without **Your** knowledge or permission, or any individual or student who is insured under this Policy.

F. **Business Premises** means **Your** office location where **You** render **Professional Services**, and ways and means immediately adjacent thereto, and may include **Your** residence if **You** provide **Professional Services** regularly at such residence.

G. **Claim** means written notice received by **You** that someone intends to hold **You** responsible for a **Wrongful Act**, **Sexual Misconduct** or for an **Occurrence**. This includes a lawsuit or arbitration proceeding. A **Claim** shall also include an administrative proceeding or formal investigation brought by a **Regulator**, but only for an **Information Privacy Wrongful Act**.

A **Claim** shall not include any criminal proceeding or indictment, or any investigation related thereto.

H. **Deposition** or **Subpoena Proceeding** means a civil proceeding in which **You** are not a party but have been ordered to offer deposition testimony regarding **Professional Services** rendered to a **Patient**, or a civil proceeding in which **You** are not a party but have received a subpoena for record production in connection with **Professional Services** provided by **You**.

I. **Disciplinary Proceeding** means a hearing or disciplinary action before a state or other licensing board or governmental body which is specifically charged with regulating or overseeing **Your Profession**, involving allegations of unprofessional conduct by **You** in the conduct of **Your Profession**. A **Disciplinary Proceeding** shall not include any criminal proceeding or indictment, or any investigation related thereto.

J. **Discrimination** means unfair treatment or denial of services to any person based on his or her race, age, national origin, religion, disability of any kind, sex, sexual orientation, or any other protected status.

K. **Employee** means:

1. a W-2 wage earning employee of the Named Insured designated in Item 1a. of the Declarations, but only if acting in his or her capacity as such at the time the **Wrongful Act** or **Occurrence** took place;
2. a volunteer or supervised student under the direction and control of the Named Insured; and
3. a **Locum Tenens** engaged to provide **Professional Services** on **Your** behalf, but only while acting within the scope of his or her duties as such at the time the **Wrongful Act** or **Occurrence** took place.

L. **Fire Damage** means **Property Damage** to the tangible property of a third party other than **You**, caused by a fire to premises **You** rent or lease from others or to premises temporarily occupied by **You** with the permission of the owner, solely for the purpose of rendering **Professional Services**. Such premises shall not include **Your** residence. Water damage from such fire is also included. The fire must not be caused intentionally; and

must take place during the **Policy Period**.

With respect to **Fire Damage, Property Damage** shall not include damage to any personal property owned by **You**, or any other personal property of any person that is within **Your** care, custody or control.

- M. **Good Samaritan Wrongful Acts** means any act, error or omission in the rendering or failure to render emergency treatment or services by **You**, without remuneration, at the scene of an accident, medical crisis or disaster.
- N. **Information Privacy Wrongful Act** means an act, error or omission by **You** which results in a breach or violation of U.S. federal and state statutes and regulations by **You** in connection with the control and use of personally identifiable financial or medical information of **Patients**, including but not limited to:
1. the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) ("HIPAA"), and the rules and regulations promulgated thereunder as they currently exist and as amended;
 2. the Gramm-Leach-Bliley Act of 1999 ("G-L-B"), and the rules and regulations promulgated thereunder as they currently exist and as amended; and
 3. State privacy protection laws, as they currently exist now or in the future.
- Such information, as referenced above, must be under **Your** care, custody or control in the conduct of **Your Profession**.
- O. **Locum Tenens** means a qualified individual who is temporarily serving as a substitute for **You**, while **You** are temporarily absent from professional practice. Coverage for a **Locum Tenens** shall only extend for up to sixty (60) days during any one **Policy Period**.
- Any **Locum Tenens** for which coverage is provided under this Policy shall share in the Limits of Liability available to **You**.
- P. **Medical Payments** means reasonable payments for:
1. first aid administered at the time of an accident;
 2. necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
 3. necessary ambulance, hospital, professional medical and nursing and funeral services.
- Q. **Occurrence** means an accident, including continuous or repeated exposure to the same generally harmful conditions, but does not include the performance of, or failure to perform, **Professional Services**.
- R. **Patient** means a person to whom **You** are providing **Professional Services**.
- S. **Peer Review** means **Your** services for, or as a member of, a formal accreditation or professional review board of a hospital, managed care organization or professional society, or professional licensing board relating to **Your Profession**.
- T. **Personal Injury Wrongful Acts** means one or more of the following offenses committed by **You** in the conduct of **Your Profession**:
1. false arrest, detention or imprisonment;
 2. malicious prosecution;
 3. defamation, including libel and slander, and disparagement;
 4. a publication or utterance in violation of an individual's right or privacy; or
 5. invasion of the right to private occupancy, including wrongful entry or eviction.
- U. **Policy Period** means the period commencing on the Effective Date shown in the Declarations. This period ends on the earlier of either the Expiration Date or the date of cancellation of this Policy. If **You** become an insured under this Policy after the Effective Date, then with respect to **Your** coverage, the Policy Period begins on the date **You** become an insured.
- V. **Pollutant** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste, lead, silica or asbestos in any form whatsoever, and any nuclear material or by-product material, nuclear reaction, hazardous material, radioactive contamination or any radiation of any kind.
- W. **Professional Services** means services performed by **You**, or by others on **Your** behalf, in the usual and customary conduct of **Your Profession**.
- X. **Professional Services Wrongful Act** means any negligent act, error or omission:
1. in the rendering of or failure to render **Professional Services** in the conduct of **Your Profession**;
 2. by **You** in connection with **Peer Review**; and
 3. by **You** which results in the failure to maintain the confidentiality, integrity and security of personally

- identifiable financial or medical information of **Patients**, which is under the care, custody or control of **You** in the conduct of **Your Profession**.
- Y. **Property Damage** means physical injury to or destruction of tangible property, including loss of use of it, or loss of use of tangible property which has not been physically injured or destroyed.
- Z. **Regulator** means any federal or state governmental authority, other than a state licensing board or other licensing board or governmental body specifically charged with regulating or overseeing **Your Profession**.
- AA. **Sexual Misconduct** means any type of actual, alleged, attempted, or proposed physical touching or caressing, or suggestion thereof by **You** or any person for whom **You** may be legally responsible, with or to any of **Your** past or present **Patients**, or with or to any relative or any person whom regularly resides with any such **Patient**, or with or to any person with whom such **Patient** or relative has an affectionate personal relationship, which could be considered sexual in nature and/or inappropriate to any **Professional Services** being provided.
- BB. **We, Us or Our** means the Insurer specified in the Declarations.
- CC. **Wrongful Act** means any **Professional Services Wrongful Act, Good Samaritan Wrongful Act or Personal Injury Wrongful Act**.
- DD. **You or Your** means:
1. the individual or entity designated as the Named Insured in Item 1a. of the Declarations;
 2. any individuals or entities designated as Additional Insureds in Item 1b. of the Declarations or as specified in an Endorsement to this Policy, but only with respect to **Wrongful Acts** or **Occurrences** for which the Named Insured may be liable;
 3. any **Employee**;
 4. any owner, executive officer, director or stockholder of the Named Insured designated in Item 1a. of the Declarations, but only while acting in his or her capacity as such; and
 5. any individuals or entities which are landlords, lessors or creditors of the Named Insured, but only for a **Claim** that is made and continuously maintained against at least one of **You**, other than such landlord, lessor or creditor. The coverage provided by this Policy is excess of, and shall not contribute with, any other applicable insurance plan, policy or program of self-insurance carried by or applicable to such landlord, lessor or creditor.
- EE. **Your Profession** means the profession set forth in Item 5. of the Declarations.

In witness whereof, **We** have caused this Policy to be issued.

NON-POLICY INFORMATION

THE CLAIM PROCEDURE

A. Report the claim in writing to American Professional Agency, Inc. at 95 Broadway, Amityville, New York 11701. Be sure to include copies of all pertinent material (i.e., the lawsuit, letters from attorneys, the summons and complaint) and describe the situation fully. This narrative should include:

- your policy number and account number
- patient's name
- the date treatment began and ended
- what the patient was treated for
- description of the allegations
- your understanding of the situation

B. We will set up a claim file for your policy and forward copies of your claim to the appropriate individual at the Insurance Company. You will receive a copy of our transmittal letter to the Insurance Company.

C. The Insurance Company will then assign a claims examiner to review your claim. He/she will review your insurance policy to make a coverage determination and will set up a claim file. He/she will then send a letter of acknowledgment to you stating the Company's coverage position.

D. If the situation is only a potential claim, nothing else will happen unless there are new developments. If, however, you have in fact been served a lawsuit, the Insurance Company will immediately begin assigning defense counsel in your area which will take several days. If you have not heard from local counsel within 10 days after receipt of our transmittal letter to the Company, call us.

E. If the response from the claims examiner denies some or all coverage, you may retain counsel of your own for the uninsured exposure. This will be at your expense. It may be less time consuming and more cost efficient to you to let the Company's assigned attorney handle the entire case, and then pay your share of the defense costs and settlement. However, this is not always the case, and your decision should be made after a factual investigation.

F. Defense counsel will work with you until the claim is finalized.

Problems To Expect When A Claim Is Filed

Length of Time - A threatened suit may take months before an actual complaint is filed. In general, lawsuits take a long time to reach resolution. Legal issues can become complex and/or drawn out by opposing attorneys. A few claims have taken as long as seven years. Be prepared to be involved in the claim for at least one to three years.

Evidence - It is probable that your records will be subpoenaed by the Plaintiff's attorney. Do not be alarmed. This is standard legal practice. However, do not release any records without first consulting your defense attorney.

Multiple Allegations - Most lawsuits have multiple allegations of wrongdoing. This "shotgun" approach is an attempt by the plaintiff to hold you liable in "one way or another". Bear in mind that under most circumstances all allegations are settled or adjudicated at one time.

Reservation of Rights Letter - You may receive a letter from the Insurance Company in response to your claim that states that the company is reserving its rights on some or all of the charges presented in the lawsuit. If some or all of the claim is excluded by the policy, the Company is required by law to send this notification to you. **Don't panic!...** This is a common occurrence and often happens when the plaintiff's attorney makes vague or inflammatory allegations in the initial summons.

Distractions - Legal proceedings can be time consuming. Be prepared for distractions from your work and try to be patient.

Expect to spend some time with your defense attorney at strategy conferences, in depositions, and in court. Your insurance policy does cover lost income while your practice is suspended due to your attendance at depositions, hearings, or trials. Refer to your policy or check with the American Professional Agency, Inc. on the extent of this coverage.

Risk Management Strategies

1. Remain calm and do not panic.

We live in a litigious society, and unfortunately, it is not unusual to be sued in a professional capacity. Many lawsuits are frivolous. Do not become overly concerned or depressed. Maintain a calm demeanor and continue to practice your profession in your usual high standard.

2. Do not discuss your claim with anyone other than your defense attorney.

Most professionals are unaccustomed to dealing with the legal system and this unfamiliarity may cause you to do or say something that can make matters worse. Consult only with your attorney and follow his or her advice.

3. Admit nothing and make no self-incriminating statements to anyone.

Whether the claim is totally frivolous or has merit, do not admit anything or release any documents unless instructed to do so by your defense attorney.

4. Cease all contact with the Client.

You are in an adversarial position when you are being sued by a client. Do not engage in verbal communication with the client or see the client after the suit has been filed. Do not attempt to “negotiate” a resolution with the client or the client’s attorney. These contacts are not privileged communications and can be used against you in the litigation. Refer all communications from the client or the client’s attorney to your defense attorney for handling.

5. Do not destroy any documents.

Assemble all relevant documents and records, but do not show them to anyone except your defense attorney. Provide your defense attorney with copies of appropriate files, calendars, notes, etc. Keep the originals.

6. Use professional consultation with care.

While it is tempting to discuss your claim with a trusted colleague, such statements generally do not qualify as privileged information and can be admissible in court. Personal therapy for the stress and other personal issues related to a claim is considered privileged communication.

7. Your defense attorney is your advocate in the court.

It is imperative that you work with your defense attorney and follow his or her advice on legal issues. Remember that communication with your defense attorney is privileged information.

Where To Get Help

The American Professional Agency, Inc., which manages the professional liability plan, provides assistance with claims servicing questions and procedures. There is a full time claims service manager available to help you. If you have questions or need assistance, contact:

AMERICAN PROFESSIONAL AGENCY, INC.

95 Broadway, Amityville, New York 11701

(631) 691-6400 • (800) 421-6694

www.americanprofessional.com