

## HEALTHCARE PROVIDERS POLICY COMMON POLICY CONDITIONS

Throughout this Policy the words **you** and **your** refer to the **named insured(s)** designated in the **declarations** and as set forth in the DEFINITIONS of each coverage part. The words **we**, **us** and **our** refer to the **Company** providing this insurance.

In consideration of the payment of the premium due, and in reliance upon the representations in any Application, **you** and **we** agree as follows, subject to the terms and conditions of this Policy, including the applicable Limits of Insurance.

### I. TERMS AND CONDITIONS

The terms and conditions of each Coverage Part apply only to that Coverage Part and shall not apply to any other Coverage Part. If any provision in the Common Policy Conditions is inconsistent or in conflict with the terms and conditions of any Coverage Part, the terms and conditions of such Coverage Part shall control for purposes of that Coverage Part. All terms and conditions are a condition precedent to coverage.

### II. DUTIES AS THE FIRST NAMED INSURED IN THE DECLARATIONS

The first **named insured**, on behalf of all of **you**, will be:

- A. authorized to make changes in the terms of this policy with **our** consent;
- B. the payee of any premiums **we** refund;
- C. responsible for:
  - 1. the payment of all premiums due;
  - 2. keeping records of the information **we** need for premium computation, and sending **us** copies at such times as **we** may request;
  - 3. notifying **us** that the **named insured** wants to cancel this policy.

### III. ASSISTANCE AND COOPERATION

In the event of a **claim**, **you** shall:

- A. fully cooperate with **us** or **our** designee in the making of settlements, the conduct of suits or other proceedings and enforcing any right of contribution or indemnity against another who may be liable to **you** because of **injury** or **damage**;
- B. attend hearings, deposition and trials, assist in securing and giving of evidence, and assist in obtaining the attendance of witnesses;
- C. refuse, except at **your** own cost, to voluntarily make any payment, assume any obligation or incur any expense without **our** written consent.

### IV. SEPARATION OF INSURED

This policy applies separately to each of **you** against whom a **claim** is brought except with respect to:

- A. the limits of liability; and
- B. any of **your** duties under the policy.

### V. CHANGES

Notice to any person, other than **our** program administrator, or knowledge possessed by such person, shall not act as a waiver or change any part of this policy. It also will not prevent **us** from asserting any rights under the provisions of this policy. None of the provisions of this policy will be waived, changed or modified except by

written endorsement issued to form a part of this policy.

At some time, **we** may make changes in **our** insurance policy forms. Where appropriate, these changes must conform to and be filed with state insurance supervisory authorities for approval. If, during **your policy period**, **we** make a policy change that extends or broadens **your** coverage, without increasing **your** premium, **your** coverage will automatically include such extension or broadening, on the effective date the change is approved in **your** state. This change will not apply to **claims** that were reported to **us** prior to the effective date of such revision.

#### **VI. TRANSFER OF INTEREST**

**You** must first obtain **our** written consent to transfer or assign this policy. If **you** die, the policy will continue for the remaining part of the **policy period**; first, for the benefit of **your** legal representative while acting within their duties as such, and second, for the benefit of anyone having proper temporary custody of **your** property until a legal representative is appointed.

#### **VII. CONCEALMENT, MISREPRESENTATION, FRAUD**

This policy is void in any case of fraud by **you** relating to it. It is also void if **you** intentionally conceal or misrepresent a material fact or circumstance concerning:

- A.** this policy;
- B.** any covered property or **your** interest in the covered property;
- C.** this insurance; or
- D.** any **claims** or suits including against any **insureds**.

#### **VIII. AVAILABILITY OF OTHER COVERAGE**

This Policy is written as specific excess insurance over the insurance policy, self-insured retention, deductible, indemnification agreement, trust agreement, patient compensation fund or other fund or risk transfer arrangement of any sort ("other insurance") provided by a third party. If any "other insurance" is available to **you**, such "other insurance" must pay first. It is the intent of this Policy to apply only to the amounts covered under this Policy which exceed the available limit of any "other insurance" whether primary, contributory, excess, contingent, or otherwise. As such, this Policy will not contribute with any such "other insurance". These provisions do not apply to other insurance written as specific excess insurance over the limits of liability of this policy.

#### **IX. INSURANCE UNDER MORE THAN ONE COVERAGE**

If a **medical incident, claim** or suit is covered under this Policy and another Policy issued to **you** by **us** or any company affiliated with **us**, only one such policy shall apply to such **medical incident, claim** or suit. The maximum individual and aggregate limit of liability of the Insurer and its affiliates for all loss in connection with any such **medical incident, claim** or suit shall not exceed the highest applicable limit of liability under any one applicable policy.

Payment of the highest limit of liability offered on any one applicable policy shall extinguish the Insurer's liability on all of such policies for such **medical incident, claim** or suit. Nothing contained in this coverage part shall be construed to increase the limit of liability of this Policy.

#### **X. TRANSFER OF RIGHTS OF RECOVERY**

If any of **you** for whom **we** make payment under this policy have rights to recover amounts from another, those rights are transferred to **us** to the extent of **our** payment. **You** must do everything necessary to secure **our** rights and must do nothing after **injury** or **damage** to impair them.

#### **XI. LEGAL ACTION LIMITATION**

**You** may not bring any legal action against **us** concerning this policy until:

- A.** **you** have fully complied with all the provisions of this policy; and
- B.** the amount of **your** obligation to pay has been decided. Such amount can be set by judgment against

**you** after actual trial or by written agreement between **you**, the claimant and **us**.

Any entity, or their legal representative, is entitled to recover under this policy after they have secured a judgment or written agreement. Recovery is limited to the extent of the insurance afforded by this policy. No entity has any right under this policy to include **us** in any action against **you** to determine **your** liability, nor will **we** be brought into such an action by **you** or **your** representative. If **you** or **your** estate becomes bankrupt or insolvent, it does not change any of **our** obligations under this policy.

## XII. PREMIUM

All premium charges under this policy will be computed according to **our** rules and rating plans that apply at the inception of the current **policy period**. All premiums are fixed and payable when due. They may be paid to **us** or **our** program administrator. The first premium is due on the inception date of the policy. **We** compute the premium **you** pay for this policy using information available prior to the effective date of the policy.

## XIII. NON-RENEWAL/CANCELLATION

This policy may be non-renewed or cancelled by **us** in accordance with requirements specified by the **named insured's** state insurance supervisory authorities and attached by amendatory endorsement to this policy.

The first **named insured** can cancel this policy at any time. To do so, such **named insured** must mail a written notice to **us**, telling **us** when the cancellation is to be effective.

## XIV. RIGHT TO CLAIM INFORMATION

Upon the written request of the **named insured**, **we** will provide the **named insured** with the following information relating to this and any preceding policy **we** have issued to the **named insured** during the previous five years:

- A. A list or other record of each **claim**, not previously reported to any other insurer, of which **we** were notified in accordance with these policy conditions. **We** will include the date and brief description of the **claim** if that information was in the notice **we** received.
- B. A summary by policy year, of **claim** status and payments made, stated separately, for each Aggregate Limit of Liability shown on the declarations.

**You** must not disclose this information to any claimant or their representative without **our** written consent.

**We** compile **claim** information for **our** own business purposes and exercise reasonable care in doing so. In providing this information to the **named insured**, **we** and **our** program administrator make no representations or warranties to insureds, insurers, or others to whom this information is furnished by or on **your** behalf. Cancellation or non-renewal will be effective even if **we** inadvertently provide inaccurate information.

## XV. COVERAGE TERRITORY

This Policy shall apply to **claims** made against **you** anywhere in the world, provided the **claim** is made or suit is brought in the United State of America, or its territories and possessions, including Puerto Rico.

## XVI. ECONOMIC AND TRADE SANCTIONS CONDITION

In accordance with laws and regulations of the United States concerning economic and trade embargoes, this policy is void from its inception with respect to any term or condition of this policy that violates any laws or regulations of the United States concerning economic and trade embargoes including, but not limited to the following:

- A. Any insured under this Policy, or any person or entity claiming the benefits of such insured, who is or becomes a Specially Designated National or Blocked Person or who is otherwise subject to U.S. economic or trade sanctions;
- B. Any claim or suit that is brought in a Sanctioned Country or by a Sanctioned Country Government, where any action in connection with such claim or suit is prohibited by U.S. economic or trade sanctions;
- C. Any claim or suit that is brought by any Specially Designated National or Blocked Person or any person or

entity who is otherwise subject to U.S. economic or trade sanctions;

- D. Property that is located in a Sanctioned Country or that is owned by, rented to or in the care, custody or control of a Sanctioned Country Government, where any activities related to such property are prohibited by U.S. economic or trade sanctions; or
- E. Property that is owned by, rented to or in the care, custody or control of a Specially Designated National or Blocked Person, or any person or entity who is otherwise subject to U.S. economic or trade sanctions.

## XVII. HEADINGS

The descriptions in the headings and subheadings of this policy are solely for convenience and form no part of the terms and conditions of coverage.

## XVIII. DEFINITIONS

For purposes of this Policy, words in bold have the meaning set forth below. However, any bolded word referenced in these Common Policy Conditions but defined in a Coverage Part shall, for purposes of coverage under that Coverage Part, have the meaning set forth in that Coverage Part.

- A. **Aesthetician services** means service, treatment, advice or instruction intended to alter or enhance appearance of the epidermis, in the absence of persistent physical or physiological abnormality, functional impairment or disease, whether or not for psychological or emotional reasons.

**Aesthetician services** does not include the following services:

1. Bacti;
2. Colon Hydrotherapy (including Colonics);
3. Emesis or Purgation Therapies (including Vamana);
4. Gas Injection Therapies (including Carboxy Therapy);
5. Electrolysis, except when administered by an Electrologist;
6. X-rays or other ionizing radiation, or photocoagulation technique for the removal of hair;
7. Plastic surgery of any type;
8. Removal of warts, moles or other growths;
9. Laser or laser pulsed light treatments, except when administered by certified laser technicians;
10. Weight reduction treatments;
11. Hair implants or transplants; or
12. Body piercing.

- B. **Area of specialization** means body of knowledge or expertise attained through experience and training in the profession specified in the declarations.

- C. **Asbestos** means the mineral in any form whether or not the **asbestos** was at any time:

1. airborne as a fiber, particle or dust;
2. contained in or formed a part of a product, structure or other real or personal property;
3. carried on clothing;
4. inhaled or ingested; or
5. transmitted by any other means.

- D. **Assault** means any willful attempt to inflict physical harm on **you** by another that results in **injury** or **damage**.

- E. **Auto** means a land motor vehicle, trailer or semi-trailer designed for use on public roads. Any attached

apparatus or machinery is included. Mobile equipment is not included.

- F. Business Premises** means the established primary practice location of the **named insured** business entity and approaches immediately adjoining this location.
- G. Certified Act of Terrorism** means any act that is certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, to be an act of terrorism according to the U.S. federal Terrorism Risk Insurance Act ("TRIA") and any subsequent federal law modifying TRIA. The criteria contained in TRIA for a **certified act of terrorism** include the following:
1. The act resulted in insured losses in excess of \$5 million in the aggregate, that are attributable to all types of insurance that is subject to the TRIA; and
  2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.
- H. Claim** means a demand for money or services alleging **injury** or **damage**. **Claim** also means the filing of a suit or the starting of arbitration proceedings naming **you** and alleging **injury** or **damage**.

However, no demand for money or services alleging **injury** or **damage** or filing of suit or starting of arbitration proceedings naming **you** and alleging **injury** or **damage** is a **claim** unless such demand is made, such suit is filed or such arbitration proceeding is started:

1. by a natural person to whom **you**, or someone for whom **you** are legally liable, provided **professional services**, but solely for such natural person's **injury** or **damage**; or
  2. by such natural person's **family member**, legal guardian or estate, but solely for **injury** or **damage**.
- I. Claim Expenses** means:
3. fees charged by an attorney **we** designate; and
  4. all other fees, costs and expenses, including interest on that part of any judgment which may result from the investigation, adjustment, defense and appeal of a **claim** including interest.

These expenses must be incurred by **us**, or by **you** with **our** prior written consent.

**Claim Expenses** does not include:

1. salary charges of **our** regular employees or company officials;
  2. fees and expenses of independent adjusters; or
  3. **Covered expenses**.
- J. Company** means the insurance company listed in **your** declarations.
- K. Consulting Services** means the rendering of advice or recommendations in **your area of specialization**, and the services related to the implementation of such advice or recommendations, performed by **you** for others. **Consulting services** also includes **expert witness** testimony by **you** for others, which is directly associated with **your area of specialization**.
- L. Cosmetic procedures** means any service, treatment, advice or instruction intended to alter or enhance appearance, in the absence of persistent physical or physiological abnormality, functional impairment or disease, whether or not for psychological or emotional reasons.
- M. Covered Expenses** means expenses for **your** travel, food, lodging, and wage loss. **You** must provide **us** with written documentation containing sufficient information and detail to identify **you**, the time, place and circumstances that resulted in such expenses.
- N. Damage** means:

1. physical **injury** to tangible property, including all resulting loss of use of that property; or
  2. loss of use of tangible property that is not physically injured.
- O. Dental midlevel provider procedure** means any service, treatment, advice or instruction, which in the absence of state licensure of dental therapists by whatever name, requires a licensed dentist to perform, including but not limited to fillings or extractions.
- P. Employee means** a full-time or part-time individual who is on **named insured's** payroll and subject to the withholding of taxes by a **named insured** working for **You** or the **Named Insured** in connection with **Your** business or the **named insured's** business but only while acting within the course and scope of their duties and directed by the **named insured** with respect to the conduct of **named insured's Professional Services**.
- Q. Expert Witness** means one, who by reason of education or specialized experience, possesses superior knowledge respecting a subject, to assist the trier of fact, judge, jury or counsel in the understanding of complicated and technical subjects.
- R. Extended Reporting Period** means the period of time after the **policy period** for reporting **claims** due to a **medical incident** or **personal injury**. The **medical incident** or **personal injury** must happen on or after the prior acts date and before the end of the **policy period**.
- S. Family member** means any person related to **you** by blood, marriage or adoption, whether or not living in **your residence**, including wards and foster children.
- T. Hazardous Properties** means any radioactive, toxic or explosive properties.
- U. Hostile Fire** means a fire that becomes uncontrollable or breaks out from where it was intended to be.
- V. Injury** means bodily injury, sickness, mental or emotional distress sustained by a person, or death.
- W. Named Insured** means the individual healthcare provider or business entity named in the declarations.
- X. Nuclear Facility** means:
1. any **nuclear reactor**;
  2. any equipment or device designed or used for:
    - a. separating the isotopes of uranium or plutonium,
    - b. processing or utilizing **spent fuel**, or
    - c. handling, processing or packaging **waste**.
  3. any equipment or device used for the processing, fabricating or alloying of special **nuclear material** if at any time the total amount of such material in the **named insured's** custody at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
  4. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of **waste**; or
  5. any site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.
- Y. Nuclear Material** means "byproduct material", "source material", and/or "special nuclear material" as defined in the Atomic Energy Act of 1954 and any of its amendments.
- Z. Nuclear Reactor** means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material. With respect to **damage** to or destruction of property, the word **damage** or destruction includes all forms of radioactive contamination of property or loss of use.
- AA. Occurrence** means an accident, including continuous or repeated exposure to the same or similar



conditions, which results in **injury** or **damage**.

**BB. Other act of Terrorism** means any activity against persons, organizations or property of any nature, located anywhere in the world, by any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organization(s) or government(s):

1. That involve the following or preparation for the following:
  - a. Use or threat of force or violence; or
  - b. Commission or threat of a dangerous act; or
  - c. Commission or threat of an act that interferes with or disrupts an electronic, photonic, optoelectronic, communication, information, or mechanical system (including the use or operation, as a means of inflicting harm, of any computer, computer system, computer software program, malicious or improperly written code, computer virus or trojan, or any other electronic, photonic or optoelectronic system); and
2. When one or both of the following applies:
  - a. The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy or put the public, or any section of the public in fear; or
  - b. It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology or any similar purpose, and the act is not certified as a terrorist act pursuant to TRIA or any subsequent federal law modifying TRIA.
  - c.

**Personal Injury** means **injury** arising out of one or more of the following offenses committed in the conduct of **your professional services**:

1. testimony given at or arising out of inquests;
2. malicious prosecution or abuse of process;
3. false arrest, detention, imprisonment, wrongful entry;
4. libel, slander or other disparaging materials, whether written or otherwise, including material that violates a person's right of privacy;
5. **assault**, battery, mental anguish, mental shock or humiliation;
6. misappropriation of advertising ideas, trade secrets, or style of doing business; or
7. infringement of patent, copyright, trademark, trade name, trade dress, service mark, service name, logo, title or slogan; or
8. wrongful eviction from, wrongful entry into, or the invasion of the right of private occupancy of a room, dwelling or premises that a person occupies committed by or on behalf of its owner, landlord or lessor.

**CC. Personal Injury Claim** means a **claim** arising out of **personal injury**.

**DD. Policy Period** means the time period from the inception time and date listed in the declarations to the earlier of 12:01 A.M. on the expiration, termination, or cancellation date of this Policy. If not otherwise indicated, for purposes of the inception and end of the **policy period**, reference is to Standard Time ("Std"), which is determined by the **named insured's** address as set forth on the **declarations**. However, if "ET" is shown in the declarations, "ET" means Eastern Standard Time or Eastern Daylight Time when Daylight Saving Time is in effect.

**EE. Pollutants** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and **waste**. **Waste** includes materials to be recycled, reconditioned or reclaimed.

**FF. Professional Services** means:

1. those services for which **you** are licensed, certified, accredited, trained or qualified to perform within the scope of practice recognized by the regulatory agency responsible for maintaining the standards of the profession(s) shown in the declarations and which **you** perform as, or on behalf of, the **named insured**; or
2. **your** services while acting in the profession(s) shown in the declarations as a member of a formal accreditation, standards review, or similar professional board or committee, including the directives of such board or committee.

If within the scope of **your** practice as stated in 1 or 2 above, **professional services** can also include, but is not limited to:

1. **aesthetician services**;
2. the fitting of orthotic and prosthetic devices and therapeutic services, treatment, instructions, advice and demonstrations related thereto;
3. Demonstration or instruction on the use of durable medical equipment that is primarily and customarily used to serve a medical purpose in a patient's home; and
4. Therapeutic services, advice, instruction and treatment related to the use of such durable medical equipment in a patient's home.

**GG. Professional Liability Claim** means a **claim** arising out of a **medical incident**.

**HH. Sanctioned Country** is any country that is the subject of trade or economic embargoes imposed by the laws or regulations of the United States of America.

**II. Sexual Misconduct** means:

1. any type of physical touching or caressing, or attempt thereof, or suggestion thereof by **you** or by any person for whom **you** may be legally responsible, which could be considered sexual or erotic in nature, including consensual sexual activity or sexual activity in contravention of any professional code of ethics or conduct; or
2. any act of sexual **assault**, harassment, abuse or molestation.

**JJ. Silica** means the chemical compound silicon dioxide (SiO<sub>2</sub>) in any form, including dust which contains silicon dioxide.

**KK. Specially Designated National or Blocked Person** is any person or entity that is on the list of Specially Designated Nationals and Blocked Persons issued by the U.S. Treasury Department's Office of Foreign Asset Control (O.F.A.C.) as it may be from time to time amended.

**LL. Spent Fuel** means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**.

**MM. Utilization review** means the review of the necessity, appropriateness, cost, type or utilization of healthcare services made without patient contact.

**NN. Waste** means any product containing **nuclear material** other than the tailings produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its **nuclear material** content; or resulting from the operation by any entity of any **nuclear facility** included under the first two paragraphs of the definition of **nuclear facility**.

**OO. Workplace** means any location used by **you** to provide **professional services**.

**PP. You or Your** has the meaning set forth in each Coverage Part.

## XIX. EXCLUSIONS

**We** will not defend any **claim**, **license protection incident** or matter under any other coverage extension or pay any amounts based on, arising out of, or related to:



- A. An Insured's dishonest, fraudulent, criminal or malicious act, error or omission.
- B. An Insured's ownership or operation of a hospital, clinic, or other facility or institution, which provides overnight bed and board.
- C. An Insured's ownership, or operation of a laboratory or a pharmacy.
- D. Disputes about your fees, including collecting fees from third parties.
- E. Any **claim** as a manager, administrator or as director/officer or committee Member of a **utilization review** panel. This exclusion does not apply to **claims** against **you** in **your** capacity as a member of a formal accreditation or review board, professional society or licensing board.
- F. Any liability covered or insurable under a directors and officers, errors and omissions, or general liability policy, unless specifically covered by the applicable policy issued by **us**
- G. **Claims** against an Insured for being under the influence of a drug or intoxicant.
- H. Arising out of the use of x-ray, radium or any other radioactive substances unless administered under the direction of a supervising physician. This exclusion will not apply to x-rays taken for diagnostic purposes.
- I. The violation of any statute, ordinance, rule or regulation by or on behalf of **you** against any other of **your** other businesses or professions.
- J. Any **Claims** or **Suits** made or brought by one **Insured** against another **Insured**.  
This exclusion does not apply to medical **incidents** or **occurrences** which occur while an insured is registered as a patient. However, this exception does not apply to any insured for which any workers' compensation law applies.
- K. Any liability **you** or the **named insured** has for a business or profession other than that named in the declarations.
- L. **Injury** or **damage** based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving **you** owning, using, taking care of, operating, leasing or renting, loading or unloading of patients or property from, transporting patients in, or entrusting to others an **auto**, mobile equipment, watercraft or aircraft, including an **auto**, mobile equipment, watercraft or aircraft which is loaned to **you** or the **named insured** or which is operated by or for the **named insured** or by its **employee**, including an **employee-owned auto**.
- M. Any **damage** to an animal; except that this exclusion is not applicable to Section II. **COVERAGE EXTENSIONS**, paragraph. **J. DAMAGE TO PROPERTY OF OTHERS** of the Healthcare Providers Professional Liability Coverage Part, if such **damage** occurs while **you** are:
  - 1. rendering **professional services** to such animal; and
  - 2. not precluded from providing such services to animals by State or other governing authority.

The limit of liability available for any such **claim** will be the Damage to Property of Others aggregate limit stated in the declarations and will not be subject to the per **occurrence** limit stated in the declarations. No other limits of liability will apply.
- N. **Injury** or **damage** resulting from **aesthetician services** provided without a documented medical evaluation/assessment and signed, written informed consent including the possible outcomes of procedures, treatments or services.
- O. **Injury** or **damage** resulting from **aesthetician services** rendered to a minor without a signed, written informed consent of a parent or legal guardian.
- P. **Injury** or **damage** resulting from the recommendation, prescription, production, promotion, solicitation, testing, selling or manufacture of vitamins, minerals, herb supplements, medicinal supplements and nutritional supplements if under the purview of the U.S. Food and Drug Administration (FDA) and not approved by the FDA.
- Q. **Injury** or **damage** resulting from off label use of U.S. Food and Drug Administration (FDA) approved drugs

or devices including injectable neurotoxins or dermal fillers.

- R. **Injury or damage** resulting from a warranty or guarantee of cure or success of treatment which is alleged to have arisen out of advertisement.
- S. Any **injury or damage**:
  - 1. with respect to which **you** are also an insured under a Nuclear Energy Liability Policy issued by:
    - a. Nuclear Energy Liability Insurance Association,
    - b. Mutual Atomic Energy Liability Underwriters,
    - c. Nuclear Insurance Association of Canada,
 or any of their successors, or would be an insured under any such policy if it had not terminated due to exhaustion of its limits of liability; or
  - 2. resulting from the **hazardous properties of nuclear material** and with respect to which:
    - a. any person, organization or entity is required to maintain financial protection pursuant to the Atomic Energy Act of 1954 or any of its amendments, or
    - b. **you** are, or had this policy not been issued would be, entitled to indemnity from the United States of America or any of its agencies, under any agreement entered into by the United States of America or any of its agencies with any person, organization or entity; or
  - 3. resulting from the **hazardous properties of nuclear material** if:
    - a. the **nuclear material**:
      - i. is at any **nuclear facility** owned or operated by or on **your** behalf;
      - ii. has been discharged or dispersed therefrom; or
      - iii. is contained in **spent fuel** or **waste** at any time possessed, handled, used, processed, stored, transported or disposed of by or on **your** behalf;
    - b. the **injury** or destruction arises out of the furnishing by **you** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**. If such facility is within the United States of America, its territories, possessions or Canada, this subparagraph 3.b. applies only to **injury** to or destruction of property at such **nuclear facility**.
- T. The return or withdrawal of fees or government payments imposed directly upon **you**; any fines, penalties or sanctions; punitive or exemplary amounts; or the multiplied portion of any multiplied award, imposed by law.
- U. Liability resulting from **professional services you** provide while **your** license or certification to practice is suspended, revoked, or no longer valid.
- V. **Injury or damage you** or the **named insured** expected or intended, or which a reasonable person would have expected. This exclusion does not apply to **injury or damage** resulting from the use of reasonable force to protect persons or property.
- W. Any **claim** arising out of actual or alleged involvement in any:
  - 1. federal or state anti-trust law violation; or
  - 2. agreement or conspiracy to restrain trade.
- X. Any loss, cost or expense:
  - 1. which would not have happened in whole or in part, but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants** at any time; or

2. arising out of any:

- a. **claim** or suit by or on behalf of a governmental authority for amounts because of testing for, monitoring, cleaning up, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of **pollutants**; or
- b. request, demand or order that **you** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effect of **pollutants**.

**Y. Injury or damage** resulting from the application of chemicals to the skin which are intended to remove tissue. This exclusion does not apply to the manual extraction of sebum, bacteria, dead cells and other waste from the skin follicle.

**Z. Claim expenses**, based on, arising out of, or related to any of **your** acts, errors or omissions involving Colonics including Colon Hydrotherapy.

**AA.** any direct or consequential **injury** or **damage** arising out of any:

- 1. refusal to employ;
- 2. termination of employment; or
- 3. coercion, demotion, reassignment, defamation, harassment, humiliation, discrimination or other employment related practices, policies, act or omissions by or on behalf of **you** against any other of **you**.

**BB.** any loss, cost or expense arising out of, relating to, or involving the actual, alleged, or threatened exposure at any time to **asbestos**; or that may be awarded or incurred:

- 1. By reason of a **claim** or suit relating to **asbestos**; or
- 2. In complying with a governmental directive or request to test for, monitor, clean up, remove, contain, or dispose of **asbestos**.

**CC.** Loss due to fungi or microbes, meaning:

- 1. **injury** or **damage** arising out of or relating to, in whole or in part, the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or growth or presence of any fungi or microbes;
- 2. any loss cost or expense arising out of or relating to the testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating, or disposing of, or in any way responding to or assessing the effects of fungi or microbes by any insured or anyone else; or
- 3. **damage** caused by water where there also exists any **damage** arising out of or relating to, in whole or in part, the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or growth or presence of any fungi or microbes.

This exclusion applies regardless of any other cause or event that contributes concurrently or in any sequence to such **injury** or **damage**, loss, cost or expense.

This exclusion does not apply where **your** business is food processing, sales, or serving, and the **injury** is caused solely by food poisoning in connection with such processing, sales or serving.

**DD.** **injury** or **damage**:

- 1. based on or arising out of the actual, alleged or threatened respiration, ingestion or presence of or exposure at any time to respirable dust or **silica**; or
- 2. any loss, cost or expense that may be awarded or incurred:
  - a. by reason of a **claim** for any such **injury** or **damage**; or
  - b. in complying with a governmental direction or request to test for, monitor, clean up, remove, contain

or dispose of respirable dust or **silica**.

**EE. injury or damage** however caused, arising, directly or indirectly, out of:

1. war, including undeclared or civil war;
2. warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
3. insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in response to any of these.

However, this exclusion does not apply to **damage** by fire to premises while rented to **you** or temporarily occupied by **you** with permission of the owner.

**FF.** Any injury or any damage, including bodily injury, property damage, personal and advertising injury, or environmental damage however caused, that arises, directly or indirectly, out of a **certified act of terrorism** or an **other act of terrorism**. This exclusion also applies to any loss, damage, cost or expense of any nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, retaliating against, suppressing or in any way relating to a **certified act of terrorism** or an **other act of terrorism**. The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for injury or damage that is otherwise excluded under any Coverage Part.

**GG. Claims** against any physician, surgeon, intern, extern, osteopathic physician, dentist, nurse anesthetist, nurse midwife, chiropractor, perfusionist, surgeon or podiatrist, even if such individual is employed by **you**.

**HH.** Any injury, death, claims, or actions occasioned directly or indirectly or as an incident to the discharge of firearms by person or persons on or about the insured premises.

**II.** Any amounts based on, arising out of, or related to any actual or alleged violation of:

1. the Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
2. the CAN-SPAM Act of 2003, including any amendment of or addition to such law;
3. the Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA);
4. any statute, ordinance, regulation or law other than the TCPA, CAN-SPAM Act of 2003, or FCRA, including FACTA, and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information; or
5. any statute, ordinance, regulation or law which prohibits or limits the conversion or consumption of another's tangible property or electronic assets. For the purpose of this provision, electronic assets include but are not limited to minute allowances, text message allowances, and other electronic consumables.

**JJ.** Any amounts based on, arising out of, or related to any acts, errors or omissions involving reuse of:

1. needles, syringes;
2. catheters, ports, including implanted ports;
3. intravenous solution whether intended for direct intravenous administration or as a source of diluent for medication or any other substance to be administered parenterally;
4. intravenous medications intended for direct intravenous administration, including heparin or sodium chloride used for flushing venous access devices;
5. lines, including intravenous lines, tubing, and any connectors thereto;
6. any other type of parenteral device or supply used to inject medications or to administer parenteral substances, or to withdraw blood samples in contravention of:

- a. the instructions, warnings, or recommendations of the manufacturer of such parenteral device or supply; or
- b. any standards regarding safe injection practices, intravenous therapy guidelines, infection control, or any other pertinent recommendations or guidelines promulgated by the Center for Disease Control and Prevention or other state or federal agency or governmental authority regulating the use of any such parenteral device or supply.

Reuse includes:

1. the use of any catheter, line, or tubing, including any connectors thereto, on any person after its removal from a person, or after its use for any other purpose wherein it may have become contaminated, or is otherwise no longer sterile; or
2. the introduction of any syringe, needle, or any other parenteral device or supply into a multidose vial or intravenous solution after its use.

**KK.** Any liability that **you** or the **named insured** assumes under any contract or agreement.

This exclusion does not apply to:

1. liability **you** or the **named insured** assumes under a contract with a Health Maintenance Organization, Preferred Provider Organization, Independent Practice Association, or any other similar organization. This exception is only for such liability as is attributable to **your** alleged negligence based solely on **professional services** rendered, or which should have been rendered by **you**;
2. a warranty of fitness or quality of any therapeutic agents or supplies **you** or the **named insured** have furnished or supplied in connection with treatment **you** have performed.

**LL.** A willful violation of a statute, ordinance or regulation imposing civil or criminal penalties. However, **we** will defend any civil suit against **you** or the **named insured** seeking amounts that would be otherwise covered by this policy. In such case, **we** will pay only **claim expenses**.

**MM.** Except where specifically included by endorsement, coverage extension, or main coverage part, there is no coverage for sexual misconduct.

IN WITNESS WHEREOF, **we** have caused this Policy to be executed and attested, but this Policy shall not be binding upon **us** unless completed by the attachment of the declarations and payment of the applicable premium.



Joseph G. Murphy  
President & CEO

Elizabeth B. Brodeur  
Secretary

## HEALTHCARE PROVIDERS PROFESSIONAL LIABILITY COVERAGE PART – OCCURRENCE

THIS IS AN OCCURRENCE COVERAGE PART AND, SUBJECT TO ITS PROVISIONS, APPLIES ONLY TO THOSE CLAIMS WHICH ARE THE RESULT OF MEDICAL INCIDENTS OR PERSONAL INJURY THAT OCCURRED ON OR AFTER THE EFFECTIVE DATE OF COVERAGE, AND BEFORE THE EXPIRATION DATE STATED IN THE DECLARATIONS. CLAIM EXPENSES SHALL BE IN ADDITION TO THE LIMIT OF LIABILITY.

### I. COVERAGE AGREEMENTS

Coverage under any of the following coverage agreements applies only to **medical incidents** or **personal injury**, which occurred on or after the effective date of coverage, and before the expiration date of the **policy period** stated in the declarations.

In addition to the limit of liability, **we** will also pay **claim expenses**.

#### A. PROFESSIONAL LIABILITY

**We** will pay all amounts, up to the Professional Liability limit of liability stated in the declarations, that **you** become legally obligated to pay as a result of a **professional liability claim** arising out of a **medical incident** by **you** or by someone for whose **professional services you** are legally responsible.

#### B. PERSONAL INJURY LIABILITY

**We** will pay all amounts, up to the **Personal Injury** Liability limit stated in the declarations, that **you** become legally obligated to pay as a result of a **personal injury claim** arising out of **personal injury** by **you** or by someone for whose **professional services you** are legally responsible.

### II. COVERAGE EXTENSIONS

The following payments are in addition to the limits of liability described in Section VI. LIMITS OF LIABILITY. These payments end after the applicable limit of liability has been exhausted.

#### A. GOOD SAMARITAN LIABILITY

**We** will pay all amounts, up to the Good Samaritan Liability limit stated in the declarations, that **you** become legally obligated to pay as a result of a **Good Samaritan claim** arising out of a **Good Samaritan Incident**.

#### B. MALPLACEMENT LIABILITY

**We** will pay all amounts, up to the **Malplacement** Liability limit of liability stated in the declarations, that **you** become legally obligated to pay as a result of a **malplacement claim** arising out of a **placement services incident**.

#### C. LICENSE PROTECTION AND MEDICARE AND MEDICAID PROCEEDING EXPENSE REIMBURSEMENT

##### 1. LICENSE PROTECTION

**We** will pay up to the **License Protection** Liability limit stated in the declarations, for **claim expenses** incurred for **your** investigation and defense of **licensing board complaints**. Such **licensing board complaints** must:

- a. arise from a **disciplinary hearing** or proceeding to which **you** are first made aware on or after the effective date of coverage, and before the expiration date of the **policy period** stated in the



declarations.

- b. be filed against **you** with a state or federal administrative agency, licensing or regulatory authority responsible for regulating **your** professional conduct.

The **Company** will assign counsel on your behalf.

Included within, and not in addition to, the License Protection limit of liability are **covered expenses** incurred by **you** as a result of **your** required attendance at a **disciplinary hearing or proceeding**. The amount payable for **covered expenses** will not exceed \$500 per proceeding. Upon request from **us**, **you** will need to provide documentation of such covered expenses in order to receive reimbursement of such **covered expenses**.

## 2. MEDICARE AND MEDICAID PROCEEDING

**We** will pay up to the **Medicare and Medicaid Proceeding** Expense Reimbursement limit of liability stated in the declarations, for all covered **defense expenses** incurred by **you** as a result of **your** actual or alleged violation of the Social Security Act specified in 42 CFR 402.1, as promulgated by CMS pursuant to the authority given to CMS under the Social Security Act in 42 U.S.C. 1302 and 42 U.S.C. 1295hh as may be amended from time to time, provided that the Centers for Medicare and Medicaid Services, Department of Health and Human Services (hereafter referred to as "CMS") or the Department's Office of the Inspector General (hereafter referred to as "OIG") notifies **you** in writing during the **policy period** of the commencement of the investigation or proceeding.

The **Company** will assign counsel on your behalf.

## 3. CONDITIONS

The following conditions apply to coverage under both subsection 1 License Protection and subsection 2. **Medicare and Medicaid Proceedings**

Limit

- a. The aggregate limit set forth on the declarations for the License Protection and **Medicare and Medicaid Proceeding** Coverage is separate for the coverages discussed in 1. and 2. of this Section; and
- b. in no event shall the amount payable hereunder exceed a separate per proceeding and the aggregate License Protection and Medicare and Medicaid Proceeding limits of liability shown in the declarations, regardless of the number of **you**, the number of **proceedings** brought, investigations conducted, or violations cited in such proceedings or investigations.

Notice and Reporting

- a. Prior to the effective date of the policy, none of **you** received notice of a disciplinary hearing or violation or knew that the disciplinary hearing or violation had occurred, in whole or in part. If **you** received notice of a disciplinary hearing or violation or knew prior to the **policy period**, that the disciplinary hearing or violation occurred, then any continuation, change or resumption of such disciplinary hearing or violation during or after the **policy period** will be deemed to have been known prior to the **policy period** and notification of a proceeding or investigation arising out of such violation shall not be covered under this endorsement;
- b. prior to the effective date of the policy, none of **you** had given notice to a prior insurer of any related proceeding or violation; and
- c. any proceeding or violation is reported to us in writing within 60 days of **your** receipt of notice of such proceeding.

Exclusions

- a. The exclusion for Violation of Statutes in the Common Policy Conditions does not apply to this coverage extension except as listed below.

This coverage does not apply to:

- i. any willful, intentional, or deliberate violation(s) by an insured.
  - ii. any violation which results in criminal penalties or arises out of a criminal act by or at the direction of any insured.
  - iii. any compliance reviews, audits or inspections by CMS or OIG, whether or not requested by CMS or OIG.
  - iv. arising out of any appeal or judicial review by any court of such violation.
- b. Solely with respect to this Section, there is no coverage for:**
- i. **Criminal Acts**  
Any **violation** which results in any criminal penalties or arises out of a criminal act committed by or at the direction of any insured.
  - ii. **Compliance Reviews or Audits**  
Any compliance reviews, audits or inspections by CMS or OIG, whether or not requested by CMS or OIG.
  - iii. **Judicial Review**  
Arising out of any appeal or judicial review by any court of a **violation**.
  - iv. **Prior Acts Date**  
Any **violation** with respect to **professional services** performed before the **prior acts date**. This exclusion does not apply if your professional liability coverage is on an occurrence basis.

#### D. DEFENDANT EXPENSE BENEFIT

**We** will pay **you** up to the **Defendant Expense Benefit** limit of liability stated in the declarations, for all **covered expenses** incurred by **you** as a result of a covered **claim**. This coverage does not apply to **License Protection** coverage or **Medicare and Medicaid Proceeding** coverage provided in section C.

These amounts must result from **your** being required by **us** or by the defense attorney to attend a trial, hearing or proceeding during the **policy period**. In no event shall the amount payable hereunder exceed the per proceeding limit of liability or the aggregate **Defendant Expense Benefit** limit of liability shown in the declarations, regardless of the number of **you** or the number of such proceedings.

Upon request from **us**, **you** will need to provide documentation of such **covered expenses** in order to receive reimbursement of such **covered expenses**.

#### E. DEPOSITION REPRESENTATION

**We** will pay up to the **Deposition Representation** limit of liability stated in the declarations, for attorney fees, charged by an attorney **we** designate, to prepare **you** for deposition provided:

1. **you** receive a request for documents or testimony during the **policy period**, arising out of **professional services**; and
2. **you** provide **us** with a copy of the subpoena during the **policy period**; and
3. the subpoena arises out of a lawsuit to which **you** are not a party; and
4. **you** have not been engaged to provide advice or testimony in connection with the lawsuit, nor have **you** provided such advice or testimony in the past.

Any notice **you** give **us** of such subpoena shall be deemed notification of a potential **claim** under the **DUTIES IN THE EVENT OF A CLAIM** section of this Coverage Part.

**Our** duty to defend ends once the applicable limit or Aggregate Limit for **Deposition Representation**, as shown in the declarations, has been exhausted.

#### F. INFORMATION PRIVACY WRONGFUL ACT DEFENSE ONLY COVERAGE

**We** will pay for reasonable legal expenses incurred by **us** to defend **you** as a result of a **claim** brought by a state or federal regulator for an **Information Privacy Wrongful Act** against **you** during the **policy period**.

In connection with an **Information Privacy Wrongful Act**, **we** will also pay 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.

**Our** duty to defend ends once the applicable Each **Claim** or Aggregate Limit for **Information Privacy Wrongful Act** Defense Only Coverage, as shown in the declarations, has been exhausted.

The exclusion for Violation of Statutes in the Common Policy Conditions does not apply to this **Information Privacy Wrongful Act** Defense Only Coverage except as listed below. All other policy exclusions apply. This **Information Privacy Wrongful Act** Defense Only Coverage does not apply to:

1. Intentional, Willful, or Deliberate Violations. Any willful, intentional, or deliberate Violation(s) by an Insured.
2. Criminal Acts. Any Violation(s) which results in any penalties under the Wrongful Disclosure of Individually Identifiable Health Information (42 USC §1320d-6), including any amendments thereto.
3. Other Remedies. Any remedy other than monetary damages for penalties assessed pursuant to the General Administrative Regulations (45 CFR §160 et seq.), and the General Penalty for Failure to Comply with Requirements and Standards (42 USC §1320d-5) including any amendments thereto.
4. Compliance Reviews or Audits. Any compliance reviews by HHS pursuant to 45 CFR §160.308, including any amendments thereto, or any audits, whether or not requested by HHS.

#### G. ASSAULT UPON YOU

**We** will pay **you** up to the **Assault** Limit of Liability stated in the declarations for:

1. medical expenses **you** incur for **injury** to **you** including any medical expenses incurred for emotional counseling; or
2. reimbursement for **damage** to **your personal property**

resulting from an **assault** on **you** at **your workplace**, or while traveling to or from **your workplace** provided that:

1. such **assault** occurs during the **policy period**;
2. **you**, or someone acting on **your** behalf, give us written proof of the **assault** and as soon as practicable, under oath if required, execute authorizations to allow **us** to obtain copies of all medical documents relating to such **assault**; and
3. **you** submit to physical examination by a physician(s) selected by **us** when, and as often as, **we** may reasonably require.

This coverage does not apply to **damage** to any mode of transportation used by **you** to go to and from **your business premises** or **workplace**, or **damage** to any business or **personal property** owned, leased or rented by any other person or business enterprise while in **your** possession.

This coverage does not apply to any **personal property** lost or stolen during an **assault** on **you**.

#### H. MEDICAL PAYMENTS

**We** will pay up to the Medical Payments limit of liability stated in the declarations, regardless of fault, for necessary medical expenses caused by **injury** other than a **medical incident**, provided that:

1. the **injury** occurs during the **policy period**;

2. the expenses are incurred or medically ascertained within a three (3) year period from the date of the **injury**;
3. the **injury** is to a person other than **you**, while such person is:
  - a. at the **business premises** or **workplace** and on ways immediately adjoining the premises **you** principally use for **your professional services** with the permission of the **named insured**; or
  - b. away from the **business premises** or **workplace** provided that the **injury** arises out of a condition at the **business premises** or **workplace**;
4. the injured person(s), or someone acting on their behalf gives us written proof of the **injury** and as soon as practicable, under oath if required, executes authorizations to allow us to obtain copies of all medical documents relating to such **injury**; and
5. the injured person submits to physical examination by a physician(s) selected by **us** when, and as often as, **we** may reasonably require.

#### I. FIRST AID

**We** will pay **you** up to the First Aid limit of liability stated in the declarations, amounts for which **you** voluntarily make payment or incur for first aid rendered to a person, other than **you**, as a result of **injury**, other than a **medical incident**, that occurs during the **policy period** and that **you** report to us within 30 days. The first aid must be provided within a 48-hour period after the **injury** occurred.

#### J. DAMAGE TO PROPERTY OF OTHERS

**We** will pay up to the **Damage** to Property of Others limit of liability stated in the declarations, for **damage** that occurs during the **policy period** and is caused by **you** to the property of others, provided such **damage**:

1. was not caused intentionally; and
2. occurred only at **your workplace** or **business premises**.

Within sixty (60) days from the date of **damage**, **you** must submit a sworn statement of such loss to us. **You** must also exhibit the **damaged** or destroyed property if such property is in **your** possession or control.

#### K. SEXUAL MISCONDUCT

The **sexual misconduct** limit of liability shown in the declarations is the most **we** will pay for the sum of all amounts **you** are legally obligated to pay as a result of any **claims** against **you** involving any act of **sexual misconduct** arising out of or related to **professional services** rendered by **you** or by someone for whose **professional services** **you** are legally responsible, provided that **sexual misconduct** has not been determined to have occurred by any trial verdict, judgement, court ruling, regulatory ruling or legal admission, whether appealed or not.

This **sexual misconduct** limit of liability shall apply:

1. in the event that **sexual misconduct** is alleged, whether in a complaint, during discovery, at trial or otherwise, regardless of the legal or factual theory of recovery advanced, including but not limited to assertions of improper or negligent hiring or employment, or failure to investigate or supervise; and
2. to any and all such **claims** arising out of the same or related acts or omissions.

The **sexual misconduct** limit of liability shall be included within, and is not in addition to, the Aggregate Limit of Liability set forth in the declarations.

**Our** payment of the applicable limit of liability, or the professional liability aggregate limit, ends **our** duty to defend or settle. **We** have no duty to defend any **claims** not covered by this Coverage Part.

### III. DEFENSE AND SETTLEMENT

**We** have the right and duty to defend any **claim** that is a **professional liability claim, Good Samaritan claim, personal injury claim, malplacement claim or sexual misconduct claim**. **We** will:

- A.** do this even if any of the charges of such **claim** are groundless, false or fraudulent; and
- B.** investigate and settle any **claim**, as **we** feel appropriate.

**Our** payment of the applicable limit of liability ends **our** duty to defend. **We** have no duty to defend any **claims** not covered by this Coverage Part.

#### IV. ADDITIONAL DEFINITIONS

For purposes of this Coverage Part only, words in bold have the meaning set forth below:

- A. Defendant Expense Benefit** means **Covered Expenses**.
- B. Defense expenses** means the reasonable and necessary expenses incurred by the **Named Insured** and consented to by **us** in connection with the defense of any proceeding or investigation including, but not limited to legal fees and other defense costs. **Defense expenses** shall not include:
  - 1. any amounts incurred with respect to any **violation** which results in any criminal penalties or arises out of a criminal act committed by or at the direction of any insured;
  - 2. any amounts incurred with respect to **your** defense against a criminal investigation, complaint or indictment;
  - 3. any fines or penalties, remuneration, salaries, wages, or overhead; or
  - 4. any **claim expenses**
- C. Disciplinary Hearing or Proceeding** means a hearing or professional review conducted by any state or federal administrative agency or licensing or regulatory authority responsible for regulating **your** professional conduct.
- D. Good Samaritan Claim** means a **claim** arising out of a **Good Samaritan Incident**.
- E. Good Samaritan Incident** means any act, error or omission in **your** providing **professional services** in a sudden and unforeseen emergency situation for which no remuneration is expected, demanded or received.
- F. 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 of 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 Professional Services**.
- G. License Protection Incident** means a **medical incident**, or an event or circumstance arising out of an actual or alleged violation of the standards that govern **your** profession, which may lead to a **licensing board complaint** filed against **you**, charging **you** with professional misconduct, incompetence or physical or mental incapacity, and which could result in a **disciplinary hearing or proceeding**.
- H. Licensing Board Complaint** means the official documentation filed with an entity responsible for regulating **your** professional conduct to trigger an investigation of **you** for a **license protection incident**.
- I. Malplacement Claim** means a **claim** arising out of a **placement services incident**.



- J. Medical Incident** means any act, error or omission in **your** providing **professional services** which results in **injury** or **damage**. **Medical incident** does not include a **Good Samaritan incident** or **personal injury**.
- K. Medicare and Medicaid Proceeding** means an action by CMS, Centers for Medicare and Medicaid Services, Department of Health and Human Services or OIG, Department's Office of the Inspector General ("OIG"), against **you** arising out of a **your** actual or alleged failure to comply with the provisions of the Social Security Act specified in 42 CFR 402.1, as promulgated by CMS pursuant to the authority given to CMS under the Social Security Act in 42 U.S.C. 1302 and 42 U.S.C. 1295hh as may be amended from time to time and seeking civil money penalties, assessments or exclusions pursuant to 42 CFR 402 and any amendments thereto.
- L. Personal Property** means **your** property other than buildings and their appurtenances, consisting of the following:
1. furniture, fixtures, machinery and equipment not permanently installed and used in **your** practice;
  2. all other property, other than real property, owned by **you** and used in **your** practice; and
  3. merchandise held in storage or for sale, raw materials in process or finished goods, including supplies used in their packing or shipping used in the course of **your professional services**.
- M. Placement Services Incident** means an act, error or omission arising from responsibilities for arranging and qualifying suitable work for eligible healthcare providers.
- N. Related Claim** means all **claims** arising out of a single act, occurrence, error or omission or arising out of **related acts, occurrences, errors or omissions** in the rendering of **professional services** or **personal injury**.
- O. Related acts, occurrences, errors or omissions** means all acts, errors or omissions in the rendering of **professional services** or **personal injury** that are logically or causally connected by any common fact, circumstance, situation, transaction, event, advice or decision.
- P. Supervision** means working under a health-care plan set up by the employer, or by the group to provide health-care services. Only those skills which the employer or group has verified such person is qualified to perform will be included in the health-care plan. **Supervision** requires verification, on a regular basis and by a licensed health-care professional qualified to oversee the **professional services**, that one is providing in conformance with the standard of care relevant to the practice location.
- Q. You or Your** means the **named insured** and, if the **named insured** is not a natural person:
1. any individual who, during the **policy period**, is or becomes a partner, officer, director, stockholder, **employee**, manager, business owner, member or **employee** of the **named insured**, but only for **professional services** performed on behalf of the **named insured**; or
  2. any individual who, during the **policy period**, is or becomes a substitute healthcare provider that the **named insured** contracts with, but only for **professional services** performed on behalf of the **named insured**; or
  3. any individual previously affiliated with the **named insured** as its partner, officer, director, stockholder, **employee**, manager, member or **employee** but only for **professional services** performed on behalf of the **named insured** during the course of such employment.

**You or Your** does not include those persons or entities who:

1. share premises with the **named insured**; or
2. are deemed to be partners, officers, directors, business owner, **employees**, associates, managers, or members of the **named insured** solely by operation of law.

## V. ADDITIONAL EXCLUSIONS



We will not defend any **claim**, **license protection incident** or matter under any other coverage extension or pay any amounts, including **claim expenses**, based on, arising out of, or related to:

**A. Injury to:**

1. an **employee** or independent contractor of **yours** arising out of and in the course of employment by **you**; or
2. a **family member** of that **employee** or independent contractor as a consequence of 1 above; or
3. **your family member**.

This exclusion applies:

1. whether **you** may be liable as an employer or in any other capacity; or
  2. to any obligation to share amounts with or repay someone else who must pay amounts because of the **injury**.
- B.** Any of **your** acts, errors or omissions in **your** capacity as a healthcare aide, home healthcare aide, or dental hygienist, who is not subject to **supervision**.
- C.** Any act, error or omission, including a **medical incident** or **personal injury** that occurred prior to the inception date of this policy, or which on the inception date of this policy
1. is the subject of a reported **medical incident**, **Good Samaritan incident** or **placement services incident**; or
  2. is a pending **claim** or proceeding; or
  3. is a paid **claim**.
- D.** any act of **sexual misconduct** which has been determined to have occurred by any trial verdict, court ruling, regulatory ruling or legal admission whether appealed or not.

This exclusion applies to all **claims** arising out of acts of **sexual misconduct** regardless of the legal theory or basis upon which the insured is alleged to be liable, including but not limited to assertions of improper or negligent hiring or employment, or failure to investigate or supervise.

**VI. LIMIT OF LIABILITY**

**A. Each Claim**

The limits of liability stated in the declarations as applicable to “each **claim**” means that **our** liability for such **claim** shall not exceed such stated amount.

**B. Aggregate**

Subject to provision A. above, limits of liability stated in the declarations as applicable to “all **claims** in the aggregate” means that **our** liability shall not exceed such stated amount. The aggregate limit of liability applies to each **policy period** for all **medical incidents** or **occurrences** for which **claims** are made.

**C. Claim Expenses**

**Claim expenses** are in addition to **our** limits of liability.

**D. Multiple Insureds, Claims and Claimants**

The limits of liability shown in the declarations is the maximum amount **we** will pay regardless of the number of **you** insured under this Coverage Part, **claims** made or persons or entities making **claims**.

**E. Related Claims**

If **related claims** are made against **you**, all such **related claims** shall be considered a single **claim**, and the limit of liability applicable to such **claim** shall be the limit of liability applicable to the **policy period** in

force when the act, **occurrence**, error or omission, or earliest of **related acts, errors or omissions**, occurred.

## VII. DUTIES IN THE EVENT OF A POTENTIAL CLAIM, CLAIM OR SUIT

**Our** duty to investigate, defend and pay for any potential **claim, claim** or suit is strictly conditioned upon an Insured's compliance with the following reporting requirements:

### A. POTENTIAL CLAIM

1. If an **occurrence or medical incident** takes place, which gives rise to a **potential claim** for which coverage may be provided, the Insured shall give written notice to **us**, as soon as possible. Such written notice shall contain:
  - a. the identity of all Insureds implicated;
  - b. all reasonably obtainable information with respect to the time and place;
  - c. the nature, extent and circumstances of the injury and damage;
  - d. the names and addresses of any injured persons;
  - e. the names and addresses of available witnesses; and
  - f. the factual basis for the Insured's belief that a **claim** is reasonably likely to be made, as well as the date the Insured first came to this belief.

### B. CLAIM OR SUIT

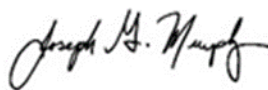
1. The Insured must notify **us**, or **our** authorized representative, immediately, in writing, of any **claim or suit** against the Insured. Such written notice shall contain:
  - a. the identity of all Insureds implicated;
  - b. all reasonably obtainable information with respect to the time and place;
  - c. the nature, extent and circumstances of the injury and damage;
  - d. the names and addresses of any injured persons;
  - e. the names and addresses of available witnesses;
  - f. the specific facts of the **claim or suit**, including the date **first made** or served; and, copies of all demands, notices, summons, **suit** papers or other legal documents received by any Insured.

### C. If during the **policy period**, **you** give **us** notice of an act, error or omission, including **medical incidents, personal injury, license protection incident** or a subpoena for your deposition or documents detailing:

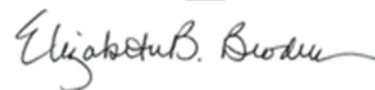
1. the specific act, error or omission;
2. the dates and persons involved;
3. the identity of anticipated or possible claimants; and
4. the circumstances by which **you** first became aware of the possible claim,

then, any **claim** that is both made against **you** and reported to **us** during any renewal **policy period**, and that arises out of such act, error or omission, shall be deemed to have been made at the time such written notice was given to **us**.

IN WITNESS WHEREOF, **we** have caused this Policy to be executed and attested, but this Policy shall not be binding upon **us** unless completed by the attachment of the declarations and payment of the applicable premium.



Joseph G. Murphy  
President & CEO



Elizabeth B. Brodeur  
Secretary

SPECIMEN